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INDUSTRIAL PROPERTY LAWS AND TREATIES (INSERT)

Editor's Note

REPUBLIC OF KOREA

Patent Law (No. 950 of December 31, 1961, as last amended by Law No. 3891 of December 31, 1986) (Sections 1 to 80)

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Notifications Concerning Treaties

WIPO Convention

Ratification

ECUADOR

The Government of Ecuador deposited, on February 22, 1988, its instrument of ratification of the

Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Ecuador will belong to Class C for the purpose of establishing its contribution towards the budget of the WIPO Conference.

The said Convention will enter into force, with respect to Ecuador, on May 22, 1988.

WIPO Notification No. 140, of February 22, 1988.

Activities of the International Bureau

The World Intellectual Property Organization in 1987*

WIPO and Development Cooperation Activities in the Field of Industrial Property

Highlights of the Activities of WIPO in 1987

In 1987, there was a further expansion in the activities of WIPO, both in the Organization's regular program and international registration work.

The increase in activities was particularly marked in the area of WIPO's development cooperation program for the benefit of developing countries. A record number of training fellowships—379—was granted to nationals of 94 developing countries and officials of eight regional intergovernmental organizations of developing countries. WIPO officials and consultants visited 68 developing countries, in some cases several times in the course of the year, to advise government officials on legislative and administrative matters, plan projects, organize meetings, provide training to government officials, businessmen, lawyers, researchers and teachers, speak at seminars and generally to promote greater respect for, as well as more effective protection and use of, intellectual property.

In implementing the development cooperation program, the International Bureau of WIPO was generously and often enthusiastically supported by the governments of many countries, both developing and industrialized. A record number of countries and intergovernmental organizations—32 and five, respectively—contributed in full or in part to the payment of the travel and living expenses of the training fellows. A significant advance was made in the area of cooperation among developing countries, with over 30 developing countries contributing to WIPO's development cooperation program either by hosting meetings or in receiving trainees. Each of these activities often entailed a considerable outlay of financial resources and manpower for

those developing countries. The International Bureau identified and made available to developing countries the services, as WIPO consultants or speakers, of some 40 experts from developing countries.

In carrying out the development cooperation program, particular emphasis was placed on responding to the immediate preoccupations and current interests of individual or groups of developing countries. Without neglecting, therefore, WIPO's advice and assistance in the three traditional development cooperation areas of revision or drafting of legislation, overhauling of governmental administrative structures and training, a stronger emphasis was put on such relatively newer areas as the computerization of patent and trademark operations, the training of judges, university teachers of intellectual property law and industrial property agents or lawyers, greater discrimination in storage and access to patent documents, higher sophistication in the use of those documents, protection of emerging technologies, establishment of authors' and composers' societies, advancing intercountry and regional cooperation through establishing new or strengthening existing cooperative mechanisms and the promotion of closer links between the government and private sectors.

Apart from WIPO's regular budget, the following five industrialized countries gave cash contributions for development cooperation activities in the intellectual property field: Finland, France, Germany (Federal Republic of), Japan, Sweden.

Many of the development cooperation activities carried out by WIPO were carried out as "projects" planned by the interested governments of developing countries, the International Bureau of WIPO and the United Nations Development Programme (UNDP) and financed by the latter. Four regional (one each for Africa, the Arab countries, Asia and the Pacific, and Latin America and the Caribbean), and a score of national, projects were implemented during the year.

There was significant progress in regard to work relating to general intellectual property questions of topical interest: the harmonization of certain provisions in laws for the protection of inventions, intellectual property in respect of integrated circuits, protection against counterfeiting, industrial property in respect of biotechnological inventions, the creation of links between the Madrid Agreement Concerning the International

* This article is the first part of a report on the main activities of WIPO in general and in the field of industrial property. Activities in the fields of copyright and neighboring rights are covered in a corresponding article in the review *Copyright*.

The first part deals with the activities of WIPO as such and with development cooperation activities in respect of industrial property and patent information. The second part, which will appear in the April issue of this review, will deal with other industrial property and patent information activities.

In general, the report follows the order in which activities are set out in the program for the 1986-87 biennium, approved by the Governing Bodies of WIPO and the Unions administered by WIPO in 1985. It recalls, from the said program, the objectives of the activities described.

Registration of Marks and the proposed European Community Trade Mark as well as the development of principles in the copyright protection of various categories of works. On the basis of work which had been completed, the Governing Bodies decided, in September, that a diplomatic conference to consider the draft treaty on the protection of intellectual property in respect of integrated circuits would be held, subject to certain steps being first taken, in the 1988-89 biennium. Furthermore, the Governing Bodies decided that a diplomatic conference on the Madrid Agreement would be convened, in the first half of 1989, to consider the adoption of two protocols, one of which would make accession to the Treaty by non-contracting States easier and the other would establish a link between the Madrid system and the future European Community trademark system, enabling the simultaneous use of the two systems.

On the revision of the Paris Convention, new proposals were made in the three consultative meetings which took place during the year.

In September 1987, the Governing Bodies decided to transform and expand the mandate of the Permanent Committee on Patent Information (PCPI) and renamed it the Permanent Committee on Industrial Property Information (PCIPI). The new Permanent Committee will deal with, in addition to patent documentation and information, documentation and information relating to marks and industrial designs.

Pursuant to another decision of the Governing Bodies, WIPO officials attended two meetings, in October and November, of the GATT Negotiating Group on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods. In the first half of the year, WIPO had organized four informal information meetings for the Permanent Missions of countries represented in Geneva on the intellectual property aspects of the Uruguay Round of GATT.

Lastly, among the highlights of the year were two other decisions of the Governing Bodies taken during their September sessions, first, the approval of the program and budget of the 1988-89 biennium, with an approved expenditure of 107.1 million Swiss francs, and second, that efforts to establish an international register of audiovisual works should continue.

* * *

I. Intellectual Property Activities: Promotion of the Worldwide Recognition of and Respect for Intellectual Property

Objectives

The general objective is to promote the realization of the benefits of intellectual property—both industrial property and copyright—for the cultural and economic progress of any country. As a natural avenue leading to such benefits, the objective is also to promote accession

to the treaties administered by WIPO by countries not yet party to them.

Activities

During the period covered by this report, WIPO continued to promote acceptance by States of the WIPO Convention and of the other treaties administered by WIPO. In addition to the activities referred to below in relation to specific treaties, discussions on such acceptance took place during WIPO missions to States, particularly developing countries, in meetings with permanent missions of States in Geneva and in contacts with delegations of States at intergovernmental meetings. Notes concerning the advantages of acceptance of particular treaties for particular countries were prepared and sent to the competent authorities of the countries concerned.

Convention Establishing the World Intellectual Property Organization. In March, Paraguay deposited its instrument of accession to the WIPO Convention. The WIPO Convention came into force in respect of Paraguay on June 20, 1987. On December 31, 1987, the number of members of WIPO was 117. They were the following: Algeria, Angola, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Lebanon, Lesotho, Libya, Liechtenstein, Luxembourg, Malawi, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, South Africa, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, Ukrainian SSR, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Treaties Providing for the Substantive Protection of Intellectual Property

Berne Convention for the Protection of Literary and Artistic Works. In February, Morocco deposited its

instrument of ratification of the Berne Convention as revised at Paris on July 24, 1971. The Paris Act (1971) of the Convention entered into force with respect to Morocco on May 17, 1987.

In December, Colombia deposited its instrument of accession to the Berne Convention as revised at Paris on July 24, 1971. When the accession of Colombia took effect on March 7, 1988, the number of States party to the Berne Convention reached 77.

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations. In April, France deposited its instrument of ratification of the Rome Convention and made certain declarations in respect of Articles 5, 12 and 16 thereof. The said Convention entered into force in respect of France on July 3, 1987.

In October, Burkina Faso deposited its instrument of accession to the Rome Convention. The said Convention entered into force in respect of Burkina Faso on January 14, 1988. On that date, the number of States party to the Rome Convention reached 32.

Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms. In July, the Republic of Korea deposited its instrument of accession to the Phonograms Convention. The said Convention entered into force in respect of the Republic of Korea on October 10, 1987.

In October, Burkina Faso deposited its instrument of accession to the Phonograms Convention. The said Convention entered into force in respect of Burkina Faso on January 30, 1988. On that date, the number of States party to the Phonograms Convention reached 41.

Treaties Providing for Simplified Possibilities for the International Protection of Inventions, Marks and Industrial Designs

Patent Cooperation Treaty (PCT). In April, the United States of America withdrew, with effect from July 1, 1987, its declaration made at the time of the deposit of its instrument of ratification of the Patent Cooperation Treaty to the effect that the United States of America would not be bound by the provisions of Chapter II of the said Treaty.

In September, Japan withdrew the declaration made pursuant to Article 64(2)(a) of the Patent Cooperation Treaty concerning, in particular, the time limit applicable under Chapter II of the said Treaty for the furnishing of a translation of the international application. The withdrawal of the said declaration took effect on December 8, 1987.

Hague Agreement Concerning the International Deposit of Industrial Designs. In May, Italy deposited

its instrument of ratification of the Hague Agreement as revised at The Hague on November 28, 1960, and its instrument of accession to the Complementary Act of Stockholm (1967) of the said Agreement. The Hague Act (1960) of the Hague Agreement entered into force in respect of Italy on June 13, 1987, whereas the Stockholm (Complementary) Act (1967) entered into force in respect of Italy on August 13, 1987. On June 13, 1987, the number of States party to the Hague Agreement reached 21.

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. In April, the Netherlands deposited its instrument of ratification, for the Kingdom in Europe, the Netherlands Antilles and Aruba, of the Budapest Treaty, as amended on September 26, 1980. The Budapest Treaty entered into force in respect of the Netherlands, insofar as concerns the Kingdom in Europe, the Netherlands Antilles and Aruba, on July 2, 1987.

Also in April, Australia deposited its instrument of accession to the Budapest Treaty, as amended on September 26, 1980. The Budapest Treaty entered into force in respect of Australia on July 7, 1987.

In December, the Republic of Korea deposited its instrument of accession to the Budapest Treaty. The Budapest Treaty entered into force in respect of the Republic of Korea on March 28, 1988. On that date, the number of States party to the Budapest Treaty reached 22.

Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. In September, the Soviet Union deposited its instrument of ratification of the Geneva Act (1977) of the Nice Agreement. The said Act entered into force with respect to the Soviet Union on December 30, 1987.

II. Development Cooperation with Developing Countries in the Fields of Industrial Property and Patent Information

Objective

The objective is to assist developing countries in the establishment or modernization of their industrial property systems in the following ways:

- (i) training specialists;
- (ii) creating or improving domestic legislation;
- (iii) creating or improving governmental institutions;
- (iv) stimulating domestic inventive and creative activity;

- (v) stimulating the acquisition of foreign patented technology;
- (vi) creating a corps of practitioners;
- (vii) exploiting technological information contained in patent documents.

Activities

Development of Human Resources in Global, Regional and National Training Courses and Seminars

GLOBAL

In 1987, WIPO received 688 applications for training in industrial property from 109 developing countries, three other countries (Bulgaria, Poland, Turkey) and 11 organizations, namely, the Arab Industrial Development Organization (AIDO), the League of Arab States Documentation and Information Center (ALDOC), the Economic Community of the Great Lakes Countries (CEPGL), the Federation of Arab Scientific Research Councils (FASRC), the Gulf Cooperation Council (GCC), the Central American Institute for Research and Industrial Technology (ICAITI), the Nutrition Institute for Central America and Panama (INCAP), the Panafricanist Congress of Azania (PAC), the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Two-hundred-and-ninety-six of those applications from the following 87 developing countries, from one other country (Bulgaria), and from eight organizations, namely, from AIDO, ALDOC, CEPGL, FASRC, GCC, INCAP, SIECA and UNHCR, were accepted: Algeria, Argentina, Bangladesh, Barbados, Benin, Bolivia, Brazil, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Yemen, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Gambia, Ghana, Guatemala, Guinea, India, Indonesia, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Republic of Korea, Republic of Palau, Romania, Rwanda, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Syria, Thailand, Tonga, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zaire, Zambia, Zimbabwe.

The following 28 countries, five intergovernmental organizations, and three institutions contributed in full

or in part to the payment of the travel expenses and subsistence allowances, or otherwise, for training in the field of industrial property: Argentina, Australia, Austria, Brazil, Bulgaria, Cameroon, Czechoslovakia, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Israel, Italy, Japan, Netherlands, Soviet Union, Spain, Sri Lanka, Sweden, Switzerland, Syria, United Kingdom, United States of America, Uruguay, Venezuela, Zimbabwe, Benelux Designs Office (BDDM), Benelux Trademark Office (BBM), European Patent Office (EPO), African Intellectual Property Organization (OAPI), United Nations Development Programme (UNDP), CompuMark (Belgium), International Patent Documentation Center (INPADOC), Télésystèmes Questel (France).

The remainder of the cost was borne by the budget of WIPO.

The following training courses took place in 1987 (in chronological order):

(a) in January and February, 31 trainees attended a Training Course (in English) on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO, with the cooperation of the Government of Sri Lanka and the Sri Lanka Foundation, in *Colombo*, with the financial support of UNDP; the participants came from Bangladesh, China, Fiji, India, Indonesia, Malaysia, Maldives, Mongolia, Nepal, Pakistan, Papua New Guinea, the Philippines, the Republic of Korea, Republic of Palau, Samoa, Thailand, Tonga, Vanuatu and Viet Nam; four nationals of Sri Lanka also participated; lectures were given by WIPO consultants from Germany (Federal Republic of), the Philippines, Sweden and the United Kingdom, as well as by a WIPO official;

(b) in May and June, three trainees attended a Training Course (in English) on Patent Examination, organized by WIPO and the United States Patent and Trademark Office (USPTO), in *Washington*, with the financial support of UNDP; the participants came from the Philippines and FASRC; lectures were given by officials from the USPTO and from other United States institutions;

(c) in June, 21 trainees attended a Training Course (in English) on Patent Information, organized by WIPO and the USSR State Committee for Inventions and Discoveries, in *Moscow*, with financial support from a trust fund established by the Soviet Union with the UNDP; the participants came from Bolivia, Brazil, Bulgaria, China, Colombia, Côte d'Ivoire, the Democratic People's Republic of Korea, Democratic Yemen, Ethiopia, Guatemala, Morocco, Romania, Somalia, Syria, Uruguay, Viet Nam, Yugoslavia and FASRC; lectures were given by WIPO consultants from Austria and Malaysia, by officials from the USSR State Committee for Inventions and Discoveries and from other Soviet institutions, and by a Deputy Director General and two WIPO officials;

(d) in June, 13 trainees attended a General Introductory Course on Industrial Property (in English) organized by WIPO in cooperation with the African Regional Industrial Property Organization (ARIPO), in Harare, with the financial support of the Swedish International Development Authority (SIDA); the participants came from Ethiopia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Swaziland, Uganda, the United Republic of Tanzania and Zambia; ten nationals of Zimbabwe also participated; lectures were given by WIPO consultants from the Netherlands and Sweden, as well as by WIPO officials;

(e) in June and July, five trainees attended a Training Course (in English) on Patent Classification and Searching at the EPO in *The Hague*; the participants came from Argentina, Brazil, the Philippines and Uruguay; the course was followed by visits to the EPO headquarters in Munich and to WIPO;

(f) in June and July, two trainees attended a Training Course (in French) on Patent Classification and Searching at the EPO in *The Hague*; the participants came from the Congo and Mexico; the course was followed by visits to the EPO headquarters in Munich and to WIPO;

(g) in June and July, 15 trainees attended a General Introductory Course on Industrial Property (in French) organized by WIPO in cooperation with OAPI, at the headquarters of OAPI in Yaoundé; the participants came from Benin, Burundi, the Central African Republic, Chad, the Congo, Côte d'Ivoire, Guinea, Mali, Morocco, Senegal, Zaire and CEPGL; twenty-six nationals of Cameroon and officials of OAPI also participated; lectures were given by two WIPO consultants from France and by OAPI and WIPO officials; the participation of the lecturers from France was financed through funds made available to WIPO by the Government of France;

(h) in September, immediately preceding the courses referred to in (i), (j), (k), (l), (m), (n) and (o), below, 78 trainees attended an Introductory Seminar (in Arabic, English, French and Spanish) on General Aspects of Industrial Property, at the headquarters of WIPO in Geneva; the participants came from Argentina, Bangladesh, Barbados, Benin, Brazil, Cameroon, Chad, Chile, China, Colombia, the Congo, Cuba, Egypt, El Salvador, Ethiopia, Ghana, Indonesia, Jamaica, Lesotho, Madagascar, Malaysia, Mali, Mexico, Panama, Paraguay, Peru, the Philippines, the Republic of Korea, Rwanda, Sao Tome and Principe, Saudi Arabia, Sudan, Swaziland, Syria, Thailand, Trinidad and Tobago, Tunisia, Uganda, Uruguay, Venezuela, Viet Nam, Zaire, Zimbabwe, INCAP and UNHCR; in addition, officials of the Permanent Missions to the United Nations Office at Geneva of a number of countries attended the Seminar; lectures were given by consultants from Belgium and Switzerland and by WIPO officials;

(i) in September, 11 trainees attended a Specialized Training Course (in English) on Trademarks, organized

by WIPO and the BBM, in *The Hague*; the participants came from Argentina, China, Cuba, Paraguay, the Philippines, Swaziland, Syria, Thailand, Uruguay, Viet Nam and Zimbabwe; lectures were given by officials of the BBM, representatives of private enterprise, officials of some member States of the BBM and WIPO officials; the Course was followed by visits to private enterprises in Belgium, Luxembourg and the Netherlands;

(j) in September, 15 trainees attended a Seminar (in English and French) on Technical Information as an Aid to Industrial Development: Patent Documents, organized by WIPO in cooperation with the EPO, in *The Hague*; the participants came from Barbados, Chile, the Congo, Madagascar, Malaysia, Mali, Paraguay, the Philippines, the Republic of Korea, Saudi Arabia, Thailand, Tunisia and Venezuela; lectures were given by officials of the EPO, representatives of private enterprises, officials of some Member States of the EPO and WIPO officials; the Seminar was followed by a visit to the EPO headquarters in Munich, and, for seven trainees, by practical training on patent documentation at the Netherlands Patent Office (*Octrooirad*);

(k) in September and October, 29 trainees attended a General Introductory Course (in English and French) on Industrial Property, organized by WIPO and the Center for the International Study of Industrial Property (CEIPI) in cooperation with the National Institute of Industrial Property of France (INPI), in *Strasbourg*; the participants came from Argentina, Bangladesh, Benin, Brazil, Burundi, Cameroon, Chad, El Salvador, Ethiopia, Ghana, Lesotho, Madagascar, Mali, Paraguay, the Philippines, Rwanda, Sao Tome and Principe, Sudan, Thailand, Tunisia, Uganda, Uruguay, Viet Nam, Zaire, Zimbabwe and INCAP; lectures were given by the Director General of CEIPI and professors and lawyers of or associated with CEIPI, officials of INPI (France), the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law, the EPO and WIPO, as well as representatives of private enterprises in France; this course was followed, for most of those concerned, by practical training in industrial property in one of the following countries or organization: Bulgaria, Finland, France, German Democratic Republic, Hungary, Israel, Switzerland, United Kingdom and OAPI. This was the tenth of the yearly courses of its kind and, to mark the anniversary, the Director General attended the closing ceremony and, as a sign of WIPO's appreciation, presented WIPO gold medals to Mr. J.-C. Combaldieu, Director General of INPI (France), to Professor J.-J. Burst, Director General of CEIPI and to CEIPI.

(l) in September and October, 11 trainees attended a Training Course (in Spanish) on Industrial Property, organized by WIPO and the Registry of Industrial Property of Spain in *Madrid*; the participants came from Argentina, Brazil, Colombia, Cuba, Mexico, Panama, Peru, Uruguay and Venezuela; lectures were given by officials of the Spanish Registry and WIPO;

(m) in September and October, six trainees attended a Training Course (in English) on Patent Classification and Searching, organized by WIPO and the Austrian Patent Office in *Vienna*; the participants came from China, Colombia, Egypt, Jamaica and the Republic of Korea; lectures were given by officials of the Austrian Office; INPADOC and Télésystèmes Questel offered free access to their data bases and teaching material;

(n) in September and October, four trainees attended a Training Course (in English) on Industrial Property, organized by WIPO and the German Patent Office, in *Munich*, with the cooperation of the Carl Duisberg Gesellschaft (CDG); the participants came from Ethiopia, Indonesia, Panama and Trinidad and Tobago;

(o) in September and October, five trainees attended a Training Course (in English) on Patent Searching and Examination, organized by WIPO and the Swedish Patent Office in *Stockholm*, with the financial support of SIDA and the Swedish Commission for Technical Cooperation (BITS); the participants came from Bangladesh, India, Peru and Zimbabwe; lectures were given by officials of the Swedish Office;

(p) in October, 27 trainees attended a Seminar (in English) on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria in *Abuja*, with the financial support of UNDP; the participants came from Ethiopia, the Gambia, Ghana, Kenya, Liberia, Malawi, Mauritius, Sierra Leone, Somalia, Sudan, Swaziland, Uganda, the United Republic of Tanzania, Zambia and Zimbabwe; over 70 nationals of Nigeria also participated; lectures were given by three Nigerian government officials, a government official each from Ghana, Sierra Leone and Zambia, two WIPO consultants from the United Kingdom and a WIPO official;

(q) in October, 15 trainees attended a Seminar (in Spanish) on Industrial Property and its Impact on the Development Process, organized by WIPO and the National Institute of Industrial Property (INPI) of Brazil in *Rio de Janeiro*; the participants came from Argentina, Bolivia, Colombia, Cuba, El Salvador, Guatemala, Mexico, Peru, Uruguay, Venezuela, INCAP and SIECA; lectures were given by officials of INPI (Brazil) and of various Brazilian governmental and private institutions, by a WIPO consultant from Cuba and by a WIPO official;

(r) in October, three trainees attended a Training Course (in English) on Patent Examination at the EPO in *Munich*; the participants came from Brazil, the Philippines and Venezuela; the course was preceded by a visit to the EPO in The Hague and followed by a visit to WIPO;

(s) in October and November, 13 trainees attended a Training Course (in English) on Patent Examination, organized by WIPO and the USPTO in *Washington*, with the financial support of UNDP; the participants came from Colombia, Egypt, India, the Philippines, the Republic of Korea, Thailand, Uruguay and Venezuela;

lectures were given by officials from the USPTO and from other United States institutions;

(t) in October and November, 33 trainees attended a Regional Seminar (in Arabic) on Industrial Property for Arab Countries, organized by WIPO and the Government of Syria in *Damascus*, with the financial support of UNDP; some 400 participants came from Algeria, Democratic Yemen, Egypt, Jordan, Kuwait, Lebanon, Libya, Morocco, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates, AIDO, ALDOC, FASRC and GCC; lectures were given by a WIPO consultant from FASRC, government officials of Syria and WIPO officials;

(u) in November, 33 trainees attended a Seminar (in French) on Trademarks and their Role in Economic Development, organized by WIPO and the Government of Cameroon in *Douala*; the participants came from Benin, Burkina Faso, Burundi, Cameroon, the Central African Republic, Chad, the Congo, Côte d'Ivoire, Gabon, Guinea, Madagascar, Mali, Mauritania, Niger, Senegal and Zaire; thirty-four nationals of Cameroon and one OAPI expert also participated; lectures were given by WIPO consultants from France and Switzerland and by officials of OAPI and of WIPO.

In addition to the above courses, special training programs and study tours were organized, mostly in the framework of UNDP-funded technical cooperation projects, for 45 officials from Chile, China, Colombia, Democratic Yemen, El Salvador, Ethiopia, Hungary, India, Indonesia, Malaysia, Mexico, Paraguay, the Philippines, the Republic of Korea, Somalia, Sudan, Syria, Turkey, Uruguay, Zaire and SIECA; the above programs and study tours included visits to one or several of the following countries, organizations and institutions: Argentina, Australia, Brazil, Egypt, France, Germany (Federal Republic of), Japan, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uruguay, Venezuela, BBDM, BBM, Compu-Mark (Belgium), EPO, INPADOC, Télésystèmes Questel (France), WIPO.

In most cases, the arrangements for training in 1987 included visits to WIPO headquarters.

REGIONAL AND NATIONAL

Africa

Benin. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Burkina Faso. In November, two government officials attended a Regional Seminar on Trademarks, orga-

nized by WIPO in cooperation with the Government of Cameroon, in Douala.

Burundi. In June and July, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Cameroon. In November, the first Regional Seminar on Trademarks (in Africa) was organized by WIPO in cooperation with the Government of Cameroon, in Douala. The Director General and three WIPO officials attended the Seminar.

About 70 government officials from 16 African countries (Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea, Madagascar, Mali, Mauritania, Niger, Senegal, Zaire) attended the Seminar. The report adopted at the end of the Seminar stressed the need to organize further similar meetings for African countries in the development of their commercial activities.

Two WIPO consultants from France and Switzerland and an official from OAPI participated as lecturers. The participation of the French consultant was financed under funds made available by the Government of France.

Central African Republic. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Chad. In June and July, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Congo. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Côte d'Ivoire. In June, a Workshop (in English and French) on Patent Documentation as a Source of Technical Information for the Scientists, Technologists and Searchers of African Countries, in Abidjan, was organized by WIPO in cooperation with the African Regional Centre for Technology (ARCT), at the invitation of the Government of Côte d'Ivoire.

Also in June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Ethiopia. In June, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Gabon. In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Gambia. In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Ghana. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Guinea. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Kenya. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, a government official attended a Seminar on Industrial Property, organized by WIPO in

cooperation with the Government of Nigeria, in Abuja.

Lesotho. In June, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

Liberia. In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Libya. See under "Arab Countries."

Madagascar. In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Malawi. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Mali. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Mauritania. In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Mauritius. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Morocco. See under "Arab Countries."

Niger. In October, a Seminar on Intellectual Property for Magistrates was organized in Niamey by WIPO in cooperation with OAPI and the Government of Niger.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Nigeria. In March, a WIPO consultant from Nigeria gave a lecture at a Seminar on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Government of Thailand, the Law Society of Thailand, and the Trade Mark, Patent and Copyright Association of Thailand, in Bangkok.

In October, WIPO organized, in cooperation with the Government of Nigeria, a Seminar on Industrial Property in Abuja. A report was adopted at the end of the meeting expressing satisfaction with the Seminar and inviting WIPO to continue its cooperation with Nigeria in the field of industrial property in view of the important role that industrial property could play in the technological and economic development of a country. The Seminar was funded by the UNDP-financed regional project.

Senegal. In June and July, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Sierra Leone. In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Somalia. See under "Arab Countries."

Sudan. See under "Arab Countries."

Swaziland. In June, a government official attended a General Introductory Course on Industrial Property organized by WIPO, in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Uganda. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

United Republic of Tanzania. In June, two government officials attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, two government officials attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Zaire. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In November, two government officials attended a Regional Seminar on Trademarks, organized by WIPO in cooperation with the Government of Cameroon, in Douala.

Zambia. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Zimbabwe. In June, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with ARIPO, in Harare.

In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

Arab Countries

Algeria. In October and November, three government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Democratic Yemen. In March, a National Seminar on the Usefulness of Industrial Property in Development, organized by WIPO in cooperation with the Patent Information and Documentation Unit (PIDU), within FASRC, was held in Aden. The Seminar was attended by approximately 20 participants from the Registrar General's Department and other national bodies. Two WIPO officials, as well as the head of PIDU, also participated in the Seminar. The Seminar was funded by the UNDP-financed regional project. Discussions were also held with government officials regarding the strengthening of the industrial property system.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Egypt. In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Jordan. In July, WIPO organized, in cooperation with the Government of Jordan, a national Training Course on Industrial Property. About 40 participants from the Ministry of Industry and Trade, universities and research and development institutions attended. This Training Course was funded by the UNDP-financed regional project.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Kuwait. In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Lebanon. In October and November, a government official attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Libya. In March, a National Seminar on the Usefulness of Industrial Property in Development, organized by WIPO in cooperation with PIDU, within the FASRC, was held in Tripoli. The Seminar was attended by approximately 40 participants. Two WIPO officials, as well as the head of PIDU, also participated in the Seminar. The Seminar was funded by the UNDP-financed regional project.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Morocco. In June and July, a government official attended a General Introductory Course on Industrial Property, organized by WIPO in cooperation with OAPI, in Yaoundé.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Qatar. In October and November, two government officials attended a Regional Seminar on Industrial

Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Saudi Arabia. In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Somalia. In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Sudan. In March, a National Seminar on the Usefulness of Industrial Property in Development, organized by WIPO in cooperation with PIDU, within the FASRC, was held in Khartoum. The Seminar was attended by approximately 35 participants from the Commercial Registrar General's Office and other national bodies. Two WIPO officials, as well as the head of PIDU, also participated in the Seminar. The Seminar was financed by the UNDP-financed regional project. Discussions were also held with government officials regarding the strengthening of the industrial property system.

In October, a government official attended a Seminar on Industrial Property, organized by WIPO in cooperation with the Government of Nigeria, in Abuja.

In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Syria. In October and November, WIPO organized, in cooperation with the Government of Syria, a Regional Seminar on Industrial Property for Arab Countries. The Seminar, which placed special emphasis on the role of patents and trademarks in development, was attended by the Director General of WIPO and three WIPO officials. Some 400 participants from 15 Arab countries representing industrial property offices, industry, research and development institutions, trade and legal circles, universities, as well as four Arab inter-governmental organizations (AIDO, ALDOC, FASRC, GCC) were present. A WIPO consultant from FASRC, Syrian government officials and three WIPO officials were speakers. This Seminar was funded by the UNDP-financed regional project.

Tunisia. In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by

WIPO in cooperation with the Government of Syria, in Damascus.

United Arab Emirates. In October and November, two government officials attended a Regional Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Asia and the Pacific

Australia. In April, a Seminar on Computerization in Industrial Property Administration for Asian Countries was organized by WIPO, in cooperation with the Australian Patent, Trade Marks and Designs Office, in Canberra. The Seminar was attended by 19 participants from Bangladesh, China, India, Indonesia, Malaysia, the Philippines, the Republic of Korea, Thailand and Viet Nam. Lectures were given by officials of the Australian Patent, Trade Marks and Designs Office, and demonstrations of their computerized systems were given during the Seminar. Lectures were also given by two WIPO officials. The officials of the Department of Commercial Registration of Thailand presented and demonstrated their computerized system for trademark administration. Special lectures were also given by two representatives of a private computer firm based in Australia, and a representative of a patent attorney firm based in Sydney. The Seminar was funded by the UNDP-financed regional project.

Bangladesh. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific organized by WIPO, in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In October, a government official attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea and funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China and funded by the UNDP-financed regional project.

China. In January and February, three government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific organized by WIPO, in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In November, a Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific was organized by WIPO in cooperation with the State Education Commission of China, in Beijing. About 100 participants attended the Symposium. They comprised professors or researchers in the field of intellectual property law teaching and research who came from the following 14 countries of the Asian and Pacific region: Bangladesh, China, Democratic People's Republic of Korea, India, Indonesia, Mongolia, Nepal, Pakistan, Papua New Guinea, Republic of Korea, Singapore, Sri Lanka, Thailand, Viet Nam. Six professors, members of the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), from the following six countries were especially invited to attend the Symposium: Argentina, Australia, Germany (Federal Republic of), Japan, United Kingdom, United States of America. WIPO was represented by three officials. The Symposium was funded by the UNDP-financed regional project.

Cook Islands. In August, WIPO organized, in Rarotonga, in cooperation with the Government of the Cook Islands, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property. It was attended by 16 government officials from the Cook Islands, Kiribati, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu, a WIPO consultant from Australia and two WIPO officials. The Meeting considered and finalized a Model Industrial Property Act for South Pacific Countries and Regulations under the Act, which had been prepared by WIPO at the request of the governments. The Meeting also discussed forms of possible regional cooperation in the field of industrial property. The Meeting was funded by the UNDP-financed regional project.

Democratic People's Republic of Korea. In November, two government officials attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China and funded by the UNDP-financed regional project.

Fiji. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific organized by WIPO, in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

India. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific organized by WIPO, in cooperation with the Government of Sri Lanka and the Sri Lanka Founda-

tion, in Colombo, under the UNDP-financed regional project.

In March, a Seminar on Intellectual Property and High Technology was organized by WIPO in cooperation with the Government of India in New Delhi. The Seminar was attended by government officials from China, Pakistan, the Republic of Korea and Sri Lanka. In addition, the Seminar was attended by over 40 participants from India. Lectures were given by WIPO consultants from Argentina, Germany (Federal Republic of), India and the United States of America, as well as by three WIPO officials. The Seminar was funded by the UNDP-financed regional project and opened by the Minister of State for Science and Technology of India.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea and funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China and funded by the UNDP-financed regional project.

Also in November, WIPO organized for the Controller-General of Patents, Designs and Trade Marks and the Joint Registrar of Trade Marks, a study visit on computerization of industrial property administration and international classification systems for trademarks, at the USPTO, the EPO, the German Patent Office in Munich and WIPO. This study visit was funded by the UNDP-financed project.

Also in November, a National Forum of Judges on the Protection of Intellectual Property was organized by WIPO in cooperation with the Society for Law and Justice (Calcutta Chapter), India. The Forum was attended by the Chief Justices of each of the High Courts of India, Justices of the Supreme Court of India, Justices of the Calcutta High Court, as well as some 200 lawyers. The Forum was inaugurated by the Governor and the Chief Minister of West Bengal and a closing address was delivered by the Chief Justice of the Supreme Court of India. Lectures were given by WIPO consultants from Australia, Canada, Germany (Federal Republic of), India, Malaysia, New Zealand and the United States of America. This Forum was funded by the UNDP-financed regional project.

Indonesia. In January and February, three government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In February, a Seminar on Intellectual Property and Computer Technology was organized by WIPO in cooperation with the Government of Indonesia, in Jakarta. Government officials from Malaysia, the Philippines, Singapore and Thailand participated in the Seminar, in addition to approximately 30 participants from the Government of Indonesia, legal and judicial professions, computer associations as well as the industrial and academic communities. Lectures were given by WIPO consultants from Canada, Indonesia, the Republic of Korea and the United States of America. The Seminar was opened by the Cabinet Secretary (Minister) of the Government of Indonesia, and by the Director General of WIPO. A Deputy Director General and two other WIPO officials were also present. The Seminar was funded by the UNDP-financed regional project.

In October, a government official attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea and funded by the UNDP-financed regional project.

In November, a university professor attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China and funded by the UNDP-financed regional project.

Kiribati. In August, two government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Malaysia. In January and February, three government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two WIPO consultants from Australia participated as lecturers in a Workshop on Patent Drafting organized by the Government of Malaysia in Kuala Lumpur; the Workshop was attended by 30 participants. The participation of the two WIPO consultants was funded by the UNDP-financed regional project.

Also in November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Maldives. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

Mongolia. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In November, a government official attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, jointly organized by WIPO and the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Nepal. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In October, a government official attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, a university professor attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Niue. In August, two government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Pakistan. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In October, WIPO organized in Islamabad, in cooperation with the University Grants Commission and the National Academy of Higher Education, and with the assistance of the Ministry of Education and the Economic Affairs Division of the Government of Pakistan, a Seminar on Intellectual Property Law Teaching. The participants were professors from the law faculties of universities in Pakistan and government officials concerned with intellectual property. The lecturers were a WIPO consultant from Switzerland and a WIPO official. The Seminar was funded by the UNDP-financed regional project.

In October, a government official attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Papua New Guinea. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In August, three government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

In October, a government official attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, a university professor attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The

Symposium was funded by the UNDP-financed regional project.

Philippines. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project. Another government official participated in the course as a lecturer.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

Republic of Korea. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In October, a Regional Seminar on Licensing and Other Technology Transfer Arrangements was held in Seoul. The Seminar was organized by WIPO in cooperation with the Office of Patents Administration. It was attended by 20 participants from the following 12 countries: Bangladesh, India, Indonesia, Malaysia, Nepal, Pakistan, Papua New Guinea, Philippines, Singapore, Sri Lanka, Thailand, Viet Nam. In addition, approximately 60 persons from the legal, industrial and government sectors in the Republic of Korea attended. Papers were presented by eight WIPO consultants from Canada, France, Japan, Indonesia, Mexico, Sweden and the United States of America. The Seminar was funded by the UNDP-financed regional project and through funds made available to WIPO by the Governments of France and Sweden.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Republic of Palau. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

Samoa. In January and February, a government official attended the Training Course on Intellectual

Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In August, two government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Singapore. In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Solomon Islands. In August, a government official attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Sri Lanka. In January and February, a Training Course on Intellectual Property for Developing Countries of Asia and the Pacific was organized in Colombo by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, under the UNDP-financed regional project.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Thailand. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia

and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation in Colombo, under the UNDP-financed regional project.

In March, WIPO organized, in cooperation with the Government of Thailand, the Law Society of Thailand, and the Trade Mark, Patent and Copyright Association of Thailand, a Seminar on Licensing and Other Technology Transfer Arrangements, in Bangkok. The Seminar was attended by approximately 150 participants from the Government, legal and judicial professions, industry, commerce and the academic communities. Lectures were given by WIPO consultants from Canada, Japan, Nigeria, the United States of America, Thailand, as well as by two WIPO officials. The Seminar was funded by the UNDP-financed regional project.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two university professors attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Tonga. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In August, two government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Tuvalu. In August, a government official attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Vanuatu. In January and February, a government official attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foun-

dation, in Colombo, under the UNDP-financed regional project.

In August, two government officials attended, in Rarotonga, the Third High-Level Meeting of Government Officials of South Pacific Countries to Consider Cooperation in the Field of Industrial Property, organized by WIPO in cooperation with the Government of the Cook Islands. The Meeting was funded by the UNDP-financed regional project.

Viet Nam. In January and February, two government officials attended the Training Course on Intellectual Property for Developing Countries of Asia and the Pacific, organized by WIPO in cooperation with the Government of Sri Lanka and the Sri Lanka Foundation, in Colombo, under the UNDP-financed regional project.

In February, a Seminar on the Role of Industrial Property in Technological and Economic Development, organized by WIPO in cooperation with the National Office on Inventions of Viet Nam, was held in Hanoi. Lectures were given by WIPO consultants from Austria, the German Democratic Republic, the Soviet Union, government officials of Viet Nam, and by a WIPO official. Participating in the Seminar were 45 government officials concerned with industrial property administration or representatives of commercial, scientific, and development institutions. The Seminar was funded by the UNDP-financed regional project.

In October, two government officials attended, in Seoul, the Regional Symposium on Licensing and Other Technology Transfer Arrangements, organized by WIPO in cooperation with the Office of Patents Administration of the Republic of Korea. The Symposium was funded by the UNDP-financed regional project.

In November, two government officials attended, in Beijing, the Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific, organized by WIPO in cooperation with the State Education Commission of China. The Symposium was funded by the UNDP-financed regional project.

Latin America and the Caribbean

Argentina. In March, a WIPO consultant from Argentina gave a lecture at a Seminar on Intellectual Property and High Technology, organized by WIPO in cooperation with the Government of India, in New Delhi.

In May, two government officials participated in a high-level seminar, organized by WIPO in cooperation with the EPO, for the four countries involved in the WIPO/ALADI (Latin-American Integration Association) project (Argentina, Chile, Paraguay, Uruguay), in The Hague and Munich. The possibility of cooper-

ation between the EPO and the four countries was discussed in detail.

In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Bolivia. In October, two government officials attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Chile. In May, two government officials participated in a high-level seminar, organized by WIPO in cooperation with the EPO for the four countries involved in the WIPO/ALADI project (Argentina, Chile, Paraguay, Uruguay), in The Hague and Munich. The possibility of cooperation between the EPO and the four countries was discussed in detail.

Colombia. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Cuba. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

El Salvador. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Guatemala. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Mexico. In October, two government officials attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Paraguay. In May, two government officials participated in a high-level seminar, organized by WIPO in cooperation with the EPO for the four countries involved in the WIPO/ALADI project (Argentina, Chile, Paraguay, Uruguay), in The Hague and Munich. The possibility of cooperation between the EPO and the four countries was discussed in detail.

Peru. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Uruguay. In May, two government officials participated in a high-level seminar, organized by WIPO in cooperation with the EPO for the four countries involved in the WIPO/ALADI project (Argentina, Chile, Paraguay, Uruguay), in The Hague and Munich. The possibility of cooperation between the EPO and the four countries was discussed in detail.

In October, two government officials attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Venezuela. In October, a government official attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

Development of National and Regional Legislation and Institution Building in Developing Countries

Africa: Intercountry

Proposed Intercountry Project for Africa. In February, March and April, a series of preparatory assistance missions were undertaken by WIPO officials and consultants to a number of African countries (see below) within the framework of a proposed regional project for Africa under the UNDP Fourth Cycle. These missions were aimed at identifying the needs of those countries in the field of industrial property.

In April, a WIPO official visited New York and discussed with UNDP officials the WIPO draft project document of the proposed regional project.

WIPO/ARCT/ARIPO/OAPI Cooperation Agreement. In May, the second session of the Joint Consultative Committee of WIPO, ARCT, ARIPO and OAPI was held in Geneva. WIPO was represented by the Director General, a Deputy Director General and three officials. ARCT, ARIPO and OAPI were represented by the heads of their respective organizations. The Deputy Director General of OAPI was also present. The representatives of the four organizations reported in detail on the activities of their organizations regarding the implementation of the recommendations of the first session of the Joint Consultative Committee. They also discussed their plans for 1987 and 1988 and emphasized the following matters:

(a) exchange of professional staff among ARCT, ARIPO and OAPI;

- (b) continuous assistance of WIPO to consolidate the outputs of the patent information and documentation centers of ARIPO and OAPI;
- (c) the award of WIPO medals to African inventors;
- (d) training, particularly in negotiations of industrial property licenses through transfer of technology arrangements.

African Intellectual Property Organization (OAPI). In February, two WIPO officials undertook a preparatory assistance mission to Yaoundé, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project.

In March, a WIPO official attended the 25th session of the OAPI Board, which was held in Ouagadougou. During the session, a number of items pertaining to cooperation between WIPO and OAPI were identified and discussed. They concerned mainly several meetings organized in Africa, as well as missions and the satisfactory conclusion of a UNDP-financed project for the improvement and rationalization of procedures of work in the fields of patents and trademarks. The session also adopted a resolution giving full support to the proposed UNDP regional project for Africa in the field of industrial property. The session also elected a new Director General, a national of Cameroon.

In June, a WIPO official had discussions in Yaoundé with the Director General of OAPI concerning the WIPO/OAPI seminar on intellectual property for magistrates, to be held in Niamey in October.

In October, a Seminar on Intellectual Property for Magistrates was organized in Niamey by WIPO in cooperation with OAPI and the Government of Niger. Twenty-seven magistrates from Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, the Congo, Côte d'Ivoire, Gabon, Mali, Mauritania, Niger, Senegal and Togo attended the Seminar. In addition, there were six government officials from Niger. Three WIPO officials, one French magistrate, two WIPO consultants from France and an official from OAPI participated as lecturers. The participation of the French magistrate and one WIPO consultant was financed by funds made available by the Government of France.

In November, the Director General, accompanied by two WIPO officials visited the headquarters of OAPI in Yaoundé and held discussions with the Director General and other officials of that Organization on cooperation between the two Organizations.

In December, WIPO and OAPI organized jointly a Seminar on Cooperation in the Field of Patent Information and Documentation for the heads of the national structures of industrial property of OAPI's member States in Yaoundé. Twenty-four officials of all the member States of OAPI, namely, Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, the Congo, Côte d'Ivoire, Gabon, Mali, Mauritania,

Niger, Senegal and Togo, attended. The lectures were given by speakers from OAPI's member States and by a WIPO official. The Seminar was funded by the UNDP-financed regional project.

African Regional Centre for Technology (ARCT). In January, an official of ARCT visited WIPO to discuss with WIPO officials several activities to be undertaken jointly by the two organizations; those include, *inter alia*, a workshop on patent information for 25 African countries and the award of WIPO gold medals and certificates to African inventors to be organized in cooperation with the Organization of African Unity (OAU) in 1988.

In February, a WIPO official undertook a preparatory assistance mission to Dakar, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project.

Also in February, the same WIPO official participated in a training workshop on capabilities in the acquisition of foreign technology for Africa, organized jointly by ARCT and the United Nations Economic Commission for Africa (ECA), in Dakar.

In June, WIPO organized in cooperation with ARCT in Abidjan, at the invitation of the Government of Côte d'Ivoire, a Workshop on the Role of Patent Documentation as a Source of Technological Information for Scientists, Technologists and Research Workers from African Countries. Twenty-one participants came from Benin, Burundi, Cameroon, Cape Verde, Egypt, Ethiopia, Ghana, Guinea, Kenya, Mali, Niger, Nigeria, Senegal, Sierra Leone, Uganda, the United Republic of Tanzania, Zaire and Zambia; in addition, there were about 20 local participants from Côte d'Ivoire. Lectures were given by WIPO consultants from Canada, France and Germany (Federal Republic of), as well as by a WIPO official. The participation of the lecturers from France and Germany (Federal Republic of) was financed by the Governments of France and Germany (Federal Republic of), respectively. A set of recommendations was adopted inviting WIPO and ARCT to organize further meetings on this topic and advocating the creation of a regional committee which would deal, *inter alia*, with the awareness of industrial property in the African region.

African Regional Industrial Property Organization (ARIPO). In March, a WIPO official undertook a preparatory assistance mission to ARIPO headquarters in Harare, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project.

In December, the eleventh session of the Administrative Council of ARIPO was held in Mbabane, Swaziland. On that occasion, WIPO organized, with the financial assistance of the Governments of Germany (Federal Republic of) and Sweden, an Industrial Property Seminar that took place concurrently with the

Council session. There were 29 participants in the Seminar from the following countries: Botswana, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Sierra Leone, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia, Zimbabwe. WIPO was represented by three officials at the Council session and the Seminar. Lectures in the Seminar were delivered by officials from Ghana, Sierra Leone, Zambia, Germany (Federal Republic of), Sweden and the EPO. The Council session witnessed the accession of Swaziland to the Harare Protocol, thereby making it the fourteenth member of ARIPO. The ECA was also represented at the session.

United Nations Economic Commission for Africa (ECA). In April, two WIPO officials had discussions with ECA officials as part of a preparatory assistance mission to Addis Ababa, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project.

In November, a WIPO official attended the fifth meeting of the Intergovernmental Committee of Experts for Science and Technology Development held in Addis Ababa.

Organization for African Unity (OAU). In April, two WIPO officials had discussions with OAU officials as part of a preparatory assistance mission to Addis Ababa, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project.

In November, a WIPO official was received in Addis Ababa by the Secretary General of the OAU. They discussed the preparations for the award of medals to two African inventors during the OAU 25th anniversary celebration which will be held in 1988. They further discussed the strengthening of cooperation between the two Organizations.

Individual Countries in Africa

Angola. In February, two WIPO officials undertook a preparatory assistance mission to Luanda, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. The primary purpose of the mission was to identify common sub-regional priorities for Portuguese-speaking countries in the field of industrial property and to identify action to be taken to promote sub-regional cooperation. In addition, the mission discussed WIPO's legal and technical cooperation with Angola.

Botswana. In February, two WIPO officials undertook a preparatory assistance mission to Gaborone, which was one of a series of such missions to a number of African countries. This mission was funded

by the proposed UNDP-financed regional project. During the mission, discussions were held with government officials on WIPO cooperation in the preparation of industrial property legislation.

In May, as a follow-up to the WIPO mission undertaken to Gaborone in February, WIPO prepared and transmitted to the Ministry of Commerce and Industry, as requested, a first draft of an industrial property law (patents, designs and trademarks) with implementing regulations, for comments.

Burkina Faso. In March, a WIPO official undertook a preparatory assistance mission to Ouagadougou, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were held with government officials on the needs of the country in the field of industrial property.

Cameroon. In February, a WIPO official undertook preparatory assistance missions to Douala and Yaoundé, which were part of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were held with government officials on, *inter alia*, a regional seminar on trademarks to be organized in Douala in November and on the needs of the country in the field of industrial property.

In June and October, in Yaoundé, and in October in Douala, a WIPO official held discussions with government officials concerning WIPO's cooperation with the Government of Cameroon in the field of industrial property and the WIPO/Cameroon regional seminar on trademarks, to be held in Douala in November.

In November, in Douala, the Director General and two WIPO officials had discussions with senior government officials, particularly on the support to be extended by the Government of Cameroon to OAPI.

Central African Republic. In July, a WIPO mission visited Bangui and held discussions with senior government officials concerning cooperation between the Central African Republic and WIPO.

Congo. In February, two WIPO officials undertook a preparatory assistance mission to Brazzaville, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were held with government officials on the needs of the country in the field of industrial property.

Côte d'Ivoire. In March, a WIPO official undertook a preparatory assistance mission to Abidjan, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were

held with government officials on the needs of the country in the field of industrial property.

Egypt. See under "Individual Arab Countries."

Ethiopia. In April, two WIPO officials undertook a preparatory assistance mission to Addis Ababa, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were held with government officials on the needs of the country in the field of industrial property.

In September, a study visit to WIPO was organized for a senior government official who discussed industrial property legislation matters and cooperation between Ethiopia and WIPO with WIPO officials.

Guinea. In April, a WIPO consultant from INPI (France) (Lyon), and a WIPO official visited Conakry and discussed with government officials the preparation of a new industrial property law and the strengthening of the industrial property administration structure.

Guinea-Bissau. In October, two government officials visited WIPO and held discussions with officials of WIPO concerning cooperation between Guinea-Bissau and WIPO, the implementation of legal-technical assistance requested by Guinea-Bissau and possible accession to treaties administered by WIPO.

Kenya. In February, two WIPO officials undertook a preparatory assistance mission to Nairobi, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. During the mission, discussions were held with government officials in order to identify the needs of the country in the field of industrial property.

Lesotho. In February, two WIPO officials undertook a preparatory assistance mission to Maseru, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. During the mission, discussions were held with government officials on WIPO cooperation in the drafting of industrial property legislation.

In May, as a follow-up to the mission undertaken to Maseru in February, WIPO prepared and transmitted to the Government of Lesotho, as requested, a first draft of an industrial property law with implementing regulations, for comments.

Liberia. In October, the Director of ARIPO and a WIPO official undertook a mission to Monrovia. They held discussions with senior government officials on ways of increasing cooperation between Liberia and WIPO, on the one hand, and Liberia and ARIPO, on the other. They discussed, in particular, cooperation

between WIPO and Liberia on the drafting of new legislation and the training of government officials in the field of industrial property.

Mali. In January, at the request of the Government of Mali, WIPO sent its comments on an industrial property law and decree prepared following the accession of Mali to the Bangui Agreement.

Morocco. See under "Individual Arab Countries."

Nigeria. In March, a WIPO official undertook a preparatory assistance mission to Lagos, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. During the mission, discussions were held in order to identify the needs of the country in the field of industrial property and to consider the possibility of holding a regional industrial property seminar in Nigeria later in 1987.

In July, four Nigerian government officials visited WIPO and held discussions with the Director General and other officials concerning a proposed regional seminar to be organized by WIPO in Nigeria, in October 1987, and cooperation between Nigeria and WIPO.

Senegal. In February, a WIPO official undertook a preparatory assistance mission to Dakar, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. Discussions were held with government officials on the needs of the country in the field of industrial property.

Sierra Leone. In August, a WIPO official visited Freetown and held discussions with several government officials concerning cooperation between Sierra Leone and WIPO. The WIPO official was also received by the President of Sierra Leone.

Somalia. See under "Individual Arab Countries."

Sudan. See under "Individual Arab Countries."

Swaziland. In February, two WIPO officials undertook a preparatory assistance mission to Mbabane, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. During the mission, discussions were held on WIPO cooperation in the preparation of draft implementing regulations of the Trade Marks Act.

In December, the eleventh session of the Administrative Council of ARIPO was held in Mbabane. On that occasion, WIPO organized an Industrial Property Seminar that took place concurrently with the Council session.

Uganda. In February, at the request of the Government of Uganda, WIPO sent its comments on

the draft bill of the new patent statutes of that country.

Zaire. In February, two WIPO officials undertook a preparatory assistance mission to Kinshasa, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. The mission discussed with government and UNDP officials details of the proposed UNDP-financed country project to strengthen the industrial property office.

In May, two government officials visited WIPO and held discussions with the Director General, the Deputy Directors General and other officials of WIPO concerning cooperation between Zaire and WIPO and implementation of the legal-technical assistance requested by Zaire. They also discussed the said UNDP-financed country project.

Zimbabwe. In March, two WIPO officials undertook a preparatory assistance mission to Harare, which was one of a series of such missions to a number of African countries. This mission was funded by the proposed UNDP-financed regional project. During the mission, discussions were held with government officials in order to identify the needs of the country in the field of industrial property.

In June, a WIPO official held discussions in Harare with government officials concerning a national project document prepared by WIPO for the computerization of the Zimbabwe patent office.

Arab Countries: Intercountry

Intercountry Project for Arab Countries. The regional project (1985/1986) financed by UNDP was extended for 1987 and continued to be executed by WIPO.

Arab Industrial Development Organization (AIDO). In October and November, an official attended a Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Federation of Arab Scientific Research Councils (FASRC). In February, an official of PIDU within the FASRC visited Casablanca and obtained from the Moroccan Industrial Property Office a selected number of Moroccan patent documents. This mission was funded by the UNDP-financed regional project.

In May and June, a WIPO consultant from Tunisia undertook a mission to Baghdad in order to establish a data base for Arab patents and to train the PIDU staff. This mission was funded by the UNDP-financed regional project.

In October and November, an FASRC official attended a Seminar on Industrial Property for Arab

Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

In December, a WIPO official participated in the eleventh session of the Council of FASRC, held in Doha (Qatar), and had discussions with officials of the Secretariat of FASRC regarding the implementation of the project concerning the establishment of a Patent Information and Documentation Unit.

Gulf Cooperation Council (GCC). In October and November, two GCC officials attended a Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

In November, the Assistant Secretary General for Economic Affairs of the GCC had discussions in Geneva with the Director General of WIPO regarding the Draft GCC Uniform Patent Law, as well as the proposed regional system to be set up under the said draft law.

League of Arab States Documentation and Information Center (ALDOC). In October and November, an official attended a Seminar on Industrial Property for Arab Countries, organized by WIPO in cooperation with the Government of Syria, in Damascus.

Individual Arab Countries

Democratic Yemen. In June, WIPO organized a study tour for a government official who visited the industrial property offices of Egypt and Sweden as well as the headquarters of WIPO in Geneva. This study tour was funded by the UNDP-financed regional project.

Egypt. In February, a joint WIPO/UNDP mission visited Cairo and evaluated with government officials activities undertaken by WIPO under the UNDP-financed regional project for the upgrading of the industrial property systems in the Arab countries, and made recommendations for future activities under the proposed new regional project in the UNDP Fourth Cycle.

In June, a WIPO official visited Cairo to discuss with government and UNDP officials the work plan in 1987 for the project concerning the strengthening of the Patent Office. This mission was funded by the UNDP-financed regional project.

In December, a WIPO official undertook a mission in the framework of the national project for the modernization of the industrial property system in that country and had discussions with officials at the Patent Office, as well as UNDP in Cairo, regarding the work plan of the project in 1988. This mission was funded by the UNDP-financed country project.

Iraq. In February, a joint WIPO/UNDP mission visited Baghdad and evaluated with government offi-

cial activities undertaken by WIPO under the UNDP-financed regional project for the upgrading of the industrial property systems in the Arab countries, and made recommendations for future activities under the proposed new regional project in the UNDP Fourth Cycle.

Libya. In March, two WIPO officials held discussions with government officials regarding the strengthening of the country's industrial property system.

Morocco. In February, a joint WIPO/UNDP mission visited Casablanca and evaluated with government officials activities undertaken by WIPO under the UNDP-financed regional project for the upgrading of the industrial property systems in the Arab countries, and made recommendations for future activities under the proposed new regional project in the UNDP Fourth Cycle.

In November, a WIPO official undertook a mission to Rabat and Casablanca and discussed with government officials the implementation of the UNDP-financed country project prepared by WIPO concerning the strengthening of the industrial property system in Morocco. This mission was funded by the UNDP-financed regional project.

Somalia. In April, the Permanent Secretary of the Ministry of Industry of Somalia, accompanied by the Registrar of Patents and Trade Marks, visited WIPO and discussed the draft industrial property law prepared for Somalia, as well as means for the strengthening of the industrial property system. The visit was funded by the UNDP-financed regional project.

In May, WIPO prepared a revised draft of the above-mentioned law for Somalia and dispatched it to the Minister for Industry. The said draft was based on discussions undertaken with Somali officials at WIPO headquarters, in Geneva, in April.

In December, a WIPO official undertook a mission to Mogadiscio to assist the national authorities in their plans aimed at the strengthening of the administrative infrastructure in the field of industrial property. This mission was funded by the UNDP-financed regional project.

Sudan. In February, a joint WIPO/UNDP mission visited Khartoum and evaluated with government officials activities undertaken by WIPO under the UNDP-financed regional project for the upgrading of the industrial property systems in the Arab countries, and made recommendations for future activities under the proposed new regional project in the UNDP Fourth Cycle.

In June, WIPO organized a study tour for a government official who visited the industrial property offices of Egypt and Sweden as well as the headquarters of WIPO in Geneva. This study tour was funded by the UNDP-financed regional project.

Syria. In February, a joint WIPO/UNDP mission visited Damascus and evaluated with government officials activities undertaken by WIPO under the UNDP-financed regional project for the upgrading of the industrial property systems in the Arab countries, and made recommendations for future activities under the proposed new regional project in the UNDP Fourth Cycle.

In April, a WIPO official undertook a mission to Damascus to discuss with government and UNDP officials the organizing of a seminar on the role of patents in development for the Arab countries.

In June, WIPO organized a study tour for a government official who visited the industrial property office of Sweden and the headquarters of WIPO in Geneva. This study tour was funded by the UNDP-financed regional project.

In connection with the Seminar on Industrial Property for Arab Countries, the Director General of WIPO, accompanied by three WIPO officials, undertook, in Damascus, consultations with government officials concerning the strengthening of the industrial property system in Syria. The project to modernize the industrial property system and the draft industrial property law, both formulated by WIPO in 1985, were also discussed.

In December, a WIPO official visited Damascus and discussed with government officials the project referred to in the preceding paragraph as well as a revision of the national industrial property legislation. This mission was funded by the UNDP-financed regional project.

Asia and the Pacific: Intercountry

Intercountry Project for Asia and the Pacific. In January, WIPO started execution of the UNDP-financed regional project for the UNDP Fourth Cycle (1987-1991).

During the period under review, four issues of the publication *Intellectual Property in Asia and the Pacific* were published as an activity under the UNDP-financed regional project.

South Pacific. In June, at the request of South Pacific countries, WIPO prepared and sent to those countries a draft model industrial property act and draft industrial property regulations under that act. Those documents were discussed at a meeting organized for South Pacific countries in August, in Rarotonga, Cook Islands.

In November, a Regional Evaluation and Planning Meeting on WIPO's Development Cooperation Activities in Asia and the Pacific was organized by WIPO at its headquarters in Geneva.

The objectives of the Meeting were to review and evaluate WIPO's development cooperation activities in the region, to determine the needs and priorities of the developing countries of the region in the field of indus-

trial property, to plan activities for 1988 and 1989 under WIPO's development cooperation program for the region (including financial support from the UNDP-financed regional project and from other sources) and to have an exchange of views among the developing countries of the region and representatives of the industrialized countries and organizations invited to the Meeting.

Papers on developments in the field of industrial property were presented by the representatives of the following developing countries in the Meeting: Bangladesh, China, Democratic People's Republic of Korea, India, Indonesia, Malaysia, Mongolia, Nepal, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Samoa, Sri Lanka, Thailand, Viet Nam.

Papers were also presented by representatives of the industrial property offices of the following industrialized countries in the Meeting: Australia, Canada, Denmark, German Democratic Republic, Germany (Federal Republic of), Soviet Union, United Kingdom, United States of America.

Seventeen developing countries of the region represented by 31 government officials participated in the Meeting: Bangladesh, China, Democratic People's Republic of Korea, India, Indonesia, Iran (Islamic Republic of), Malaysia, Mongolia, Nepal, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Samoa, Sri Lanka, Thailand, Viet Nam.

Among the industrial property offices of industrialized countries that contributed to WIPO's development cooperation program in the region, the following countries and organization were represented by 13 officials: Australia, Austria, Canada, Denmark, France, Germany (Federal Republic of), Japan, Soviet Union, United Kingdom, United States of America, EPO.

The Regional Bureau for Asia and the Pacific of the UNDP in New York, was represented. After the Meeting, the participants visited the Swiss Federal Intellectual Property Office in Berne. The Meeting was funded by the UNDP-financed regional project.

Individual Countries in Asia and the Pacific

Bangladesh. In May, a government official had discussions in Geneva with a Deputy Director General and other WIPO officials on the proposed UNDP-financed country project for strengthening the national industrial property administration, and the revision of the patent and trademark laws of Bangladesh.

In October, a WIPO official visited Dhaka and discussed with government and UNDP officials the proposed UNDP-financed country project, as well as participation in activities under the regional project.

China. In April, a Vice-Chairman of the State Science and Technology Commission (SSTC) of China

and accompanying officials discussed with the Director General, and other WIPO officials, cooperation between SSTC and WIPO.

Also in April, a member (Vice-Minister) of the State Education Commission (SEC) of China discussed with the Director General and other WIPO officials cooperation between SEC and WIPO in the field of intellectual property law teaching.

In May, two government officials of the State Administration for Industry and Commerce discussed with a Deputy Director General and other WIPO officials cooperation between the Chinese trademark administration and WIPO. The Chinese officials also visited the international trademark registration operations in WIPO.

In June, a delegation from the China Council for the Promotion of International Trade (CCPIT) visited WIPO headquarters and had discussions with the Director General on matters of mutual interest in the field of intellectual property.

Also in June, the Adviser to the Chinese Patent Office visited WIPO headquarters and had discussions with the Director General on WIPO's assistance to the Chinese Patent Office for the establishment of the library of the Chinese Patent Law Research Institute.

In July, the Director General of the Economic Laws and Regulations Research Centre of the State Council of China, accompanied by three officials, visited WIPO and had discussions with the Director General and other WIPO officials on intellectual property matters. WIPO also arranged for the Chinese officials to visit the Swiss Federal Intellectual Property Office in Berne and the Swiss Society for Authors' Rights in Musical Works (SUISA) in Zurich.

In September and October, the Deputy Director General and officials of the Chinese Patent Office had discussions with the Director General and other WIPO officials on cooperation in the field of patents.

In November, two WIPO officials had discussions in Beijing with government officials on cooperation between China and WIPO.

In November and December, WIPO organized, and partly financed, a study visit for four senior officials of the Novel Technology Development (NTD) Patent Agency, Hong Kong (an agency designated by the State Council of China), to WIPO in Geneva, and the Patent Offices of Switzerland, Germany (Federal Republic of), the United Kingdom, the United States of America and Japan, and the EPO, Munich. The NTD group also met leading patent attorneys and visited industrial enterprises in some of the countries.

In December, an official of the Chinese Trademark Office had discussions with the Director General and other WIPO officials in Geneva on possible cooperation in the computerization of trademark administration in China. A WIPO official subsequently visited the Chinese Trademark Office in Beijing in December for follow-up discussions. He also held talks with officials of the Chinese Patent Office in Beijing.

Democratic People's Republic of Korea. In April, a WIPO consultant from the German Democratic Republic undertook a mission to Pyongyang. The WIPO consultant discussed with government and UNDP officials the situation relating to documentation and patent information services, and possible plans to computerize invention, patent and trademark operations. Also discussed was a possible new UNDP-financed country project to cover the Committee's plans to further strengthen the Office. This proposed project would be a follow-up to the UNDP-financed project which was executed by WIPO from 1982 to 1985.

In September, the Chairman, Invention Committee of the Democratic People's Republic of Korea and accompanying officials, had discussions in Geneva with the Director General and other WIPO officials on cooperation in the field of industrial property.

India. In February, a WIPO consultant from India visited New Delhi to discuss with government and UNDP officials arrangements for the Seminar on Intellectual Property and High Technology which was held in New Delhi in March.

In May, the Controller-General of Patents, Designs and Trade Marks, on the occasion of his participation in the WIPO Committee of Experts on the Protection Against Counterfeiting, had discussions in Geneva with WIPO officials on questions of mutual interest.

In August, a mission comprising a WIPO official and two WIPO consultants from Australia and India, visited India and discussed with officials of the Patents, Designs and Trade Marks Office in Bombay, at the branch offices in New Delhi and Calcutta, and at the Patent Information System in Nagpur, questions concerning the proposed computerization of industrial property operations and patent information services. The mission also discussed with UNDP, New Delhi, and government officials, the implementation of a development cooperation plan in the field of industrial property, including training of officials, the organization of meetings and assistance with computerization. The mission was funded by the UNDP-financed regional project.

In December, a government official discussed with the Director General, in Geneva, cooperation between WIPO and India on the computerization of the industrial property and patent information operations in India.

Indonesia. In February, the Director General of WIPO, accompanied by a Deputy Director General and two WIPO officials, visited Jakarta. They were received by, and had discussions with, the President of the Republic of Indonesia, the Cabinet Secretary (Minister), the Minister for Industry, the Minister for Commerce, and other senior government officials. The discussions covered cooperation between Indonesia and WIPO in the field of intellectual property.

In March, two officials of the Department of Industry visited WIPO for discussions with the Director General and other officials concerning draft regulations for the implementation of industrial design protection in Indonesia. The two officials also visited the Benelux Designs Office in The Hague to observe the administration of industrial design protection, and an enterprise in the Federal Republic of Germany to observe the administration of industrial design protection within the enterprise. The study visit was funded by the UNDP-financed regional project.

In May, a government official visited WIPO and discussed with the Director General and other officials cooperation in the field of industrial property between the Government of Indonesia and WIPO.

In September, a WIPO official had discussions in Jakarta with government and UNDP officials regarding a proposed UNDP-financed country project for strengthening the national intellectual property system.

Iran (Islamic Republic of). In September, four government officials had discussions, in Geneva, with the Director General and other WIPO officials on cooperation in the field of industrial property and the despatch of a WIPO mission to Teheran in 1988.

Laos. In April, a WIPO official discussed with government and UNDP officials, in Vientiane, possible WIPO assistance in the establishment of a national industrial property system, the training of Lao officials in the field of industrial property and the organization of an industrial property seminar, in Vientiane, in early 1988. The WIPO official conducted a half-day briefing session on industrial property for officials of the State Council for Science and Technology. The mission was funded by the UNDP-financed regional project.

Malaysia. In February, a WIPO official participated, with government and UNDP officials, in Kuala Lumpur, in the Terminal Review of the UNDP-financed country project which had been implemented by WIPO over the past 18 months. The WIPO official also had discussions with UNDP and government officials concerning two proposed new UNDP-financed country projects in the areas of trademarks and patents, respectively.

In March, a WIPO consultant from Finland undertook a mission to the Malaysian Inventions and Designs Society, in Kuala Lumpur, to advise on measures for the promotion of inventive activity. The mission was financed by the Government of Finland.

In April, the first activity under the new UNDP-financed country project on trademark administration was undertaken. It consisted of a mission by a WIPO consultant from Australia to the Malaysian Registry of Trade Marks and Patents to provide advice and assistance in connection with the law and administration of trademarks.

In May, June and July, a WIPO consultant from Australia undertook a mission to the Registry of Trade Marks and Patents and the Patent Information and Documentation Centre (PIDC), in Kuala Lumpur, to provide advice and assistance on patent law and administration. This mission was funded by the UNDP-financed country project on patent administration.

In August, another WIPO consultant from Australia commenced a mission to the Registry and the PIDC, in Kuala Lumpur, to provide further advice and assistance in relation to patent administration and patent information services. The mission was funded by the UNDP-financed country project.

In August and September, a WIPO consultant from Canada undertook a mission to provide advice and in-service training in trademark law and administration. The mission was funded by the UNDP-financed country project.

In September and October, a WIPO consultant from the United States of America undertook a mission to Kuala Lumpur to provide advice and in-service training in trademark law, including the registration of service marks. The mission was funded by the UNDP-financed country project.

In October, a government official of the Registry undertook a training attachment at the Swedish Patent and Registration Office in Stockholm and the United Kingdom Patent Office in trademark law and administration in London. The training attachment was funded by the UNDP-financed country project.

In November, a mission comprising a WIPO official and two WIPO consultants from Canada visited Kuala Lumpur to study the situation with respect to the computerization of trademark operations and to undertake planning for their modernization, in the framework of the UNDP-financed country project.

In December, two government officials had discussions at WIPO on the revised Malaysian Trade Mark Law and Regulations. The officials also visited the United Kingdom Trade Mark Registry, in London, for discussions and to observe administrative procedures related to the registration of trademarks and service marks.

Nepal. In October, a WIPO official visited Kathmandu and discussed with government and UNDP officials cooperation in the field of industrial property. The WIPO official was received by, and had discussions with, the Chief Justice of Nepal.

Pakistan. In April, a WIPO official discussed with government and UNDP officials, in Islamabad and Karachi, cooperation between the Government of Pakistan and WIPO in the field of intellectual property. The discussions included a proposed UNDP-financed country project to strengthen the national patent system, revision of the present legislation on patents, industrial designs and copyright, and organization of a seminar on intellectual property teaching, in Islamabad,

later in 1987, and a copyright seminar, in Lahore, in early 1988.

Also in April, the WIPO official during his mission to Islamabad was received by, and had discussions with, the Chief Justice of Pakistan.

Also in April, the Resident Representative of UNDP in Pakistan visited WIPO and discussed with a Deputy Director General and other WIPO officials the proposed UNDP-financed country project to strengthen the national patent system, and other activities that WIPO proposed to undertake in Pakistan.

Also in April, a WIPO official discussed with government and UNDP officials, in Islamabad, the organization of a round table on intellectual property teaching, to be held in Islamabad in autumn 1987, and a copyright seminar, to be held in Lahore in early 1988.

In October, a WIPO official had discussions in Karachi and Islamabad with government and UNDP officials on a proposed UNDP-financed country project to strengthen national patent office services. The official also discussed matters relating to activities under the regional project.

Philippines. In January, a WIPO official visited Manila and had discussions with government and UNDP officials on the contracting of a local computer service company which would undertake the establishment of a computerized trademark system at the Philippine Patent Office.

In January and February, a WIPO consultant from the United States of America undertook a mission to the Philippine Patent Office to provide advisory and training services on trademark search and examination procedures. The mission was funded by the UNDP-financed country project.

In April, a Meeting on the Patent Cooperation Treaty (PCT), organized by WIPO in cooperation with the Licensing Executives Society (Philippines), the Intellectual Property Association of the Philippines and the Department of Trade and Industry, was held in Manila. Lectures were given by a WIPO consultant from the United States of America and by a WIPO official. The Meeting was attended by approximately 40 officials from the Government of the Philippines, patent agent firms and inventors' associations.

Also in April, during their presence in Manila for the above-mentioned Meeting, two WIPO officials and the WIPO consultant from the United States of America had discussions with government officials concerning accession to international treaties.

In May, an official of the Philippine Patent Office commenced a study attachment on the legal aspects of industrial property operations at the USPTO in Washington. This study attachment was undertaken in the framework of the UNDP-financed country project for modernizing the industrial property system of the Philippines.

In July, a WIPO official discussed with government and UNDP officials, in Manila, the preliminary design of a computerized system for trademark administration, formulated by a local firm contracted by WIPO for the purpose, in the framework of the UNDP-financed country project. The official also participated in the first tripartite review of that project, organized by UNDP and the Government of the Philippines.

In September, a WIPO official had discussions with the new Director of the Bureau of Patents, Trademarks and Technology Transfer (BPTTT) on matters pertaining to development cooperation activities between the BPTTT and WIPO.

In October, four government officials of the BPTTT underwent a training attachment at the Australian Patent, Trade Marks and Designs Office for on-the-job training in their respective areas. The training attachment was funded by the UNDP-financed country project.

In November, a WIPO official had discussions in Manila with the BPTTT in connection with the selection of the required computer hardware and software for the trademark computerization project being undertaken in the BPTTT office under the UNDP-financed country project.

Also in November, the Director of the BPTTT undertook a study visit on computerization of industrial property administration to the USPTO in Washington, the EPO in The Hague, the BMM in The Hague, and the German Patent Office in Munich. He also had discussions with WIPO officials in Geneva. This study visit was funded by the UNDP-financed country project.

Republic of Korea. In January, a WIPO official participated, with government and UNDP officials, in Seoul, in the Terminal Review of the UNDP-financed country project, which had been implemented over the past 18 months. The WIPO official also had discussions with UNDP and government officials concerning a proposed new UNDP-financed country project to assist in the establishment of an International Intellectual Property Training Center, which was planned to commence later in 1987. He also discussed arrangements for a proposed Regional Seminar on Licensing and Other Technology Transfer Arrangements, to be held in Seoul in October.

In February, a WIPO consultant from the Republic of Korea gave a lecture at a Seminar on Intellectual Property and Computer Technology organized by WIPO in cooperation with the Government of Indonesia, in Djakarta.

In April, WIPO organized a study visit for a group of members of the Korean Invention and Patent Association (KIPA) to WIPO, the German Patent Office (Munich), the EPO, and patent and inventors' associations in France and Germany (Federal Republic of).

In May, the Administrator of the Office of Patents Administration (OPA), and accompanying officials,

discussed with the Director General and other WIPO officials cooperation between the OPA and WIPO.

In July, a WIPO consultant from the Federal Republic of Germany undertook a mission to the OPA to provide assistance and in-service training in the international classification of goods and services for the purposes of trademark applications. The mission was funded by the UNDP-financed country project.

Also in July, a government official of the OPA undertook a training attachment at the EPO (The Hague and Munich), the Swedish Patent Office in Stockholm and WIPO on the PCT and procedures and administration thereunder. The training attachment was funded by the UNDP-financed country project.

Also in July, a WIPO official attended the opening ceremony of the International Intellectual Property Training Institute (IIPTI), established by the Government of the Republic of Korea in Seoul.

Also in July, a new UNDP-financed country project, entitled "Establishment of International Intellectual Property Training Institute (IIPTI)," commenced.

In September, a WIPO official gave a course of lectures on international treaties and new developments in industrial property at the IIPTI in Seoul. The lectures were part of an International Seminar on Industrial Property organized by the Government of the Republic of Korea for officials from developing countries. In addition, the official gave a series of lectures in the same area to examiners and trial examiners of the OPA.

In December, another WIPO official gave a course of lectures on international treaties in intellectual property at the IIPTI. The mission was funded by the UNDP-financed country project.

Singapore. In July, a WIPO official discussed in Singapore with officials of the Singapore Inventors Development Association (SIDA) and the Economic Development Board of Singapore the possible organization of a conference for inventors in cooperation with WIPO.

Sri Lanka. In January, a one-day Seminar on the Intellectual Property Law of Sri Lanka for Judges and Lawyers was organized, in Colombo, by WIPO, under the UNDP-financed regional project, in cooperation with the Sri Lanka Bar Association, the Registry of Patents and Trade Marks and the Sri Lanka Foundation. The Seminar was opened by the Chief Justice of Sri Lanka. The Seminar was addressed by nationals of Sri Lanka and by three WIPO consultants. Twenty-five Sri Lankan judges and 75 lawyers attended the Seminar.

In December, the Director General of WIPO was conferred with the degree of Doctor of Laws, *honoris causa*, by the University of Colombo, Sri Lanka.

Also in December, the Director General and three WIPO officials participated in the Seminar on the Use of Computers and its Legal Consequences and Unfair

Competition, organized by the Bar Association of Sri Lanka, in Colombo.

Thailand. In February, a WIPO consultant from the United States of America undertook a mission to the Department of Commercial Registration in Bangkok to provide advice and training on industrial property administration and management. The mission was funded by the UNDP-financed country project.

In March, a WIPO official had discussions with government officials, in Bangkok, on the further development of their computerized system for trademark administration.

In June, a WIPO consultant from Australia undertook a mission to the Department of Commercial Registration to provide advice and in-service training in the examination of applications for patents in the mechanical field and for designs. This mission was funded by the UNDP-financed country project.

In July, a WIPO official visited the Asian Institute of Technology (AIT) in Bangkok and discussed the possibility of AIT providing special training courses on the development of computer systems in the field of industrial property for selected government officials from the region. The WIPO official also discussed with officials of the Department of Commercial Registration (DCR) and UNDP the plans for computerization of trademark administration at the DCR under the UNDP-financed country project.

Also in July, a WIPO consultant from the United Kingdom undertook a mission to the DCR to provide advice and in-service training in the area of trademark law and administration. The mission was funded by the UNDP-financed country project.

Also in July, another WIPO consultant from the United Kingdom undertook a mission to the DCR to provide advice and in-service training in the examination of patent applications in the chemical field. The mission was funded by the UNDP-financed country project.

In October, a WIPO consultant from the United States of America undertook a mission to the DCR to provide advice and in-service training on the examination and classification of applications for the registration of industrial designs. The mission was funded by the UNDP-financed country project.

Viet Nam. In February, a Deputy Director General and another official of WIPO had discussions in Hanoi with senior government officials on cooperation between the Government of Viet Nam and WIPO. The Deputy Director General and the WIPO official also discussed with government and UNDP officials a possible UNDP-financed country project for strengthening the national industrial property administration and the establishment of a patent documentation center.

In September, a government official had discussions in Geneva with the Director General and other WIPO

officials regarding the proposed UNDP-financed country project for strengthening the industrial property administration, and possible WIPO assistance in patent documentation and legislation.

Hong Kong. In April and September, two government officials had discussions with the Director General, in Geneva, on industrial property matters.

In June, a WIPO official had preliminary discussions with government officials in Hong Kong on a proposed industrial property seminar for countries in the Asian and Pacific region.

Latin America and the Caribbean: Intercountry

Intercountry Project for Latin America and the Caribbean. The regional project (1983-1986) financed by UNDP for the "Modernization and Strengthening of Industrial Property Systems" continued to be executed by WIPO with respect to certain specific activities postponed from 1986.

In January and February, a WIPO consultant from Italy continued his assignment in WIPO on preparatory activities in the field of industrial property protection of biotechnological inventions. As a result of this assignment, six country reports for Argentina, Brazil, Colombia, Mexico, Peru and Venezuela were finalized which described the situation of research on biotechnology in the six countries concerned and the policies applied from the point of view of industrial property protection of inventions and innovations in this field. The reports were sent to the UNDP in New York.

In March, a WIPO official attended the UNDP Regional Meeting of the Resident Representatives of the Latin American and Caribbean Region in Buenos Aires.

In July, a WIPO official visited the UNDP in New York and discussed with UNDP officials the draft project document of the regional project, for the Fourth Cycle, prepared by WIPO.

In October, UNDP approved the final version of the project document of the new regional project entitled "Support to the Establishment of Intellectual Property Systems" for the period 1987 to 1989.

United Nations Economic Commission for Latin America and the Caribbean (ECLAC). In September, a WIPO official undertook a mission to Port of Spain and discussed with officials from the ECLAC Office for the Caribbean forthcoming activities under the regional project, especially the strengthening of the Patent Information and Documentation Unit (PIDU) within the Caribbean Documentation Center (CDC) and the proposals made by WIPO concerning intergovernmental cooperation in the field of industrial property for the English-speaking Caribbean countries, Haiti and Suriname. This mission was funded by the UNDP-financed regional project.

In November and December, a meeting of eight experts from different English-speaking Caribbean countries and institutions took place at ECLAC headquarters in Port of Spain, organized by WIPO in cooperation with UNDP and ECLAC. The meeting was devoted to reviewing and analyzing a first draft prepared by WIPO concerning options for a scheme of intergovernmental cooperation in the field of industrial property. ECLAC, Caribbean Community (CARICOM) and SELA representatives as well as two WIPO officials attended the meeting. The participation of the experts was funded by the UNDP-financed regional project.

Latin American Economic System (SELA). In July, two WIPO officials attended a meeting of experts organized by WIPO in cooperation with the SELA Secretariat, in Caracas. Nine experts of the region participated and made specific recommendations for the implementation of a resolution of the Latin American Council dealing with industrial property. The participation of the experts was funded by the UNDP-financed regional project.

In September, two WIPO officials attended the annual meeting of the Latin American Council of SELA which considered and approved the recommendations of the July meeting referred to in the preceding paragraph.

Latin American Association for Integration (ALADI). In April, a WIPO official visited ALADI headquarters in Montevideo and had preliminary contact with the new Secretary General and a new Under-Secretary General.

In May, a high-level seminar, organized by WIPO in cooperation with the EPO for the four countries involved in the WIPO/ALADI project (Argentina, Chile, Paraguay, Uruguay) was held at the EPO in The Hague and Munich. The directors of the industrial property offices of Argentina, Paraguay and Uruguay, each accompanied by another government official, participated in the seminar. A WIPO official also participated. Before attending the seminar, the participants attended the eleventh session of the WIPO Permanent Committee on Development Cooperation Related to Industrial Property in Geneva. This study tour was partially financed by the EPO.

In July and August, two WIPO consultants from Spain undertook missions to the industrial property offices of Argentina, Chile and Uruguay in order to assist in the elaboration of criteria for the legal examination of trademarks. These missions were funded by the respective UNDP-financed country projects and the Government of Spain.

In July, August and September, a WIPO consultant from the EPO worked on a draft manual for the examination of patent applications. This activity was funded by the UNDP-financed regional project and the EPO.

In August, September and October, two WIPO consultants from Spain completed a draft manual on trademarks based on the legislation in force in the four countries involved. This was funded by the UNDP-financed regional project.

In September and November, a WIPO consultant from the EPO undertook roving missions to industrial property offices in Argentina, Chile, Paraguay and Uruguay. The main objective was to analyze and make specific recommendations on the organization of and access to patent documentation and related-data banks. These missions were funded by the EPO and the UNDP-financed regional project.

In October, a WIPO consultant from Spain provided training to officials of the industrial property office of Uruguay, in Montevideo, in the classification of the figurative elements of trademarks. This training was also attended by officials from Argentina and Paraguay and was funded by the UNDP-financed regional project.

In October and November, a WIPO consultant from Mexico prepared two technological profile studies taking into account reports of state-of-the-art searches based on patent documents elaborated by the Austrian Patent Office. This was funded by the UNDP-financed regional project and is to be used by the ALADI Secretariat in the framework of rounds of negotiations among enterprises within specific industrial sectors.

In December, the Fifth Meeting of Directors of Industrial Property Offices of Argentina, Chile, Paraguay and Uruguay was held in Santiago, Chile. The Meeting was organized by WIPO in cooperation with the Government of Chile, the ALADI Secretariat and UNDP. The meeting was attended by observers of the Government of Spain, the EPO, the national associations of industrial property agents of the four countries, and the Inter-American Association of Industrial Property (ASIPI). The attendance of the government participants was funded by the UNDP-financed regional project.

Board (Junta) of the Cartagena Agreement (JUNAC). In March, a Deputy Director General, accompanied by a WIPO official, visited JUNAC headquarters in Lima and continued discussions on the revision of Decision 85 of the Commission of the Cartagena Agreement concerning common rules of industrial property for countries members of the Andean Group.

Also in March, a WIPO official visited JUNAC headquarters and discussed joint development cooperation activities to be undertaken by both organizations under the existing cooperation agreement and within the framework of the proposed regional project on intellectual property for Latin America and the Caribbean to be executed by WIPO during the UNDP Fourth Cycle (1987-1991).

In October, two WIPO officials and two WIPO consultants from Argentina and Germany (Federal

Republic of) conducted a Subregional Workshop on Technical Aspects of Patent Administration for countries of the Andean Group, designed to train the participants and to elaborate a set of recommendations for a medium-term training program in this field. Participants from Bolivia, Colombia, Peru and Venezuela and representatives from the JUNAC Secretariat attended the Workshop which was organized by WIPO in collaboration with the Government of Peru and UNDP. The Workshop was financed through funds made available to WIPO by the Government of the Federal Republic of Germany, the UNDP-financed regional project and the UNDP-financed Interregional Sectoral Adviser project.

Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA). In March, a WIPO official visited SIECA headquarters in Guatemala City during the course of a mission to Guatemala and discussed joint activities leading to the revision of the industrial property system for the countries of the Central American Isthmus.

In May and June, an official from the SIECA Permanent Secretariat undertook a study tour organized by WIPO to the industrial property offices of Brazil, Spain, Venezuela, the EPO in Munich and to WIPO headquarters. In Geneva, he continued processing information collected for the joint study on the revision of the industrial property system for the countries of the Central American Isthmus. This study tour was funded by the UNDP-financed regional project.

In August, a WIPO official and a SIECA official undertook a mission to Nicaragua, Costa Rica and Panama and discussed with interested circles the nature and scope of the study for the revision of the industrial property system at the subregional level. This mission was funded by the UNDP-financed regional project.

In October, the same WIPO and SIECA officials undertook a mission to Guatemala, El Salvador and Honduras and discussed with the interested circles the nature and scope of the study for the revision of the industrial property system at the subregional level. This mission was also funded by the UNDP-financed regional project.

Also in October, an official of the SIECA Secretariat attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

In November, the Seventh Meeting of Heads of Industrial Property Offices and the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the countries of the Central American Isthmus, were held in Managua, Nicaragua, organized by WIPO in cooperation with the Government of Nicaragua and UNDP. Thirteen government officials from Costa Rica, El Salvador, Guatemala, Honduras and Panama, observers from national associations of industrial

property agents members of ASIPI, representatives from the SIECA Secretariat and two WIPO officials attended the Meetings in addition to the participants from Nicaragua. The participation of the government officials was funded by the UNDP-financed regional project.

The participants reviewed the execution of the development cooperation program in the six countries involved, both at regional and national levels, and expressed their satisfaction with the progress made in office procedures, institutional improvements, development of human resources and the bigger role played by industrial property administrations in the national and subregional development strategies and programs. The Vice-Ministers' Meeting endorsed the recommendations submitted by the Heads of the Industrial Property Offices and gave special emphasis to the mandate to WIPO and SIECA in respect of the revision of the existing subregional treaty in the field of trademarks and the drafting of two new ones in the area of patents, utility models and industrial designs. For these purposes, a detailed work plan for the next two years was also adopted by the Meeting.

Central American Institute for Research and Technology (ICAITI). In March, a WIPO official visited ICAITI headquarters in Guatemala City during the course of a mission to Guatemala and discussed the possibilities of carrying out joint activities to develop a regional patent data bank for the countries of the Central American Isthmus, which would include the provision by ICAITI of new services to industry, commerce and other related institutions in the region.

In October, a WIPO official accompanied by three WIPO consultants from Chile, Germany (Federal Republic of) and Uruguay undertook a mission to ICAITI and to Guatemala, El Salvador, Honduras and Nicaragua. The basic objective of the mission was to prepare an inventory of the patent document collections and the technical information services available in those countries and to make recommendations for greater cooperation and coordination among them. This mission was funded by the UNDP-financed regional project.

Nutrition Institute for Central America and Panama (INCAP). In March, a WIPO official visited the INCAP headquarters in Guatemala City during the course of a mission to Guatemala and discussed the continuation of activities concerning promotion of innovations and protection of inventions and innovations resulting from research activities being undertaken by INCAP.

In October, an official of INCAP attended a Seminar on Industrial Property and its Impact on the Development Process, organized by WIPO in cooperation with INPI (Brazil), in Rio de Janeiro.

International Center for Patent Documentation in Spanish (CIPLC). In July, the first meeting of the

working group on functions and decentralized operations of the Center, as established by the Preparatory Council during its first meeting (Mexico, November 1986) took place in Madrid. The working group was composed of experts from Argentina, Colombia, Mexico and Venezuela. A WIPO official attended the meeting. They revised a questionnaire intended to collect information for a survey on the prevailing situation in the region. The working group also recommended the launching of measures such as the establishment, on a provisional basis, of pilot units of the future center in industrial property offices in countries interested in hosting them.

Individual Countries in Latin America and the Caribbean

Argentina. From January to December, a WIPO consultant from Argentina continued his work on organization and management in the National Directorate of Industrial Property (DNPI), under the UNDP-financed country project.

Also during the same period, three WIPO consultants from Argentina continued to develop specific aspects of the automated systems dealing with, *inter alia*, trademark and patent searching, administrative procedures and publications of the Directorate.

In March, two analyst programmers from Paraguay visited the DNPI to continue the development of computer programs being transferred to the Directorate of Industrial Property of Paraguay and which concerned, in particular, the processing and searching of trademark applications.

Also in March, a WIPO official visited Buenos Aires to discuss with government and UNDP officials steps to be taken to implement the new government counterpart cash contribution under the UNDP-financed country project.

In April, two analyst programmers from Chile visited the DNPI to continue the development of computer programs being transferred to the Industrial Property Department of Chile, and which dealt mainly with the processing and searching of trademark applications.

Also in April, the Director General of Inventions, Marks and Technological Development of Mexico, accompanied by a computer expert from Mexico, visited the DNPI to discuss possibilities for joint action and cooperation as well as to learn about the computerization programs being implemented at the DNPI under the UNDP-financed country project. This study tour was funded by the UNDP-financed regional project.

Also in April, two Colombian officials visited the DNPI to discuss possibilities of cooperation and to learn about the computer programs being implemented there. This study tour was funded by the UNDP-financed regional project.

In May, the WIPO consultant from Argentina in charge of the coordination of the UNDP-financed country project visited Geneva to undertake discussions on the program of activities under the project. He also accompanied the Director of the DNPI to the EPO in The Hague and Munich. This mission was funded by the UNDP-financed country project.

In July, a WIPO consultant from Spain, undertook a mission to the DNPI to assist the staff on the establishment of guidelines for the examination of trademark applications and on a training program in this field. This mission was funded by the Government of Spain.

Also in July, WIPO submitted to the Government of Argentina, a study dealing with measures to provide the DNPI with the institutional and financial capability to manage its own income. The study was based on previous reports, prepared under the UNDP-financed country project, by two WIPO consultants from Spain and two WIPO consultants from Argentina. The completion of the study was funded by the UNDP-financed country project.

In August and September, a WIPO consultant from Brazil undertook a mission to advise the DNPI on increasing the use of patent documents as a source of technical information. This mission was funded by the UNDP-financed country project.

In October, a WIPO consultant from the EPO undertook a mission to the DNPI to make recommendations on the organization of and access to patent documentation and related-data banks. This mission was funded by the UNDP-financed regional project and by the EPO.

Also in October, a WIPO consultant from Argentina participated as a lecturer in a Subregional Workshop on Technical Aspects of Patent Administration organized by WIPO in cooperation with the Government of Peru and UNDP for the countries of the Andean Group in Lima. His participation was financed through funds made available to WIPO by the Government of the Federal Republic of Germany.

In December, the Director of the DNPI, accompanied by another government official, took part in the Fifth Meeting of Directors of Industrial Property Offices of Argentina, Chile, Paraguay and Uruguay, which was organized by WIPO in cooperation with the Government of Chile, ALADI and UNDP, in Santiago. Their participation was funded by the UNDP-financed regional project.

Also in December, a Tripartite Review Meeting on the UNDP-financed country project took place. Two WIPO officials participated, together with government and UNDP officials, in the evaluation of project activities undertaken so far and to discuss activities during 1988 and 1989.

Bolivia. In June, a WIPO official undertook a mission to La Paz and had discussions with government officials on the WIPO Convention and on the establishment of a UNDP-financed country project for the

modernization of the industrial property administration.

In October, two government officials from the Industrial Property Department attended the Subregional Workshop on Technical Aspects of Patent Administration organized by WIPO, in Lima, for the countries of the Andean Group.

Brazil. In March and April, a programming and planning mission was undertaken to initiate activities under the new UNDP-financed country project. Four WIPO consultants from Argentina, France and the EPO, and two WIPO officials met with Brazilian officials to discuss the plan of activities to be implemented in 1987 under the said project in the field of patent documentation and information and pilot services for the use of industry and research institutions in the country. This mission was funded by the UNDP-financed country project and also under the UNDP Interregional Sectoral Adviser project. The mission report with recommendations was finalized by WIPO and submitted to the Government of Brazil and UNDP in June.

In April, a Deputy Director General of WIPO visited INPI (Brazil) in Rio de Janeiro to discuss with the authorities joint activities under the cooperation agreement between the Government of Brazil and WIPO, and the implementation of the new UNDP-financed country project.

Also in April, the Director General of Inventions, Marks and Technological Development of Mexico, accompanied by another government official, visited INPI to discuss possibilities of cooperation and learn about the modernization being carried out there.

Also in April, two Colombian officials visited INPI in Brazil to discuss possibilities of cooperation and learn about the computer programs being implemented there. This study tour was funded by the UNDP-financed regional project.

In May, an official from the SIECA Permanent Secretariat visited INPI to become acquainted with the modernization efforts undertaken there. This study tour was funded by the UNDP-financed regional project.

In September and October, a WIPO consultant from Brazil participated as a lecturer in a National Seminar on Technological Information Based on Patent Documentation. The participation of the consultant was funded by the UNDP-financed country project.

In October, a WIPO official undertook a mission to Brazil to discuss with government and UNDP officials the implementation of the UNDP-financed country project. On the same occasion, the WIPO official lectured in the Seminar on Industrial Property and its Impact on the Development Process, organized at INPI headquarters in Rio de Janeiro. The mission was funded by the UNDP-financed Interregional Sectoral Adviser project.

In December, two WIPO officials undertook a mission to Brazil to discuss with government and

UNDP officials a program for technical cooperation among developing countries activities among the countries of the region during 1988 and a detailed work plan to be implemented in 1988 under the UNDP-financed country project. The mission was partly funded by the UNDP-financed Interregional Sectoral Adviser project.

Chile. In March and April, WIPO organized a study tour for a government official, who visited the industrial property offices of Argentina, Brazil, France, Spain, Venezuela and WIPO headquarters.

In April, two government officials visited the DNPI of Argentina to continue the development of computer programs being transferred to the Industrial Property Department of Chile, mainly in the field of processing, searching, administrative control and trademark applications. This mission was funded by the UNDP-financed country project.

From May to December, three WIPO national consultants were assigned, under the UNDP-financed country project, to the Industrial Property Department for the processing of patent and trademark applications.

In June, August, October and December, one of the WIPO consultants from Argentina assigned to the UNDP-financed country project of Argentina undertook a mission to Chile to continue to advise the technical staff of the Industrial Property Department on the development and implementation of computer programs in the field of trademarks and industrial property publications originally developed under the said project in Argentina. This mission was funded under the UNDP-financed project of Chile.

In June and July, a WIPO consultant from the EPO undertook a mission to advise and train the local staff and the national expert on the classification and examination of patent applications. This mission was funded by the EPO and by the UNDP-financed country project.

In June, August, October and December, two WIPO consultants from Argentina undertook several missions to continue giving advice on the development and implementation of mechanized systems for the processing and searching of trademarks applications. These missions were funded by the UNDP-financed country project.

In August, a WIPO consultant from Argentina undertook a mission to advise government officials on the management of the UNDP-financed country project, as well as on the organization of the national Industrial Property Department. This mission was funded by the UNDP-financed country project.

In August and September, a WIPO consultant from Spain undertook a mission to advise officials of the Industrial Property Department on the establishment of criteria and guidelines for trademark examination as to substance. The mission was funded by the UNDP-financed country project and by the Government of Spain.

In October and November, a WIPO consultant from the EPO, together with another WIPO consultant from Denmark, undertook a mission to advise the Industrial Property Department officials on the establishment of a patent search file to be used for the examination as to substance of patent applications and for other purposes. This mission was funded by the EPO and the UNDP-financed country project.

In December, the Fifth Meeting of Directors of Industrial Property of Argentina, Chile, Paraguay and Uruguay was held in Santiago, with the cooperation of the Government of Chile, the ALADI Secretariat and UNDP. The Meeting reviewed and discussed two draft manuals on the examination of patent applications and on the administrative and technical processing of trademark applications, as well as the progress being made in the four offices in the building of patent search files and mechanization of industrial property operations. The Meeting decided to apply the two above-mentioned manuals on a trial basis and to carry out a number of specific development cooperation activities during 1988. The Meeting was attended by the heads of the industrial property offices of the four countries, and by representatives of national groups of industrial property agents, ASIPI, the ALADI Secretariat, UNDP, and three WIPO officials. The participation of six government officials from Argentina, Paraguay and Uruguay and one WIPO official was funded by the UNDP-financed regional project. The participation of another WIPO official was funded by the Interregional Sectoral Adviser project.

On the same occasion, two WIPO officials met with government officials and UNDP to evaluate current project activities under the UNDP-financed country project. These missions were funded respectively by WIPO and by the Interregional Sectoral Adviser project.

Colombia. In March, a Deputy Director General of WIPO, accompanied by a WIPO official, discussed with government officials proposals for the revision of Decision 85 of the Commission of the Cartagena Agreement dealing with common rules on industrial property for countries members of the Andean Group.

In March and April, on the occasion of the Course on Copyright, organized in Bogotá by WIPO in cooperation with the Government of Colombia and SUIISA, another WIPO official visited government officials to discuss possibilities for a new UNDP-financed project to modernize the industrial property administration.

In April, WIPO organized a study tour for two government officials, who visited the industrial property offices of Argentina, Brazil and Venezuela. This study tour was funded by the UNDP-financed regional project.

In May, the Government of Colombia hosted a meeting to continue discussions on the revision of Decision 85 of the Commission of the Cartagena

Agreement. The meeting was also attended by the Director of the Institute for Industrial Technological Research and Technical Standards (ITINTEC) of Peru, by the Director of the Industrial Property Registry of Venezuela and by one WIPO official.

In October, two government officials from the Industrial Property Division attended the Subregional Workshop on Technical Aspects of Patent Administration organized by WIPO, in Lima, for the countries of the Andean Group.

In November and December, a WIPO consultant from France undertook a mission to Bogotá to assist the authorities and staff of the industrial property office on the organization of a fair on national innovations and on the establishment of technical information services based on patent documents. The mission was financed through funds made available to WIPO by the Government of France.

In December, a WIPO official visited Bogotá to discuss with government and UNDP officials the new UNDP-financed country project for the modernization of the industrial property office.

Costa Rica. In November, the Vice-Minister of Justice, the Director of the Industrial Property Registry and other government officials, took part in the Seventh Meeting of Heads of Industrial Property Offices, and in the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the Countries of the Central American Isthmus, which was held in Managua.

Cuba. In April, on the occasion of the Ministerial Meeting of the Group of 77, held in Havana, a WIPO official visited the National Office of Inventions, Technical Information and Marks (ONIITEM) to discuss possibilities for cooperation between the Government of Cuba and WIPO.

Ecuador. In June, a WIPO official visited Quito and had discussions with government and UNDP officials on the prospects of establishing a UNDP-financed country project for the modernization of the industrial property administration and on the accession of Ecuador to the WIPO Convention as a follow-up of the decision taken by the Government of Ecuador in this regard.

El Salvador. From January to December, the WIPO national consultant continued to deal with the coordination of activities under the UNDP-financed country project on the modernization of the industrial property administration and promotion of innovations.

In September, in the framework of the UNDP-financed country project, the first National Week of Inventions and Innovations ("Inventiva '87") took place in San Salvador. A number of prizes and awards, including a WIPO medal and certificate, were presented to selected inventors and innovators.

Also in September, a WIPO consultant from Chile undertook a mission to San Salvador to advise government officials responsible for technical information services and industrial property matters on the introduction of mechanized systems. This mission was funded by the UNDP-financed country project.

In October, a WIPO official, together with the same WIPO consultant from Chile and two WIPO consultants from Germany (Federal Republic of) and Uruguay, undertook a mission to prepare an inventory of available patent collections and technical information services and to make recommendations for the pooling of resources and the linkage and establishment of services at the subregional level. This mission was funded by the UNDP-financed regional project.

In November, the Vice-Minister of Justice, the Director General of the Registry of Industrial Property, another government official and the National Coordinator of the UNDP-financed country project took part in the Seventh Meeting of Heads of Industrial Property Offices and in the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the Countries of the Central American Isthmus, which was held in Managua.

Also in November, in the framework of the UNDP-financed country project, a National Seminar on Industrial Property and Technological Information, took place in San Salvador. Thirty government officials participated. The Seminar was organized by the Government of El Salvador with the cooperation of WIPO.

Guatemala. In January and February, two WIPO national consultants continued to deal with technical tasks concerning the processing of patent applications under the UNDP-financed country project. The two consultants continued their work from February to April as government officials.

From January to December, the WIPO national expert continued to deal with the coordination of activities and to give advice on office management and organization under the UNDP-financed country project.

In February and March, a WIPO consultant from Colombia undertook a mission to give technical advice to government officials on the processing, classification and searching of patent applications. This mission was funded by the UNDP-financed country project.

In March, a WIPO official, together with government and UNDP officials, attended the final Tripartite Review Meeting of the country project. The Government of Guatemala decided to request that a new two-year project be financed by UNDP and executed by WIPO.

In March and April, a WIPO consultant from Venezuela undertook a mission to advise the staff of the Registry of Industrial Property on the classification, searching and examination of trademark applications. This mission was funded by the UNDP-financed country project.

Also in April, the WIPO consultant from Chile in charge of the coordination of activities under the UNDP-financed country project in Venezuela undertook a mission to Guatemala to advise the Government of Guatemala on the management and organization of the Registry of Industrial Property. This mission was funded by the UNDP-financed country project for Guatemala.

In May, a WIPO official had talks with government and UNDP officials and agreed on a new two-year UNDP-financed country project to support further development of industrial property, transfer of technology, technical information and promotion of national innovation systems. The mission of the WIPO official was funded by the UNDP-financed regional project.

In August, a WIPO official undertook a mission to Guatemala to advise the national authorities on proposals for the modification of the patent law. This mission was funded by the UNDP-financed country project.

Also in August, a WIPO consultant from Chile undertook a mission to Guatemala to continue giving advice on the implementation of mechanized programs for the administrative control and searching of patent and trademark applications. This mission was funded by the UNDP-financed country project.

In October, a WIPO official, together with the same WIPO consultant from Chile and two WIPO consultants from Germany (Federal Republic of) and Uruguay, undertook a mission to prepare an inventory of available patent collections and technical information services and to make recommendations for cooperation and coordination at the subregional level. This mission was funded by the UNDP-financed regional project.

In November, the Registrar of Industrial Property, accompanied by another government official and by the National Coordinator of the UNDP-financed country project took part in the Seventh Meeting of Heads of Industrial Property Offices and in the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the Countries of the Central American Isthmus, which was held in Managua.

Also in November, a WIPO official conducted a workshop for government officials mainly responsible for handling opposition cases in the trademark field. The workshop was devoted to examining practical cases in Guatemala within the framework of the trademark legislation in force. This mission was funded by the UNDP-financed country project.

Honduras. In March, a WIPO official discussed with government and UNDP officials the proposed UNDP-financed project for the modernization of the Industrial Property Registry. This mission was funded by the UNDP Interregional Sectoral Adviser project.

In October, a WIPO official participated as a lecturer in the Fifth Scientific Week organized by the Honduras National Autonomous University (UNAH).

Also in October, two WIPO consultants from Germany (Federal Republic of) and Uruguay, undertook a mission, under the UNDP-financed regional project, to prepare an inventory of available patent collections and technical information services and to make recommendations for cooperation and coordination at the subregional level.

In November, the Director General of Industries, the Registrar of the Industrial Property Registry and another government official took part in the Seventh Meeting of Heads of Industrial Property Offices and in the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the Countries of the Central American Isthmus, which was held in Managua.

Jamaica. In September, a WIPO official undertook a mission to Kingston to discuss with government and UNDP officials the possibility of a UNDP-financed country project in the area of industrial property, as well as proposals for regional cooperation in the field of industrial property among the English-speaking Caribbean countries. This mission was funded by the UNDP-financed regional project.

Mexico. In January, two WIPO consultants from Argentina undertook a mission to continue advising the staff on the implementation of computer programs in the Directorate General of Inventions, Marks and Technological Development. The mission was funded by the UNDP-financed country project.

From January to June, a WIPO national expert continued his assignment to further develop computer programs in the field of trademarks, searching, administrative procedures and publications, following the advice given by a WIPO consultant from Argentina. He submitted the final study in June, completing his assignment which was funded by the UNDP-financed country project.

In January, September and December, two WIPO consultants from Argentina, assigned to the UNDP-financed country project of Argentina, undertook three missions to Mexico to advise the technical staff of the Mexican industrial property office on the implementation of computer programs in the field of trademark searching and the administrative control of applications. The missions were funded by the UNDP-financed country project of Argentina.

In March, a WIPO official discussed with government and UNDP officials a possible extension of the UNDP-financed country project as well as the implementation of activities during 1987 already planned under the emergency program organized by WIPO. This mission was funded by the UNDP Interregional Sectoral Adviser project.

In April, WIPO organized a study tour for the Director General of Inventions, Marks and Techno-

logical Development and another government official. They visited the industrial property offices of Argentina, Brazil and Venezuela, discussed possibilities of cooperation and learned about the modernization processes there. This study tour was funded by the UNDP-financed regional project.

In June, a WIPO official undertook a mission to Mexico City and had discussions with government and UNDP officials, as well as with private suppliers of computer equipment. Discussions centered on the program of activities during 1987 in order to complete the emergency program organized by WIPO, the prospects of a new UNDP-financed country project, and the options to acquire computer equipment and develop mechanized systems at the Directorate General of Inventions, Marks and Technological Development.

In August and September, a WIPO consultant from Spain undertook a mission to advise the technical staff on the processing and classification of figurative elements of trademarks. This mission was funded by the Government of Spain and the UNDP-financed country project.

In September and October, a WIPO consultant from Mexico participated as a lecturer in a National Seminar on Technological Information Based on Patent Documentation. The participation of the consultant was funded by the UNDP-financed country project.

In September and December, a WIPO consultant from Argentina undertook two missions to continue giving advice on the implementation of computer programs in the Mexican industrial property office and to set up the work program for 1988. These missions were funded by the UNDP-financed country project.

In October and November, eight WIPO consultants from Argentina, Brazil, Germany (Federal Republic of), France, Switzerland and the EPO, undertook a joint mission to assist and advise on the reclassification of Mexican patent documents. These missions were organized by WIPO under the emergency program established after the 1985 earthquake and were financed by the Governments of France and Switzerland, the EPO, and the UNDP-financed regional project.

In December, following a request from the Director General of Inventions, Marks and Technological Development of Mexico, a WIPO official undertook a mission to Mexico City and discussed with government and UNDP officials a substantive revision of the UNDP-financed country project. It would mainly consist of an extension of the current country project for two more years with the objective of supporting the mechanization of administrative procedures, the establishment of new services such as the automated searching of trademark applications, the provision of the technical information contained in patent documents and the adoption of the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice). This mission was funded by the UNDP-financed regional project.

Also in December, a WIPO consultant from Spain undertook a mission to Mexico City to install microfilm equipment provided by the Government of Spain and to instruct national experts in its use. This mission was funded by the Government of Spain.

Nicaragua. In October, two WIPO consultants from Germany (Federal Republic of) and Uruguay undertook a mission to prepare an inventory on available patent collections and technical information services and to make recommendations for cooperation and coordination at the subregional level. This mission was funded by the UNDP-financed regional project.

In November, the Vice-Minister of Justice and the Registrar of Industrial Property attended the Seventh Meeting of Heads of Industrial Property Offices and the Fourth Meeting of Vice-Ministers Responsible for Industrial Property in the Countries of the Central American Isthmus which took place in Managua and was organized by WIPO in cooperation with the Government of Nicaragua and UNDP. The participation of the government officials from Costa Rica, El Salvador, Honduras, Guatemala and Panama as well as that of one WIPO official was funded by the UNDP-financed regional project.

Panama. In November, the Director General of the Industrial Property Registry and another government official took part in the Seventh Meeting of Heads of Industrial Property Offices, and the Fourth Meeting of Vice-Ministers Responsible for Industrial Property of the Countries of the Central American Isthmus, which was held in Managua.

Paraguay. From January to December, the WIPO national consultant continued his assignment to coordinate activities under the UNDP-financed country project.

In February and March, one WIPO national consultant and one government official from the Directorate of Industrial Property (DPI), undertook a mission to the industrial property office of Argentina in order to continue the development of the computer programs being established in the DPI for the processing and searching of trademark applications. This mission was funded by the UNDP-financed country project.

In April, the Secretary General of the International Federation of Inventors' Associations (IFIA) undertook a mission, as a WIPO consultant, to Asunción. He advised government officials on a program for the promotion of local innovations, including the establishment of a national association of inventors. This mission was funded by the UNDP-financed country project.

From May to December, two WIPO national consultants from Paraguay continued their assignments to develop specific aspects of the automated systems dealing with, *inter alia*, trademark searching, administrative procedures and publications of the DPI. The

missions of the two consultants were funded by the UNDP-financed country project.

In September, in the framework of the UNDP-financed country project, the "Second National Exhibition on Inventions and Innovations" and the "Second Inventors and Innovators Contest" took place in Asunción. Among other prizes and awards, a WIPO medal and certificate were attributed to selected inventors and innovators.

In September and October, a WIPO consultant from Mexico undertook a mission to Asunción to advise government officials on the use of patent documents as a source of technological information. This mission was funded by the UNDP-financed country project.

In November and December, another WIPO consultant from Mexico undertook a mission to Asunción to advise government officials on processing of trademark applications, including examination. This mission was funded by the UNDP-financed country project.

In December, a WIPO official participated in a Tripartite Review Meeting on the UNDP-financed country project took place. On that occasion an evaluation of current activities and discussions on the work plan for 1988 was done.

Also in December, the Director of Industrial Property, accompanied by two government officials and the National Coordinator of the UNDP-financed country project, took part in the Fifth Meeting of Directors of Industrial Property Offices of Argentina, Chile, Paraguay and Uruguay, in Santiago. The participation of the Director and one government official was funded by the UNDP-financed regional project and that of the National Coordinator by the UNDP-financed country project.

Peru. In March, a Deputy Director General of WIPO, accompanied by a WIPO official, visited Lima and discussed with government officials proposals for the revision of Decision 85 of the Commission of the Cartagena Agreement dealing with common rules in the field of industrial property for countries members of the Andean Group.

Also in March, a WIPO official visited the Institute for Industrial Technological Research and Technical Standards (ITINTEC) to discuss the possibility of a new UNDP-financed country project to be executed by WIPO for the modernization of the industrial property administration. This mission was funded by the UNDP Interregional Sectoral Adviser project.

In May, WIPO arranged for the Director of ITINTEC to attend the meeting in Bogotá organized by the Government of Colombia to discuss proposals on the revision process of Decision 85 of the Commission of the Cartagena Agreement.

In October, two WIPO officials participated, in Lima, in a Subregional Workshop on Technical Aspects of Patent Administration for countries of the Andean Group. The Workshop was organized by WIPO in

cooperation with the Government of Peru and UNDP. Participation from Bolivia, Colombia and Venezuela was funded by the UNDP-financed regional project and participation of the lecturers from Argentina and Germany (Federal Republic of) was financed through funds made available to WIPO by the Government of the Federal Republic of Germany, the UNDP-financed regional project and by the UNDP-financed Interregional Sectoral Adviser project.

Trinidad and Tobago. In July, a WIPO official undertook a mission to Port of Spain and discussed the new plan of activities under the UNDP-financed country project with government officials. This mission was funded by the UNDP-financed regional project.

In September, another WIPO official visited Port of Spain and had discussions with government officials and UNDP concerning the UNDP-financed country project and the involvement of the country in the further development of proposals for regional cooperation in the field of industrial property. This mission was funded by the UNDP-financed regional project.

In November, another WIPO official visited Port of Spain in order to discuss with government officials the final draft patents bill and to submit the first draft implementing regulations. This mission was partially funded by the UNDP-financed country project.

Uruguay. From January to March, the national systems analyst continued to work in Montevideo on the implementation of computer programs developed under the UNDP-financed country projects in Argentina and Venezuela.

In February, a WIPO official visited Montevideo to discuss with government and UNDP officials, at the request of the Government of Uruguay, the basic elements for the extension of the UNDP-financed country project as well as copyright and activities to promote innovations.

In March, a WIPO consultant from Chile assigned to the UNDP-financed country project in Venezuela undertook a mission to Uruguay and advised the technical staff of the National Industrial Property Center on the implementation of computer programs in the field of patents and industrial property publications, originally developed under the said project in Venezuela. This mission was funded by the UNDP-financed country project of Uruguay.

In April, a WIPO official visited Montevideo to finalize with government and UNDP officials the program of activities for 1987 under the UNDP-financed country project as well as to define steps to be taken for the extension of the said project for another two years.

From April to December, another national systems analyst was recruited under the UNDP-financed country project in order to continue the development of computer programs.

In June, two national experts from Uruguay began their assignments to work and undergo in-service training on the classification and processing of patent applications. They are working under the UNDP-financed country project.

Also in June, three other national experts began their assignments to work on the inputting of trademark data for the implementation of computer programs. They are working under the UNDP-financed country project.

In December, a tripartite review of the UNDP-financed country project took place. Two WIPO officials visited Montevideo to evaluate, together with the government and UNDP officials, the ongoing project activities and to discuss a work plan for future project activities.

Also in December, the Director of the National Industrial Property Center, accompanied by another government official, took part in the Fifth Meeting of Directors of Industrial Property Offices of Argentina, Chile, Paraguay and Uruguay in Santiago. Their participation was funded by the UNDP-financed regional project.

Venezuela. From January to December, a WIPO consultant from Chile continued to coordinate the activities under the UNDP-financed country project for the modernization of the industrial property system, technical information services and the promotion of innovations.

Also from January to December, another WIPO consultant from Chile was assigned to advise the authorities on further development of computer programs established at the Industrial Property Registry. He also gave advice on the establishment of new services set up under the cooperation agreement between the Industrial Property Registry and the National Council for Science and Technology (CONICIT). This mission was funded by the UNDP-financed country project.

From February to December, a WIPO consultant from Denmark continued to provide advice and training on patent classification searching and examination to the technical staff of the Industrial Property Registry. This mission was funded by the UNDP-financed country project.

In March, a Deputy Director General of WIPO, accompanied by a WIPO official, discussed with government officials, in Caracas, proposals for the revision of Decision 85 of the Commission of the Cartagena Agreement dealing with common rules in the field of industrial property for countries members of the Andean Group.

In April, the Director General of Inventions, Marks and Technological Development of Mexico, accompanied by another government official, visited the Industrial Property Registry and discussed possibilities for joint action and cooperation as well as learned about the computerization programs being implemented at the Venezuelan office with the support of the UNDP-

financed country project. This study tour was funded by the UNDP-financed regional project.

Also in April, two officials from Colombia visited the Industrial Property Registry and discussed possibilities of cooperation and learned about the computer programs being implemented in the Venezuelan office with the support of the UNDP-financed country project. This study tour was funded by the UNDP-financed regional project.

In May, WIPO arranged for the Registrar of the Industrial Property Registry to attend the meeting convened in Bogotá by the Government of Colombia in order to discuss proposals concerning the revision of Decision 85 of the Commission of the Cartagena Agreement.

Also in May, an official from the SIECA Permanent Secretariat visited the Industrial Property Registry and learned about the results derived from the modernization efforts undertaken by the Government of Venezuela with the support of the UNDP-financed country project. This study tour was funded by the UNDP-financed regional project.

In July, a WIPO consultant from Spain undertook a mission to advise the officials of the Industrial Property Registry on the processing and examination of trademark applications. This mission was funded by the Government of Spain.

In September, a tripartite review of the UNDP-financed country project took place. A WIPO official visited Caracas to evaluate, together with government and UNDP officials, the ongoing project activities and to discuss a work plan for future project activities during 1988.

In October, two government officials from the Industrial Property Registry attended the Subregional Workshop on Technical Aspects of Patent Administration organized by WIPO, in Lima, for the countries of the Andean Group.

Interregional Sectoral Adviser

UNDP continued to fund the employment by WIPO of an Interregional Sectoral Adviser. The Adviser is fully under the instructions of WIPO.

During the period under review, missions under the Interregional Sectoral Adviser project were undertaken to Angola, Argentina, Brazil, Chile, Colombia, the Congo, Ethiopia, Honduras, Mexico, Paraguay, Peru, Uruguay and Zaire.

Development of the Effective Use of the Intellectual Property System for the Benefit of Inventors, Authors, the Industry and the Commerce of Developing Countries

WIPO medals for inventors have been awarded since 1979. The purpose of the awards is to promote inventive

and innovative activities, particularly in developing countries or for their benefit. The medals are awarded at exhibitions or contests organized by national or international institutions. The criteria for selecting the recipients are established by the requesting institutions, and WIPO does not intervene in the selection. Up to December 31, 1987, a total of 131 medals have been awarded to inventors and promoters of inventive activity from 38 countries. In 1987, a total of 25 WIPO medals were awarded to inventors and promoters of inventive activity from 16 countries.

In February, a WIPO official presented two WIPO medals to two young winners of the *Weekly Reader* National Invention Contest in Washington, D.C.

Also in February, an official of WIPO had discussions, in Montreal, with the Centre for Industrial Innovation regarding WIPO's cooperation in an international exhibition of inventions and conference to be held in there in November.

Also in February, one WIPO medal was awarded at the 20th Philippine Inventors' Week in Manila.

In February and March, the *Guide on Associations of Inventors* was published in English and French.

In March, a WIPO medal was awarded at the 45th All-Japan Exhibition of School Children's Inventions in Tokyo.

In April, a WIPO medal was awarded at the exhibition "Invented in Sofia," Bulgaria, and two WIPO medals were awarded at the Geneva International Exhibition of Inventions and New Technologies to a woman inventor and to an inventor from a developing country.

In May, WIPO officials had discussions in Geneva with the Executive Director of the African Regional Centre for Technology (ARCT), concerning the award of two WIPO medals to African inventors.

In June, a Deputy Director General presented a WIPO medal to a team of Soviet inventors at a ceremony in Moscow for the best invention of particular use in developing countries.

In August, a WIPO medal was awarded to the best invention presented at the Sixth National Excellent Inventions Exhibitions in Seoul, Republic of Korea.

In September, two WIPO medals were awarded to the best inventor and the best invention at the Second National Competition for Inventions and Innovations held in Asunción, Paraguay.

Also in September, two WIPO medals were awarded to the best young inventor and the best inventor at the competition "Inventiva '87" organized as part of the First National Week of Inventions and Innovations held in San Salvador, El Salvador.

Also in September, a WIPO medal was awarded to a Spanish inventor for the best invention useful for the protection of the environment, presented at the First International Exhibition of Innovations and New Technologies "Inventalia '87," held in Madrid.

Also in September, the fourth edition of the *Directory of Associations of Inventors* and the Spanish

edition of the *Guide on Associations of Inventors* were published.

Also in September, two publications were issued: *WIPO Awards to Inventors and Promoters of Innovation*, containing information on WIPO awards to inventors and promoters of innovation since 1979, and *Selected Proceedings of the International Seminar "Inventiveness for Development Purposes"* which was held in 1985 in Plovdiv, Bulgaria.

Also in September, a WIPO official had discussions in Abidjan, with government officials and officials of non-governmental institutions on the promotion of innovation in Côte d'Ivoire in particular and in Africa in general.

In October, a WIPO medal was awarded for the best invention with practical application in developing countries at the Thirty-Sixth World Exhibition of Inventions "BRUSSELS EUREKA," held in Brussels.

In November, a WIPO medal was awarded to a young Bulgarian inventor for the best invention presented at the Fourteenth National Exhibition of Technical and Scientific Creativity of Youth, held in Plovdiv, Bulgaria.

Also in November, two WIPO medals were awarded at "TRANSTECH INTERNATIONAL," held in Montreal, one to a Senegalese inventor for the best invention of public utility and the second to a Canadian woman for promoting inventive activity among women in Canada.

Also in November, a WIPO official presented to the Executive Director of the Youth Science Foundation, Canada, two WIPO medals awarded to two young Canadians for the best invention presented at the "Canada-Wide Science Fair 1987."

Also in November, a WIPO official had discussions with officials of the Canadian Industrial Innovation Centre (Waterloo), the Women Inventors' Project (Waterloo) and the Youth Science Foundation (Ottawa).

In December, a WIPO official presented a WIPO medal to a French inventor for the best invention appropriate for developing countries at the "Third International Week of Inventions and New Products" held in Paris.

Also in December, a WIPO medal was awarded to an Iraqi inventor at the Central Organization for Standardization and Quality Control (COSQC) Week ceremony, held in Baghdad.

In April, a WIPO official attended the annual General Assembly of the International Federation of Inventors' Associations (IFIA) which was held at WIPO headquarters in Geneva.

Also in April, the Director General and other officials of WIPO discussed with representatives of IFIA and the China Association of Inventions the possibility of jointly holding a Symposium on Creativity in Beijing in October 1988.

In May, a WIPO official attended a meeting of the Executive Committee of IFIA, in Bonn, to discuss

arrangements for the above-mentioned Symposium to be held in Beijing in 1988.

*Development, in Developing Countries,
of Access to the Technological Information
Contained in Patent Documents*

International Center for Patent Documentation in Spanish. In April, a WIPO official discussed in Madrid with officials of the Spanish Registry of Industrial Property development cooperation matters and further developments in the creation of the International Center for Patent Documentation in Spanish, following the Meeting of the Preparatory Council for the Establishment of an International Center for Patent Documentation in Spanish, organized, in Mexico, by the Government of Spain in November 1986 through the Registry of Industrial Property of Spain and the Ibero-American Cooperation Institute.

State-of-the-Art Search Program and Related Services. Since 1975, WIPO has been operating the program to provide governmental institutions and individuals in developing countries with free-of-charge state-of-the-art search reports under agreements concluded between contributing industrial property offices in developed countries and WIPO.

From January 1 to December 31, 1987, 434 search requests had been received from users in 36 developing countries: Algeria, Argentina, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Egypt, El Salvador, Ghana, Guatemala, India, Iraq, Jamaica, Libya, Malawi, Malaysia, Mali, Mexico, Mongolia, Paraguay, Peru, Philippines, Republic of Korea, Senegal, Trinidad and Tobago, Tunisia, Turkey, Uruguay, Venezuela, Viet Nam, Zambia, Zimbabwe, and four intergovernmental organizations on behalf of their member countries: ALADI, ARIPO, FASRC, OAPI. In the same period, 345 search reports were delivered to developing countries. They were prepared by Australia (9), Austria (30), the German Democratic Republic (25), Germany (Federal Republic of) (73), Japan (58), the Soviet Union (55), Sweden (32), Switzerland (24) and the International Bureau of WIPO (39).

From the start of the program, in 1975, to December 31, 1987, 3,555 search requests were received from 77 developing countries: Algeria, Argentina, Bangladesh, Bolivia, Botswana, Brazil, Burkina Faso, Cameroon, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Yemen, Ecuador, Egypt, El Salvador, Ethiopia, Ghana, Guatemala, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nicaragua, Nigeria,

Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Rwanda, Saint Lucia, Senegal, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire, Zambia, Zimbabwe; and 10 international organizations on behalf of users in their member countries: AIDO, ALADI, ARCT, ARIPO, CDC, ECA, ESCAP, FASRC, OAPI, United Nations Industrial Development Organization (UNIDO).

From 1975 to December 31, 1987, 3,236 search reports were delivered. Eighty-five of the search reports were provided by Australia, 1,196 by Austria, 88 by Finland, 273 by the German Democratic Republic, 522 by Germany (Federal Republic of), 183 by Japan, 133 by the Soviet Union, 324 by Sweden, 24 by Switzerland, 3 by the United Kingdom and 38 by the EPO. In 367 cases, the International Bureau was able to provide search reports itself, mainly by using its own access to computerized data bases by courtesy of INPI (Paris), Derwent Publications Ltd. (London) and Pergamon ORBIT InfoLine Ltd. (London).

In cooperation with the industrial property offices of several donor countries, WIPO continued to supply upon request by developing countries free copies of specific patent documents. France, Switzerland and the United States of America contributed to this service by providing free copies of the requested patent documents whenever available in their collections of national and foreign patent documents. India, Spain, the Soviet Union and the United Kingdom contributed to this service by providing free copies of their national patent documents.

India continued to be one of the main users of WIPO's Patent Information Services to Developing Countries. The Indian Council of Scientific and Industrial Research expressed its appreciation for the provision of information on the state of the art, free of charge, and stressed that there had been a significant increase in the use of the program to meet the information needs of its some 6,000 scientists.

From January 1 to December 31, 1987, 259 requests for copies of patent documents were received from 23 developing countries: Algeria, Argentina, Brazil, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Egypt, Guatemala, India, Iraq, Libya, Malaysia, Mexico, Morocco, Nigeria, Thailand, Trinidad and Tobago, Tunisia, Uruguay, Venezuela, Zambia, Zimbabwe and, on behalf of their member States, from two intergovernmental organizations: ARIPO, FASRC. Out of the 259 requests, 43 requests originated from a follow-up to a search report on the state of the art and 216 requests were submitted directly by the users. A total of 3,921 copies of patent documents were requested and the International Bureau was able to satisfy virtually all the requests.

WIPO continued its activity of arranging, and seeking to arrange, for collections of patent documents

and related material to be made available and to be received by the industrial property offices of developing countries requesting them.

Assistance in Examining ARIPO Patent Applications. From January 1 to December 31, 1987, assistance in examining patent applications pending with ARIPO was requested in 10 cases. During the same period, 26 search and examination reports, prepared by Canada (10), Germany (Federal Republic of) (12) and the Soviet Union (4), were sent to ARIPO. From the start of the program in 1984, a total of 37 search and examination reports were provided by the industrial property offices of Canada (13), Germany (Federal Republic of) (12), Sweden (1), the Soviet Union (9) and by the EPO (2).

International Cooperation in the Search and Examination of Inventions (ICSEI). In 1987, WIPO received 10 search and examination requests from Libya and Malaysia under the ICSEI program. These requests were transmitted to Austria and the Soviet Union. During the same period, five search and examination reports were received from Austria, Germany (Federal Republic of) and the Soviet Union, and forwarded to the requesting offices.

Since the establishment of the program, a total of 37 search and examination reports were furnished. They were prepared by Austria (11), Finland (2), Germany (Federal Republic of) (4), Sweden (1), the Soviet Union (17) and the EPO (2).

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China. In November, a Regional Symposium on Intellectual Property Law Teaching and Research in Asia and the Pacific was organized by WIPO in cooperation with the State Education Commission of China, with the assistance of UNDP, in Beijing.

India. In November, a National Forum of Judges on the Protection of Intellectual Property was organized by WIPO in cooperation with the Society for Law and Justice (Calcutta Chapter), India, in Calcutta.

Malaysia. In November, two WIPO consultants from Australia participated as lecturers in a Workshop on Patent Drafting organized by the Government of Malaysia in Kuala Lumpur; the Workshop was attended by 30 participants. The participation of the two WIPO consultants was funded by the UNDP-financed regional project.

Pakistan. In April, a WIPO official discussed with government and UNDP officials, in Islamabad, the organization of a round table on intellectual property teaching, to be held in Islamabad later in 1987, and a

Copyright Seminar, to be held in Lahore in early 1988.

In October, a Seminar on Intellectual Property Law Teaching was organized in Islamabad by WIPO in cooperation with the University Grants Commission and the National Academy of Higher Education, and with the assistance of the Ministry of Education and the Economic Affairs Division of the Government of Pakistan.

Sri Lanka. In January, a Seminar on the Intellectual Property Law of Sri Lanka for Judges and Lawyers was organized in Colombo, by WIPO in cooperation with the Sri Lanka Bar Association, the Registry of Patents and Trade Marks and the Sri Lanka Foundation.

In December, the Director General and three WIPO officials participated in the Seminar on the Use of Computers and its Legal Consequences and Unfair Competition, organized by the Bar Association of Sri Lanka, in Colombo.

OAPI. In October, a Seminar on Intellectual Property for Magistrates was organized, in Niamey, by WIPO in cooperation with OAPI and the Government of Niger.

*WIPO Permanent Committee for Development
Cooperation Related to Industrial Property*

The Permanent Committee consists of all States members of WIPO which have informed the Director General of their desire to be members. On December 31, 1987, the members of the Permanent Committee were: Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, Finland, France, Gabon, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Lesotho, Libya, Mali, Malawi, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Somalia, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia. (98)

The eleventh session of the Permanent Committee was held in Geneva in May. The following 60 States members of the Permanent Committee were represented: Algeria, Argentina, Australia, Bangladesh, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon,

Central African Republic, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Egypt, France, Gabon, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Guatemala, Guinea, Honduras, India, Indonesia, Italy, Japan, Kenya, Libya, Malawi, Mauritania, Mexico, Morocco, Netherlands, Niger, Pakistan, Panama, Paraguay, Peru, Republic of Korea, Rwanda, Senegal, Somalia, Soviet Union, Spain, Sudan, Sweden, Switzerland, Togo, Tunisia, Uganda, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zaire, Zambia. In addition, the following six non-member States also attended: Ecuador, Lebanon, Madagascar, Saudi Arabia, Syria, Trinidad and Tobago. Eight intergovernmental organizations (ARCT, ARIPO, EPO, General Agreement on Tariffs and Trade (GATT), League of Arab States (LAS), OAPI, SELA, UNDP) and one international non-governmental organization (International Association for the Protection of Industrial Property (AIPPI)) were also represented.

In accordance with the special provisions contained in the approved budget of WIPO, travel and subsistence expenses were paid by WIPO for one delegate from each of the countries represented at the Session which were members of the Permanent Committee and were regarded as being among the least developed of the developing countries.

The Permanent Committee reviewed activities carried out since its last session under the WIPO Permanent Program for Development Cooperation Related to Industrial Property, as well as orientations and plans for future activities.

The Permanent Committee noted with satisfaction the activities carried out under the Permanent Program since its previous session and the expansion of the Program which had taken place during that period and invited the International Bureau to continue to pursue the expansion of the Program, with special emphasis on training, support for the strengthening of national and regional institutions, including patent documentation centers, advice on legislation, and assistance for the study and better understanding of the implications of the legal protection of emerging technologies. The Permanent Committee expressed its gratitude to the numerous governments and organizations, including the UNDP, which make extra-budgetary cash contributions or contributions in kind to the Permanent Program, and noted with appreciation the statements made by the representatives of several of those governments and organizations that they intended to continue and, if possible, increase such contributions. The Permanent Committee also reiterated the importance that it attached to annual meetings of the Permanent Committee as an effective forum for the review and orientation of the Permanent Program.

The Permanent Committee considered that training remained a major priority for the Permanent Program. In that respect, the Permanent Committee supported the efforts of the International Bureau to continue to

diversify and make more specialized the training program (both in terms of subject matter (e.g., patent information, licensing, new technologies, trademarks, use of industrial property for the promotion of exports) and groups of individuals to whom training opportunities are addressed (such as the judiciary, university professors, the legal profession, etc.)) and to bring the training program closer to the users (through an increasing number of training activities in developing countries themselves). At the same time, the Permanent Committee stressed that the International Bureau should nevertheless continue to offer a sufficient number of introductory courses.

The Permanent Committee invited the International Bureau to continue to organize seminars, forums or similar meetings, at a regional level, on matters of specific concern to countries in the region, including matters involving the effective use of the industrial property system for the development of industry and external trade, and emphasized that the association in such meetings of representatives from the public and private economic sectors concerned would be desirable.

The Permanent Committee noted with satisfaction the information provided by the International Bureau on the directions and objectives for the training program in the medium and long term, with particular reference to the establishment of curricula and related teaching material in the field of industrial property and the progressive creation of a network of training centers located in both developing countries (on a regional basis) and in industrialized countries.

As regards activities for the promotion of inventive and innovative activity in developing countries, the Permanent Committee invited the International Bureau to accelerate the preparation of the study on the patent management and licensing operations of research and development institutions in developing countries, and of the study on possible arrangements for the promotion of technological innovation in developing countries. Several delegations expressed interest in seeing the results and recommendations of the two studies implemented and tested in the framework of a pilot project. The International Bureau stressed that the promotion of inventive and innovative activity would continue to be a major task and item in future activities under the Permanent Program.

At its tenth session, in April 1986, the Permanent Committee had recommended that it should devote part of some of its future sessions to examining certain specific matters affecting the orientation or implementation of the Permanent Program and had suggested as possible such matters licensing, industrial property protection of new subject matter, patent information and documentation, and utilization of human resources and institutions in developing countries within the framework of the Permanent Program. At its eleventh session, the Permanent Committee was invited to indicate how it intended to deal with the task referred to

in the above recalled recommendation. The Permanent Committee decided that it would devote one day of its five-day 1988 session to the examination of patent documentation and information matters and one day of its five-day 1989 session to the examination of licensing matters, and it requested the Director General to take appropriate measures to organize the examination of those matters in the form of a symposium.

In the course of the discussions of that agenda item, several delegations stated that, whatever the subject matter chosen for discussions, the International Bureau should facilitate the participation of specialists and officials directly involved from developing countries. Also, several delegations, referring to the proposed restructuring of the PCPI, expressed the wish that the financial means formerly available to developing countries to participate in the meetings of the Working Group on Patent Information for Developing Countries of the PCPI should continue to be made available to those countries in order to enable them to participate in the work of the Working Groups contemplated in the new structure of the PCPI. Furthermore, several delegations expressed the wish that in future the documentation for meetings of organs of the PCPI be also produced in Spanish.

The Permanent Committee emphasized the importance of cooperation among developing countries in the field of industrial property, as well as the need to continue to promote and support it in all aspects of the Permanent Program. The utilization of experts and lecturers from developing countries in other developing countries, the promotion and implementation of regional and subregional projects, training within regions and the organization of regional meetings on industrial property subjects of common concern to countries of the region were, in particular, mentioned as positive factors in such promotion. With specific reference to the participation of experts from developing countries as consultants in WIPO development cooperation projects and as lecturers in WIPO training courses, seminars and workshops, the Director General informed the Permanent Committee that he intended to send a circular to all developing countries, requesting them to identify experts from their countries.

Delegations of ARIPO member States expressed their gratitude for the assistance rendered to ARIPO following the appeal made at the tenth session of the Permanent Committee in 1986 to all States members of WIPO, the UNDP and International Bureau in order that ARIPO could be given assistance enabling it to overcome its difficult financial situation.

III. Governing Bodies

Governing Bodies

The Governing Bodies of WIPO and the Unions administered by WIPO held their eighteenth series of

meetings in Geneva from September 21 to 30, 1987. Delegations from 88 States, 17 intergovernmental organizations and 11 international non-governmental organizations participated in the meetings. The following 23 Governing Bodies held sessions:

WIPO General Assembly, ninth session (8th ordinary);
 WIPO Conference, eighth session (8th ordinary);
 WIPO Coordination Committee, twenty-third session (18th ordinary);
 Paris Union Assembly, twelfth session (8th ordinary);
 Paris Union Conference of Representatives, fourteenth session (8th ordinary);
 Paris Union Executive Committee, twenty-third session (23rd ordinary);
 Berne Union Assembly, ninth session (8th ordinary);
 Berne Union Conference of Representatives, ninth session (8th ordinary);
 Berne Union Executive Committee, twenty-eighth session (18th ordinary);
 Madrid Union Assembly, eighteenth session (7th ordinary);
 Madrid Union Committee of Directors, sixteenth session (7th ordinary);
 Hague Union Assembly, ninth session (6th ordinary);
 Hague Union Conference of Representatives, ninth session (6th ordinary);
 Nice Union Assembly, ninth session (8th ordinary);
 Nice Union Conference of Representatives, eighth session (8th ordinary);
 Lisbon Union Assembly, seventh session (7th ordinary);
 Lisbon Union Council, fourteenth session (14th ordinary);
 Locarno Union Assembly, ninth session (7th ordinary);
 IPC [International Patent Classification] Union Assembly, eighth session (6th ordinary);
 PCT [Patent Cooperation Treaty] Union Assembly, fifteenth session (6th ordinary);
 TRT [Trademark Registration Treaty] Union Assembly, fifth session (4th ordinary);
 Budapest Union Assembly, sixth session (4th ordinary);
 Vienna Union Assembly, second session (2nd ordinary).

The main agenda items and the main decisions of the Governing Bodies covered the following points:

Activities Covering the Period September 1985 to June 1987. The reports on those activities were considered and accepted. They reflect the work of the International Bureau during the said period. Most of the

delegations which spoke made special reference to the efforts of the International Bureau in the field of development cooperation for the benefit of developing countries. The view was expressed that such activities enabled the intellectual property systems in those countries to play a significant role in their social, economic and technological development.

Program and Budget for the 1988-89 Biennium. The program and budget was adopted. The program and budget differentiates between Program Unions and Registration Unions. The services rendered by the International Bureau for the Program Unions (Paris Union, Berne Union, IPC Union, Nice Union, Locarno Union, Vienna Union) are funded mainly by contributions from the member States. The services rendered for the Registration Unions (PCT Union, Madrid Union, Hague Union) are funded mainly by fees payable by owners of inventions, trademarks and industrial designs.

The program and budget for 1988-89 foresees the same level of activity in the *Program Unions*, with the same contributions from member States as in the 1986-87 biennium. Within those levels, the program and budget includes an increase of 13.2% for *development cooperation activities*. A part of those activities will be financed also from extrabudgetary resources, such as the United Nations Development Programme (UNDP) and bilateral trust funds. As compared with previous years, there will be more fellowships; more of the training courses, seminars and workshops will be more specialized, will expand into new topics and will be held in developing countries, and more of them will be regional; the number of experts and consultants coming from developing countries and advising developing countries will also increase; travel expenses of representatives of more developing countries to the sessions of the Permanent Committees for Development Cooperation Related to Industrial Property and Copyright will be borne by WIPO.

As far as the *revision of the Paris Convention for the Protection of Industrial Property* is concerned, the Assembly of the Paris Union decided that the three spokesmen and the representative of China will meet in Geneva not later than April 1988 to decide the date and program of the next consultative meeting on the revision of the Paris Convention, whereas, in September 1988, a progress report will be made to the Paris Union Executive Committee and, if the spokesmen agree that a decision on the date of the continuation of the diplomatic conference can be taken already in September 1988, the Paris Union Assembly will be convened in extraordinary session in September 1988.

As far as the *Diplomatic Conference for the Conclusion of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits* is concerned, it was decided that the International Bureau would

prepare, in consultation with experts from developing countries, specific studies and analyses dealing in particular with legal matters, would distribute them to the governments of all States members of WIPO or the Paris Union for comments, and would convene a consultative meeting of experts from developing countries to review and evaluate the comments received from governments. A meeting of all States members of WIPO or the Paris Union at the end of May or the beginning of June 1988 would review the progress of the preparatory work. The International Bureau would convene the fourth session of the Committee of Experts and a preparatory meeting to prepare the Diplomatic Conference. After all the above steps had been accomplished and based on the outcome of the meeting of the Committee of Experts and of the preparatory meeting, the Director General would convene a diplomatic conference during the 1988-89 biennium, if possible in Washington, otherwise in Geneva, for the purpose of concluding a treaty on the protection of intellectual property in respect of integrated circuits.

The many other *program activities* for the next biennium include the following: the continuation of collecting and disseminating information on intellectual property; the further development of the patent, trademark and industrial design classification systems; the organization of meetings of experts to work out norms in the fields of patents for inventions, trademarks and literary and artistic works (those norms to take the form of guidelines or model provisions for national or regional legislation and, in respect of questions relating to patents and trademarks for which the conclusion of a multilateral treaty has serious chances of being successful, to take the form of draft treaties); the organization of meetings on measures to combat counterfeiting and piracy, on the impact of emerging technologies (in particular biotechnology) on the law of intellectual property, and on the possible establishment of an international register of audiovisual works.

As regards the *role of WIPO in the Uruguay Round of Multilateral Trade Negotiations of GATT*, the General Assembly of WIPO agreed that the Director General should accept the invitation extended by GATT to be represented in the meetings of GATT's Negotiating Group on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods.

As far as the PCPI (Permanent Committee on Patent Information) is concerned, it was decided that that Committee would deal, in future, not only with patent documentation and information but also with trademark and industrial design documentation and information. Consequently, the name of the Permanent Committee has been changed to *Permanent Committee on Industrial Property Information (PCIPI)*. Measures were decided upon that should enable the heads of patent offices to meet at least once every two years to

direct personally the work of the new Permanent Committee.

In the *Registration Unions*, the budget takes into account the expected increase in activities of the International Bureau because of the expected increases in the number of international patent applications and demands for international preliminary examinations under the Patent Cooperation Treaty (PCT), in the number of international trademark registrations and renewals under the Madrid Agreement and in the number of international industrial design deposits and renewals under the Hague Agreement.

As regards the *Diplomatic Conference for the Adoption of Two Protocols to the Madrid Agreement Concerning the International Registration of Marks*, the Assembly of the Madrid Union decided that that Diplomatic Conference would be convened in the first half of 1989 and that a Preparatory Committee would be convened in the second half of 1988.

The Diplomatic Conference is expected to adopt two Protocols: one would modify the Madrid Agreement so as to make it acceptable to at least the four States members of the European Communities which are not members of the Madrid Union (i.e., Denmark, Greece, Ireland and the United Kingdom), whereas the other would establish a link between the Madrid system and the future (European) Community Trade Mark system, enabling the simultaneous use of the two systems.

Contributions. It was decided that a study be carried out concerning the possibility of modifying the present *classes of contributions*, so that the share of the (mainly developing) countries that are paying the least (because they are in Class VII) could become smaller. That study will be prepared by the Director General and will, before being presented to the Governing Bodies, be submitted to the Budget Committee in 1989.

The International Bureau was authorized to accept *payments towards contributions in local currency* from developing countries having a non-convertible currency, up to the amount required by WIPO for the payment of local expenses in the country concerned.

New Observers. The Governing Bodies, each as far as it was concerned, accorded *observer status* to the following organizations which had applied for such status in the recent past: Arab Society for the Protection of Industrial Property (ASPIP), European Council of Chemical Manufacturers' Federations (CEFIC), European Federation of Pharmaceutical Industries' Associations (EFPIA), International Anticounterfeiting Coalition, Inc. (IACC), International Group of National Associations of Manufacturers of Agrochemical Products (GIFAP), Union of African Journalists (UAJ), World Federation of Advertisers (WFA).

Election of the Members of the WIPO Coordination Committee. The members of the WIPO Coordination Committee were elected. Their mandate commenced

on October 1, 1987, and will end on October 4, 1989 (the names of members of the Paris Union Executive Committee are followed by (P), the names of members of the Berne Union Executive Committee are followed by (B), the names of *ad hoc* members elected by the WIPO Conference are followed by (W); Switzerland is an *ex officio* member): Algeria (P), Argentina (P), Australia (P), Austria (B), Bangladesh (W), Brazil (P), Bulgaria (B), Cameroon (B), Canada (B), Chile (B), China (P), Colombia (W), Côte d'Ivoire (B), Cuba (P), Czechoslovakia (P), Egypt (P), France (P), German Democratic Republic (B), Germany (Federal Republic of) (P), Hungary (P), India (B), Indonesia (P), Italy (B), Jamaica (W), Japan (P), Kenya (P), Mexico (P), Morocco (B), Netherlands (B), Nicaragua (W), Pakistan (B), Philippines (P), Poland (B), Republic of Korea (P), Saudi Arabia (W), Senegal (B), Soviet Union (P), Spain (P), Sweden (B), Switzerland, Syria (P), Turkey (P), United Kingdom (B), United Republic of Tanzania (P), United States of America (P), Uruguay (B), Venezuela (B) (47).

WIPO Budget Committee

In April, the eighth session of the WIPO Budget Committee was held in Geneva.

The following 12 States, members of the Budget Committee, were represented: Brazil, Cameroon, Canada, Czechoslovakia, Egypt, France, Germany (Federal Republic of), India, Japan, Soviet Union, Switzerland, United States of America.

The Budget Committee reviewed the draft program and budget for the 1988-89 biennium and examined a report, prepared by the International Bureau, on the payment of contributions in instalments and in non-convertible currencies.

The report of the Budget Committee is reproduced as document AB/XVIII/3. Document AB/XVIII/4 provides responses to the recommendations and requests for information expressed in the Budget Committee.

WIPO Coordination Committee

In May and June, the fifth extraordinary session of the Coordination Committee was held in Geneva for the purpose of appointing a Deputy Director General who is to be the national of a developing country.

Forty-two of the 46 member States of the Coordination Committee were represented at the fifth extraordinary session of the Committee: Algeria, Argentina, Australia, Austria, Brazil, Bulgaria, Canada, Chile, China, Colombia, Côte d'Ivoire, Cuba, Denmark, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, India, Indonesia, Italy, Japan, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Philippines, Poland, Saudi Arabia, Senegal, Soviet Union, Sweden, Switzerland, Turkey,

United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zimbabwe.

The following States were represented in an observer capacity: Bangladesh, Cameroon, Democratic People's Republic of Korea, El Salvador, Ghana, Haiti, Iraq, Jamaica, Kenya, Libya, Malta, Pakistan, Qatar, Republic of Korea, Sri Lanka, Sudan, Syria (17).

The Coordination Committee decided to postpone any decision to its ordinary session of September 1987. During that ordinary session, the Coordination Committee decided to further postpone any decision to a later extraordinary session.

IV. Management and Supporting Activities

Missions. During the period under review, the Director General undertook missions to or attended meetings held in Austria, Cameroon, Colombia, France, Germany (Federal Republic of), Hungary, Indonesia, Italy, Spain, Sri Lanka, Syria, the United Kingdom and the United States of America.

Missions were undertaken by Deputy Directors General to Austria, Brazil, Bulgaria, Chile, Colombia, Czechoslovakia, Germany (Federal Republic of), Indonesia, Mongolia, the Netherlands, Peru, the Soviet Union, Switzerland (Berne), the United Kingdom, the United States of America, Venezuela and Viet Nam.

In addition to the missions referred to above, the following countries were visited by other officials or by consultants of WIPO: Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Belgium, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Ecuador, Egypt, El Salvador, Ethiopia, France, German Democratic Republic, Germany (Federal Republic of), Guatemala, Guinea, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Laos, Lesotho, Liberia, Libya, Luxembourg, Malaysia, Mexico, Morocco, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Soviet Union, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland (Berne, Lausanne and Zurich), Syria, Thailand, Trinidad and Tobago, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire, Zimbabwe, Hong Kong.

United Nations. The Director General and other officials of WIPO participated in the work of a number of intersecretariat bodies of the United Nations system

established for the purpose of facilitating coordination of the policies and activities of the organizations of the system. Those bodies included the Administrative Committee on Coordination (ACC), composed of the executive heads of all the organizations and programs of the system under the chairmanship of the Secretary-General of the United Nations, which met in Rome in April, in Geneva in June and in New York in October, the Organizational Committee and the Consultative Committee on Substantive Questions (Operations) (CCSQ (OPS)) and on Administrative Questions (Finance and Budget) and (Personnel) (CCAQ (FB) and CCAQ (PER)) of the ACC. WIPO officials participated in March, in New York, and in May, in Turin, in meetings of the International Civil Service Commission (ICSC) and its subsidiary organ (Advisory Committee on Post Adjustment Questions (ACPAQ)).

In response to requests from the Secretariat of the United Nations, WIPO provided information on its activities for inclusion in reports concerning implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the question of Namibia, apartheid, assistance to the oppressed people of South Africa, assistance to the Palestinian people, the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and cooperation with the Southern African Development Co-ordination Conference (SADCC), the implementation of the General Assembly Resolution on the Role of Indigenous Entrepreneurs in Economic Development, the implementation of the General Assembly Resolution on Special Assistance to Front-line States, the implementation of the United Nations General Assembly Resolution on Respect for the Right of Everyone to Own Property Alone as well as in Association with Others and its Contribution to the Economic and Social Development of Member-States.

In April, a WIPO official attended the sixth session of the Intergovernmental Committee of Experts of African Least Developed Countries in Addis Ababa.

In June, a WIPO official attended a Meeting on Economic and Social Assistance to the Palestinian People, convened by the Director General of the United Nations Office at Geneva.

Also in June, WIPO was represented at the Second Regular Session of 1987 of the Economic and Social Council (ECOSOC) in Geneva.

In August, WIPO was represented at a solemn meeting organized by the United Nations Council for Namibia in commemoration of Namibia Day.

In October, WIPO was represented at the meeting organized by the United Nations Council for Namibia to commemorate the Week of Solidarity with the People of Namibia and their Liberation Movement, held in New York.

Also in October, WIPO was represented at the 23rd Annual Meeting of Editors of United Nations Periodicals in Geneva.

In December, WIPO was represented at the meeting organized by the United Nations in Geneva on the occasion of the 40th anniversary of the Declaration on Human Rights.

United Nations Conference on Trade and Development (UNCTAD). In April, a WIPO official attended the Ministerial Meeting in Havana of the Group of 77 concerning the preparation of the seventh session of UNCTAD ("UNCTAD VII").

In July, WIPO was represented at the seventh session of UNCTAD in Geneva.

In November, WIPO was represented at the sixth session of the UNCTAD Intergovernmental Group of Experts on Restrictive Business Practices in Geneva.

United Nations Development Programme (UNDP). In March, a WIPO official attended the UNDP Regional Meeting of the Resident Representatives of the Latin American and Caribbean Region in Buenos Aires.

In June, a WIPO official attended the 34th UNDP Governing Council meeting in New York.

In October, the Director General of WIPO held discussions with the Administrator of the UNDP and other UNDP officials in New York.

In November, WIPO hosted in Geneva a Workshop on Resource Management organized by UNDP for UNDP staff of field offices and executing agencies.

In December, a WIPO official attended an Inter-Agency Consultative Meeting (IACM) convened by UNDP in New York.

GATT (General Agreement on Tariffs and Trade). In February, March and May, the Director General of WIPO convened, at the request of Permanent Missions in Geneva of certain groups of countries, a series of informal information meetings at WIPO headquarters for officials of the Missions for the purpose of giving information on intellectual property matters of possible relevance to the Uruguay Round of the GATT negotiations.

In October, a WIPO official attended a meeting of the GATT Council of Representatives.

In October and November, two WIPO officials attended, in each case, the third and fourth meetings, respectively, of the GATT Negotiating Group on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods, in Geneva.

In November, a WIPO official attended the celebration, in Geneva, of the 40th anniversary of GATT.

International Labour Organisation (ILO). In November and December, three WIPO officials participated in the ILO Tripartite Meeting on Salaried Authors and Inventors, held in Geneva.

United Nations Educational, Scientific and Cultural Organization (UNESCO). In September, a WIPO official participated in the Unesco World Congress on Education and Information in the Field of Copyright, held in Paris.

In November, WIPO was represented by an official at the first Inter-Agency Meeting of Coordinators for the World Decade for Cultural Development 1988-1997 celebrated under the auspices of the United Nations and Unesco, in Paris.

Public Information, Publications, etc. Lectures on WIPO and its activities, in general or related to particular topics, were given by WIPO officials, often in conjunction with visits by organized groups to WIPO's headquarters. Such groups included, in particular, groups of diplomats and university students from various countries.

Interviews were given to newspaper and radio correspondents. WIPO officials participated in the regular press briefings held at the United Nations Office in Geneva.

Four issues of the *WIPO Newsletter* were published in April, August, October and December, in Arabic, English, French, Portuguese, Russian and Spanish.

New editions of the *WIPO General Information* brochure were issued in January in English and French, in May in Spanish, in June in Arabic and German, and in December in Russian and Japanese.

WIPO Meetings

Paris Union

Committee of Experts on Biotechnological Inventions and Industrial Property

Third Session
(Geneva, June 29 to July 3, 1987)

NOTE*

The Committee of Experts on Biotechnological Inventions and Industrial Property (hereinafter referred to as the "Committee of Experts") held its third¹ session in Geneva from June 29 to July 3, 1987. The following States were represented at the session: Austria, Brazil, Bulgaria, Canada, Cuba, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, India, Indonesia, Ireland, Italy, Japan, Madagascar, Mexico, Netherlands, Norway, Republic of Korea, Saudi Arabia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America (29). In addition, representatives of four intergovernmental organizations and 21 international non-governmental organizations participated in an observer capacity. The list of participants follows this Note.

The purpose of this third session of the Committee of Experts was to review and discuss a revised report on industrial property protection of biotechnological inventions (hereinafter referred to as the "revised report") prepared by the International Bureau, in compliance with a recommendation made by the Committee of Experts during its second session.² During that session, the International Bureau was requested to carry out a study of the existing situation with respect to the legal protection available for biotechnological inventions in the areas of processes, products and uses in the fields of plants, animals, microorganisms and biotechnological material. To accomplish

this goal, the International Bureau prepared two detailed questionnaires, one of which was addressed to governments and intergovernmental organizations requesting information on the existing situation with respect to the legal protection of biotechnological inventions and the other was addressed to non-governmental organizations requesting their views concerning improvements of the said protection.

After receiving responses to those questionnaires, the International Bureau undertook an in-depth and detailed analysis of the responses to prepare its revised report for submission to, and consideration by, the Committee of Experts. The report was made up of three parts, the first part dealing with the existing situation with respect to the availability and scope of protection for biotechnological inventions and the system of deposit of microorganisms, the second part summarizing the suggestions for improvement by non-governmental organizations and the third part containing 19 suggested solutions, prepared by the International Bureau, concerning industrial property protection of biotechnological inventions.

In the third session of the Committee of Experts, discussions began with general observations being made by government delegations and observers on the revised report. Subsequently, each of the 19 suggested solutions was discussed. In the following, each suggested solution appears together with observations made by the Committee of Experts.

Observations on Suggested Solutions

Processes for the Production or Use of Plants, Animals, Microorganisms or Varieties or Strains Thereof. Suggested Solution No. 1 read as follows:

* Prepared by the International Bureau.

¹ For notes on the first and second sessions, see *Industrial Property*, 1984, p.413, and 1986, p.251.

² See *Industrial Property*, 1986, p. 252.

"(1) Any legislative provisions excluding plants, animals, microorganisms or varieties or strains thereof from patent protection shall be applied only to plants, animals, microorganisms or varieties or strains thereof per se, and not to processes for the production or use of plants, animals, microorganisms or varieties or strains thereof or to processes for the production or use of plants, animals or microorganisms in a higher classification category. The said processes shall in no case be excluded from patent protection.

(2) The extension of process protection to products obtained by the patented process shall, without any restrictions, apply in the case of a process for the production of products such as plants, animals, microorganisms or varieties or strains thereof, even if such products are excluded from patent protection."

The corresponding passage of the report reads as follows:

"While many delegations gave their general approval of the provisions of paragraph (1) of Suggested Solution No. 1, there were some reservations noted, and some suggestions for improvement of the proposal were made. Specifically, some delegations were concerned that the provisions of paragraph (1) of the Suggested Solution were [too] broad in that they could possibly be read to include, as patentable, processes which were essentially biological. It was suggested that the provision of Suggested Solution No. 5 be included in paragraph (1) of Suggested Solution No. 1 to specifically exclude biological processes from protection.

The provisions of paragraph (2) of Suggested Solution No. 1 prompted some reservations by some of the delegations from the developing countries concerning the scope of protection. Specifically, it was suggested that, while the provisions of paragraph (2) might have some operative advantages for a number of countries as regards products of patented biotechnological processes, they would pose problems for others, especially the developing countries. On the other hand, other delegations had fewer problems with the provisions of paragraph (2) and were only concerned that the provision be amended so that it would only apply to products 'directly' obtained from the process, rather than subsequent generations of products. It was, therefore, suggested that the word 'directly' be inserted after the word 'products' in the first line of paragraph (2). A further suggestion was made that paragraph (2) should be a part of the solution concerning the scope of protection (Chapter II; Suggested Solutions Nos. 12 to 16) and should again be discussed along with Suggested Solution No. 12, since it was noted that both of these provisions were concerned with the scope of protection for biotechnological inventions."

Surgical or Diagnostic Methods. Suggested Solution No. 2 read as follows:

"If surgical or diagnostic methods practiced on an animal body are excluded from patenting or from patentability (because of lack of industrial applicability), such an exclusion shall apply to the said methods only if they are practiced for a therapeutic or prophylactic purpose in respect of the animal body in question."

The corresponding passage of the report reads as follows:

"A number of delegations expressed their overall approval of the Suggested Solution. However, some delegations expressed some reservation as to the overall breadth of this Suggested Solution. Specifically, the Delegation of Ghana requested clarification of the scope of the term 'animal body' and specifically wanted to know if that term included human beings. It was pointed

out that the term 'animal body' did not and could not include human beings, since there were international laws which specifically provided for this exclusion. It was also suggested that Suggested Solutions Nos. 2 to 5 should be considered together. However, since Suggested Solutions Nos. 2 to 5 either related to conditions for the patentability of an invention or conditions for the exclusion of subject matter from patent protection, it would be more logical to consider each of these suggestions separately. Moreover, it was observed that, regarding the requirement of industrial applicability (Suggested Solution No. 3), [...] any process which was essentially biological was not repeatable and [...] any process which was repeatable was not essentially biological, and if the process was repeatable, then it was industrially applicable. Finally, a few delegations said that they had difficulties in approving Suggested Solution No. 2, since it was contrary to certain provisions in their national and regional laws."

Industrial Applicability. Suggested Solution No. 3 read as follows:

"Any biotechnological process—like any other process—which is capable of being carried out as an activity of an industrial enterprise shall be regarded as industrially applicable."

The corresponding passage of the report reads as follows:

"It was suggested that Suggested Solutions Nos. 3 and 4 be discussed together, since industrial applicability was related to repeatability of the invention. However, it was noted that repeatability and enablement might not always be the same thing, in that an enabling disclosure may be made on an invention and the invention may be repeatable only after considerable and unreasonable effort. In this regard, it was suggested that a provision be added to Suggested Solution No. 4 to require that the scope and effort involved in the tests or trials of the process be reasonable, in order for the invention or process to be industrially applicable. A general approval of the principles of Suggested Solutions Nos. 3 and 4 was expressed by many of the delegations, despite the fact that there were some specific reservations noted, e.g., in respect of the treatment of the human or animal body."

Enabling Disclosure (Repeatability). Suggested Solution No. 4 read as follows:

"A biotechnological process—like any other process—shall not be regarded as not disclosed in an enabling manner only because it must be carried out repeatedly to produce the desired result, if the number of repetitions necessary to produce such a result is reasonable under the circumstances of the case, and if the person skilled in the art is able to obtain thereby the desired result."

The corresponding passage of the report reads as follows:

"It was suggested that there be some special requirement for what constituted an enabling disclosure or what must be disclosed in order for the disclosure to be enabling. It was also pointed out that it was not always the number of attempts made at performing a process which would make the disclosure of the process enabling or non-enabling, but rather the level of difficulty encountered in attempting to reach the desired result."

Essentially Biological Processes. Suggested Solution No. 5 read as follows:

"(1) A multistep process in which at least one step is not essentially biological shall not be regarded as essentially biological.

(2) A process in which human intervention not only consists of selecting a particular biological material and letting it perform an inherently biological function under natural conditions but also includes one or more other measures that are of a technical character shall not be regarded as essentially biological."

The corresponding passage of the report reads as follows:

"It was noted that this Suggested Solution presupposed a national or regional law excluding essentially biological processes for the production of plants and animals from patent protection.

A number of delegations expressed their concern about the breadth of this provision. Specifically, it was observed that the definition of a not 'essentially biological' process was too broad and that the non-biological step should be one that was essential for the invention. It was therefore suggested that the phrase 'significant for the invention' be inserted after the word 'step' in [paragraph (1)] of the Suggested Solution. On the other hand, it was also suggested that the proposal to exclude 'essentially biological' steps or processes from patent protection may be an error and that the more appropriate approach would be to allow any and all steps or processes which meet the criterion for patentability to be patented.

Further suggestions included inserting the phrase 'significant to the invention' in paragraph (2), after the word 'measures.' In response to a request for clarification of the term 'technical process,' it was stated that such a process was one completely controlled by man. It was also suggested that in paragraph (1) of the French text, the two parenthetical phrases should be deleted and that the first one of these phrases should be replaced by the phrase '*c'est-à-dire technique ou microbiologique.*' Finally, it was recommended that paragraph (1) of the Suggested Solution be further considered and redrafted in view of the suggestion that the non-biological step be significant or essential for the invention."

Microbiological Processes. Suggested Solution No. 6 read as follows:

"A process which is carried out with the use of, or is applied to, a microorganism shall be considered as a microbiological process."

The corresponding passage of the report reads as follows:

"Initially, it was stated by the Delegation of Hungary that, since, on the one hand, microbiological processes as 'essentially biological' processes are already included implicitly in Suggested Solution No. 5, and, on the other hand, this proposal did not include a definition of the term 'microorganism,' the entire Suggested Solution should be deleted. Alternatively, it was suggested that this Suggested Solution be considered in conjunction with Suggested Solution No. 17, where the term 'microorganism' was defined, and the question was raised whether the same meaning of 'microorganism' could apply in Suggested Solutions Nos. 6 and 17. In this connection, attention was drawn to rapid technological developments, which changed the meaning of 'microorganism' for the purposes of all Suggested Solutions.

Concern was expressed that Suggested Solution No. 6 unduly limited or restricted the area of microbiological processes because the proposal limited such processes only to those performed on microorganisms. It was observed that the Suggested Solution was not intended to give an exhaustive definition. To broaden the scope of this proposal, it was suggested that, in line one of the Suggested Solution, the word 'a' be deleted and, in line two of the Suggested Solution, an 's' be added to the word 'microorganism,' followed by the phrase 'or cells or components thereof.' In this regard, it was suggested that the term 'microorganism' should be defined as broadly as possible, so as not to unduly limit the meaning of a microbiological process.

Still a further suggestion was to redraft the proposal to include a provision which would define 'microorganism' and provide that, when a process was carried out on a microorganism, it was a microbiological process."

Living Matter. Suggested Solution No. 7 read as follows:

"A product shall not be excluded from patent protection or regarded as unpatentable only for the reason that it may be considered to be living matter."

The corresponding passage of the report reads as follows:

"The Delegation of Hungary referred to WIPO's work concerning the harmonization of certain provisions in laws for the protection of inventions, and stated that the question addressed in Suggested Solution No. 7 was of a general nature, concerning the whole field of biotechnology, and that, therefore, this question might be dealt with in the framework of the work referred to. The same approach should be taken with respect to the subjects of Suggested Solutions Nos. 1, 4 and 12.

With respect to the patentability of living matter, it was stated that, following certain national court decisions admitting the possibility of patenting of animals, it had been recognized that under certain national or regional laws no special rules should apply in the field of biotechnological inventions in those countries. Rather, the decisive test there was whether the conditions of patentability, namely, the conditions of novelty, inventive step and industrial applicability, were met.

One delegation suggested that a deeper understanding of the implications involved in the matter of extending protection to inventions involving living matter was required."

Pre-existing Material. Suggested Solution No. 8 read as follows:

"As long as a claimed product has not been sufficiently disclosed to the public before it became the subject of a patent application, the said product shall not be considered as a 'discovery' or 'natural material' excluded from patent protection or as lacking novelty, only because it was an unseparated part of a pre-existing, known or unknown natural or artificial material."

The corresponding passage of the report reads as follows:

"Attention was drawn to the need for correcting the expression 'indissociable' in the French version (for example, by using the expression '*non dissocié*')."

It was also suggested that the proposal be again reviewed to determine if the expression 'natural or artificial' was necessary, as these terms were thought by some to be superfluous.

The question was also raised whether the Suggested Solution could apply to plants and, if so, whether this would require a change in its drafting.

During the general discussions of this Suggested Solution, attention was drawn to instances where natural material had been taken from some parts of the world and presented in other parts of the world as patentable material. It should be studied whether in such circumstances the grant of a patent would be justified and if so, whether such patent would be invalidated on the basis of new information regarding public availability of the patented material elsewhere, it being understood that one decisive test for considering material as part of the state of the art was whether it was available to the public at the date of filing the patent application or earlier. A view was expressed that public availability could be negated, for example, if the material had not been separated and made useful, and thus was not a part of the prior art at the time the patent application was filed."

Plants, Animals, Microorganisms. Suggested Solution No. 9 read as follows:

"(1) An invention shall not be excluded from patent protection for the reason only that it concerns a plant, an animal or a microorganism (or a plant or animal variety or a strain of microorganism) or, where applicable, any part or vegetative or generative propagating material of any of these.

(2) If, despite the solution suggested in paragraph (1), plant or animal varieties or strains of microorganisms are excluded from patent protection, such an exclusion shall not extend to the patenting of plants or animals or microorganisms as distinguished from plant or animal varieties or strains of microorganisms or to the patenting of parts of plants, animals or microorganisms as defined by reference to a variety or strain, with the exception of vegetative or generative propagation material of plant or animal varieties. The effects of patents for such inventions shall not be affected by any exclusion of plant and/or animal varieties or strains of microorganisms from patent protection."

The corresponding passage of the report reads as follows:

"While there was full support for this Suggested Solution among a number of the delegations, there were a number of reservations expressed by others, particularly to the provision which would provide patent protection for new plant or animal inventions and particularly for inventions of new plant or animal varieties.

It was also suggested that the title of this Solution be changed to conform with the title of Suggested Solution No. 1 since this Suggested Solution No. 9 was referring to the products resulting from the processes of Suggested Solution No. 1.

In this regard, a general discussion took place concerning the relationship of two different systems of protection for plant inventions, namely, the UPOV Convention for the Protection of New Varieties of Plants and patent protection under the Paris Convention for the Protection of Industrial Property. The Delegation of Japan was of the opinion that there was no logical reason to exclude biotechnological inventions, even where they related to plants, from patent protection. While the Delegation of the United States of America expressly agreed with the position of Japan and stated that, since the United States of America gave strong and certain protection for all aspects of biotechnological inventions, it viewed paragraph (2) of this Suggested Solution as suggesting an exclusion from such full patent protection. For this reason, the United States of America would have a problem approving the Suggested Solution in its present form. The Delegation of the

United States of America also stated that it considered the provisions of Suggested Solutions Nos. 1, 2, 13, 14 and 15 as containing further exclusions of certain subject matter from or limitations on patent protection and not in keeping with the present practice in the United States of America. This Delegation stated that any such exclusions from or limitations on patent protection should be identified as such and made time-dependent, so that in the future such exclusions or limitations would no longer appear.

Representatives of European research-based industry drew attention to the disadvantages of the exclusionary provisions in European patent laws for biotechnological research. The archaic provision in the UPOV Convention, which prohibited simultaneous protection by patents and plant variety rights, was no longer justified. Pending a revision of the UPOV Convention, a pragmatic approach had to be applied in order to minimize the resulting damage in the meantime.

On the other hand, a number of delegations suggested that the UPOV Convention should remain the principal basis of protection for new plant varieties and that the Convention should be strengthened. Many of these delegations specifically noted that their government had special plant variety legislation pursuant to the UPOV Convention. It was further noted that the UPOV Convention had proven to be useful in that it offered a balanced solution to the problem of protecting new plant varieties, taking into particular account the interests of farmers. It was also indicated that a recommendation to change Article 2 of the UPOV Convention and allow double protection of plant varieties by both patents and plant variety rights would require further study.

It was emphasized that when an invention was made in plant science, the product which was sold was a plant variety, and the only technology which was repeated was the propagation of the variety. It was therefore essential that if a return was to be earned on the investment of the invention, the inventor needed to control the sale of the variety. Thus, plant variety protection was necessary, but at the same time, certain plant inventions would require patent protection. Thus, both forms of protection should be available, and normally there would not be any correspondence, since an invention would come under the patent system, and a plant variety would be the subject of a plant variety right.

Finally, it was observed that the main problem seemed to be a problem of information, since the provisions of the patent system were not sufficiently known to all concerned. In addition, there was a fear that patenting of plants and animals could have undesirable consequences. It was therefore important that the information gap be closed and that, in particular, a concerted effort be made by WIPO and UPOV in order to overcome any such problem of information.

It was also stressed that the aim of the current work should be to create a link and delimitation between the two systems. This would facilitate for States concerned to consider lifting the ban on double protection, and thus to open up the possibility of obtaining patents for all biotechnological inventions, where the legal conditions of patentability were fulfilled.

It was also suggested that in paragraph (1) the expression in brackets should be deleted.

With respect to paragraph (2) of the Suggested Solution, it was noted by the non-governmental organizations that it only concerned the existing situation of exclusion—in several countries—of plant and animal varieties and—in a few countries—of strains of microorganisms, and that it could be accepted as an intermediary solution pending action to be taken according to paragraph (1). A majority of the delegations of the represented States noted that this problem needed further intense study."

Industrial Applicability. Suggested Solution No. 10 read as follows:

"Any product capable of being obtained, by or used in, an activity of an industrial enterprise shall be regarded as industrially applicable."

There was no comment on this Suggested Solution.

Effect of Deposit for Disclosure of a Product. Suggested Solution No. 11 read as follows:

"A deposit of a product of a kind which is admitted for deposit with a recognized depositary institution under the proper conditions shall be able to replace, in a patent application, a written description of a process to obtain such a product, whether the said product is claimed per se or is a material necessary for carrying out the claimed invention."

The corresponding passage of the report reads as follows:

"It was suggested that the terms 'recognized institution' and 'proper conditions' should be defined. While it was noted that the term 'recognized institution' referred to a depositary institution which was recognized by the State or the authority concerned, and that 'proper conditions' were those set out by the party concerned or those defined under national law, it was pointed out that national laws normally did not determine what was acceptable for deposit; rather, this determination was made by each depositary authority itself, and these conditions might vary with the different depositary authorities.

The question was asked whether the purpose of the deposit was to complete the written disclosure of the process by which a product was produced or even to replace such a written disclosure. The responses to this question varied. It was suggested that, while some delegations were basically in support of this Suggested Solution, it would be improved if the term 'replace' [...] were to be changed to either 'supplement' or 'complete,' since it was noted that use of the term 'replace' might be interpreted as not requiring any written description at all. It was further suggested that the phrase 'to guarantee the reproducibility or the repeatability of the process' be added [...] after the phrase 'such a product,' while some delegations questioned the necessity to make such modifications to this Suggested Solution.

It was further observed that there were situations where a deposit of a microorganism could completely replace a written description of a process such as where the starting material was itself a microorganism from which antibodies were produced. In such an instance, the deposit of the microorganism was the only way to put the reader of the patent or one skilled in the art in a position to know and have what was needed to practice the invention. It was finally suggested that a patent applicant should make a full written description of his invention if he was able to do so, but if he had doubts about the sufficiency of the disclosure, the applicant would be on the safe side to make a complementary deposit. It was ultimately concluded that the Suggested Solution needed further review in the light of the comments made in the Committee of Experts."

Extension of Process Patents to Products which are Living Matter, etc. Suggested Solution No. 12 read as follows:

"Where a patent has been granted for a process for the production of living matter or other matter containing genetic information permitting multiplication of the said matter in identical or differentiated form, the extension of the process patent protection to the product obtained by the process shall not only cover the product initially obtained by the patented process but also the products of

replication or differentiation, or the products of replication and differentiation (in whichever order), obtained therefrom."

The corresponding passage of the report reads as follows:

"A number of delegations and representatives of several non-governmental organizations fully supported the principle included in this solution. In this connection, the Delegation of the United States of America drew attention to the envisaged change in the patent law of its country, which would provide for an extension of process patents to products obtained by the patented process. Nevertheless, other delegations emphasized the fact that protection could only extend to products directly obtained by the patented process, but not to subsequent generations of products, unless they are themselves the subject of a claim.

The Delegation of Bulgaria said that Suggested Solutions No. 12 and 13 would provide for a scope of protection, beyond that provided in its country, in particular since in Bulgaria only inventors' certificates were available for certain products. For these reasons those Suggested Solutions were not acceptable.

The Delegations of Cuba, Brazil and India reserved their positions concerning Suggested Solution No. 12.

It was suggested that the wording 'or differentiated form' [...] be deleted and that after the word 'replication' [wherever it appeared] the phrase 'as long as the products have the same characteristics as the initial product' should be inserted.

On the other hand, the view was expressed that differentiation, if interpreted in the sense of e.g., the regeneration of a plant from a plant cell, was quite acceptable.

It was stated that the protection provided under Suggested Solution No. 12 could extend to matter excluded from *per se* protection, e.g., food or pharmaceuticals.

It was stated that this Suggested Solution may be directed to a non-problem. While novel products could be protected *per se*, known material was more likely to be produced by reliance on the self-replicating nature of the material rather than by use of the patented process."

Genetic Information as an Essential Characteristic of the Patented Product. Suggested Solution No. 13 read as follows:

"Patent protection for a product that consists of, or contains, particular genetic information as an essential characteristic of the invention shall extend to any product (the second product) containing the patented product or obtained from such product which contains the said genetic information and in respect of which the said genetic information is of essential importance for the industrial applicability of the said second product."

The corresponding passage of the report reads as follows:

"Some delegations said that Suggested Solution No. 13, could only be accepted if the suggested scope of protection was narrowed.

On the other hand, a number of other delegations thought that the protection suggested in this solution was unduly limiting, particularly as a result of the phrase [starting with the words] 'in respect of.' These delegations, therefore, suggested that this phrase be deleted.

One delegation supported the deletion mentioned in the previous paragraph, provided that the products covered by this

solution should have the same characteristics as the original product.

It was suggested that the phrase referred to, above, could be replaced by the words 'and in respect of which the said genetic information is expressed.'

It was pointed out that an exemption from infringement may be necessary in respect of the growing of crops containing the genetic information of the patented product.

Finally, it was recommended that, in order to clarify certain unclear points and some other terms of conditions, the International Bureau should revise this Suggested Solution."

Exhaustion. Suggested Solution No. 14 read as follows:

"Where a patent has been granted for a product which is living matter, replication or differentiation of, or derivation from, such a product which has been put on the market by the owner of the patent or with his consent shall not be considered as a permitted use on the ground of exhaustion of rights, unless, and only to the extent that, such replication, differentiation or derivation is unavoidable for a use which is different from replication, differentiation or derivation."

The corresponding passage of the report reads as follows:

"It was explained that the principle of exhaustion of a product patent normally applied only to the act of use of products purchased from the patent owner, but not to the act of producing additional products thereof. In case of a patent for living matter, however, this principle needed to be modified. Nevertheless, the application of the exhaustion principle to multiplication of the purchased material should be limited to the extent that the production of such additional amounts of the purchased material was unavoidable for the intended use of such material. For example, where a baker purchased baking powder and produced an additional amount of that powder, exhaustion of the patent would not apply to such production because there was no necessity of the said production for the use intended. However, where a farmer purchased a particular wheat seed protected by a patent, exhaustion of the patent would apply to the act of sowing and harvesting the crop because he could not use the purchased seed properly without the said act of producing an additional amount of seed. If he saved seed for the next crop, however, such production of an additional amount of seed could no longer enjoy the benefit of exhaustion.

It was suggested by several delegations that the last [part] starting with the word 'unless' should be deleted because any use of the product would infringe the patent for such product independently of the purpose of the use.

A few delegations, however, opposed such a deletion on the ground that the equivalent of the farmers' exemption under the UPOV Convention might as well exist also in the field of patent protection.

It was proposed that the [part] suggested to be deleted, above, should be replaced by the phrase 'only to the extent that the replication is implied in the intention and circumstances of sale.'

One delegation stated that, whereas no problem was found in the case of replication, further study should be carried out concerning differentiation of, or derivation from, a patented product.

It was suggested that the first [part] should read, 'Where a product constituting a living matter is protected by a patent.'

A number of representatives of non-governmental organizations supported the principle of the Suggested Solution, indicating that the owner of the patent must have the opportunity of making more than one single first sale.

The Chairman summarized the discussion by stating that, since a considerable number of delegations had reservations about accepting this Suggested Solution in its entirety, further study of this Suggested Solution was needed."

Dependency License. Suggested Solution No. 15 read as follows:

"A person who carries out an activity concerning a new plant or animal variety which represents significant progress compared with an invention in that area protected by a patent, shall have, to the extent that this is necessary in order to avoid infringement of the patent, a right to obtain a license under the said patent in order to carry out such an activity. Such a license shall be subject to the payment of reasonable remuneration, having regard to the nature of the patented invention and providing due reward to the inventor or his employer for the investment made in order to develop the invention. Where such a license has been granted, the owner of the licensed patent shall have a right to obtain a license under any patent, plant variety right or animal variety right that the licensee may have obtained in connection with the activity referred to above."

The corresponding passage of the report reads as follows:

"The view was expressed that the dependency license could be justified on the ground of public interest.

Several delegations supported this Suggested Solution on the assumption that the activity referred to in line one of the Suggested Solution was a protected activity, namely, an activity which was the subject of a patent or a plant variety right. However, some delegations were of the opinion that only a patent could constitute such a protective right.

It was suggested, therefore, that the first [sentence] of the Suggested Solution should clarify that the person carrying out the activity should have a protective right in it. In this case, it was noted that the word 'significant' in [that sentence] would be unnecessary and that the words 'may have' in [the last sentence] could be replaced by the word 'has.' With respect to the suggested deletion of the word 'significant,' attention was drawn to the fact that, under the UPOV Convention, no condition of progress was required to obtain a plant variety right.

With respect to the last sentence, starting with the words 'where such a license ...,' it was suggested that it should be necessary to meet specific requirements concerning, for example, the public interest, instead of an automatic grant of a license, when the owner of the licensed patent wished to obtain a license, in turn, from the licensee of the said patent. In relation to this suggestion, concern was also expressed because of the question of whether such cross-license might cause a problem of a grant back in connection with antitrust laws. It was further stated that such a cross-license should give a right to remuneration in the same way as the dependency license.

It was suggested that the technological field dealt with in this Suggested Solution should not be limited to a new plant or animal variety but should rather cover the whole of biotechnology.

The Delegation of the United States of America stated that, under the patent law of its country, no obligation could be imposed for granting a license. Thus the concept of this Suggested Solution and its impact on research and development needed further study.

The Representatives of ICC and UNICE, supported by some other non-governmental organizations, were opposed to this Suggested Solution since compulsory licenses should only be available in very exceptional cases, such as the cases of public interest and/or abuse of a patent. In any event, it was not considered sufficient justification to require a compulsory license where the later proprietor was the owner of a plant variety right.

It was noted that as a result of dependency licensing, patents and plant variety rights would overlap. It was therefore suggested that joint work by WIPO and UPOV would be desirable in order to solve the difficult problems in this Suggested Solution.

In relation to the system [for] obtaining a license, the Delegation of the Republic of Korea referred to the arbitration system provided for in the patent law of its country where any person wishing to obtain a license under a patent after four years from the filing date could submit a request for a license to the Commission of Patents Administration, if consultations were not successful following the patent owner's refusal to grant such a license. The Delegation considered that the said arbitration system would be useful to enhance the development of technology.

It was pointed out that no measure for the settlement of disputes was referred to in this Suggested Solution. In this regard, reference was made to court procedures. The Delegation of Ghana suggested that the International Bureau should conduct a detailed study of the possibility of including an international dispute settlement procedure and also on the question of an extension of WIPO's jurisdiction in these matters relating to the intellectual property issues arising from activities in the field of biotechnology for the next meeting of the Committee of Experts.

The Delegation of Cuba reserved its position concerning paragraph (2) of Suggested Solution No. 15."

Experimental Use. Suggested Solution No. 16 read as follows:

"The use of a patented product that comprises, or consists of, genetic information for the development of another such product shall not be regarded as permitted experimental use if the progeny of the developed product obtained from such a use is used in identical or differentiated form for use other than private or experimental purposes."

The corresponding passage of the report reads as follows:

"It was explained that this Suggested Solution was based on the assumption that the progeny of the product obtained from an experimental use of a patented product did not fall within the scope of the patent claims.

It was stated that there was a need for permitting experimental use in order not to hold back the development of technology. On the other hand, attention was drawn to the fact that the kind of experimental use referred to in the Suggested Solution went far beyond normal experimental use because of the use of the progeny.

Concern was expressed in respect of the meaning of the word 'experimental.' It was said that improper interpretation of this word might allow any person to obtain a patented product and, by a modification through the act of a single experimental use, sell unlimited amounts of the modified product which did no longer fall within the scope of the patent claims.

It was suggested that the meaning of the word 'patented product' should be extended to a product enjoying process-derived protection.

The Delegation of Ghana reserved its position concerning Suggested Solution No. 16.

In conclusion, it was recommended that this Suggested Solution be reexamined in the light of the discussions in the Committee of Experts."

Meaning of the Term "Microorganism." Suggested Solution No. 17 read as follows:

"The term 'microorganism,' as used in national laws and international treaties concerning patent procedure, shall be understood in the widest sense, comprising

- (i) any matter which is self-replicable, in particular viruses, replicons, cell lines, and hybridoma cells, and*
- (ii) any matter which is contained in, or can be incorporated into, a host organism and which is replicable through replication of the host organism,*

and which can be deposited."

The corresponding passage of the report reads as follows:

"General. The question was raised whether the Suggested Solutions concerning deposits of microorganisms were to be considered as applying only under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter referred to as the 'Budapest Treaty'), and it was proposed that if this was the case the relevant title should reflect this. It was replied that this part of the Suggested Solutions dealt with questions of deposit of microorganisms both under the Budapest Treaty and under national and regional laws.

The question was raised which organ should be competent for endorsing the definition of microorganism in the Suggested Solution. In this connection, it was pointed out that such a definition could be adopted as an agreed interpretation by the Assembly of the Budapest Union. Such procedure would have the advantage of clarifying which matters could be deposited under the Budapest Treaty, and would have a harmonization effect on national and regional laws.

Different opinions were expressed concerning the scope of the definition contained in the Suggested Solution. Some delegations indicated that the definition was too broad and that its scope should be restricted, while others pointed out that the meaning of the term 'microorganism' should be understood in the widest sense and that no definition of this term should be given. Concern was also expressed that, to the extent that the definition included seeds and fertilized eggs, it was more a fiction than an interpretation and that such a fiction would probably not be accepted by national courts. Furthermore, a different definition for microorganism on the one hand for purposes of deposit, and on the other hand for purposes of patentability, was thought to create problems.

It was proposed that it should be examined whether the definition of microorganism in all of the Suggested Solutions should be the same.

It was suggested that consideration be given to the scientific definition of microorganism.

It was suggested that the word 'especially' be added after the word 'comprising' in the third line of the definition.

It was proposed to clarify the words 'and which can be deposited' at the end of the Suggested Solution by adding 'according to the Budapest Treaty,' in order to make sure that the provisions of that Treaty concerning the duration of storage, the issue of a viability statement and the furnishing of samples would apply. In this connection, it was also suggested that the said words could be replaced by the words 'and which are admitted for deposit by a depositary institution.'

Subparagraph (i). It was indicated that 'viruses' and 'replicons' were not self-replicating matters but needed a host to replicate, and it was therefore suggested that they should be deleted from subparagraph (i) and included in subparagraph (ii).

It was suggested that 'seeds' should be included in paragraph (i) since they were self-replicable matter.

It was proposed that the word 'including' should be added after the word 'in particular.'

It was also proposed that, as far as multicellular bodies are concerned, only products consisting essentially of undifferentiated cells should be included.

Subparagraph (ii). In reply to the question of whether a DNA fragment should be included under subparagraph (ii), it was indicated that a DNA fragment was a chemical substance which could be described in writing and needed not to be deposited. It should therefore not be included in the Suggested Solution.

It was suggested that the words 'host organism' be clarified."

Requirement of Deposit. Suggested Solution No. 18 read as follows:

"Where an invention involves the use of a microorganism which is not available to the public and which cannot be described in a patent application in such a manner as to enable a person skilled in the art to carry out the invention, or where an invention concerns a microorganism per se, such an invention shall be regarded as having been sufficiently disclosed only if the microorganism has been deposited with a recognized depositary institution."

The corresponding passage of the report reads as follows:

"It was suggested that the requirement of deposit should be supplemented by the requirement that samples of a deposited microorganism should be actually furnished to the public upon request.

It was indicated that the word 'readily' should be added before 'available to public' in the [second] line of the Suggested Solution.

It was proposed that the word 'such' should be added before the words 'microorganism per se' [...]. In this connection, it was also proposed that the word 'new' should be added before the words 'microorganism per se.'

It was pointed out that the Suggested Solution needed to be harmonized with Suggested Solution No. 11.

It was suggested that the words 'or a microorganism per se' should be added after the words 'the use of a microorganism' in the first line of the Suggested Solution and that the words 'or where an invention concerns a microorganism per se' should be deleted so as to make it clear that the same conditions must be met for both types of inventions.

It was proposed to include in the Suggested Solution the requirements of Rule 28(1)(b) of the Regulations under the European Patent Convention concerning information available to the applicant on the characteristics of the microorganism.

It was noted that the requirement of deposit of microorganisms should not discourage disclosure of and access to new technologies and that it should only complement the written description of the invention in the patent application and not substitute such description."

Furnishing of Samples. Suggested Solution No. 19 read as follows:

"(1) Samples of the deposited microorganism shall be furnished by the depositary institution on request to a third party (hereinafter referred to as the 'requesting party'), under conditions which comprise, or consist of, the conditions referred to in paragraphs (2) to (4).

(2) The request shall be based on an application for a patent, or a patent, which refers to the deposit of the microorganism a sample of which is requested.

(3) The requesting party shall have residence:

(i) in the country where the depositary institution is located, or

(ii) in a country in which or for which an application for a patent was filed or a patent was granted on which a request can be based according to paragraph (2).

(4)(a) Samples shall not be furnished before the publication of the patent or patent application on which the request is based, unless the requesting party has a right to inspect the files.

(b) Samples shall be furnished only if the requesting party has undertaken vis-à-vis the owner of the patent or the patent application on which the request is based, for the period during which the patent is in force or during which the patent application is pending and the patent resulting from the application is in force:

(i) not to make the deposited microorganism or any microorganism derived therefrom available to any third party;

(ii) to use the deposited microorganism or any microorganism derived therefrom only for experimental purposes concerning the invention;

(iii) not to export the deposited microorganism or any microorganism derived therefrom to any other country or, if the sample was obtained in the country where the depositary institution is located and that country is not the country in or for which the patent on which the request was based has been granted or the relevant application has been filed, to any other country than the country in or for which the relevant patent has been granted or the relevant application has been filed.

(c) The requesting party shall have the burden of proof concerning compliance with the undertakings referred to in subparagraph (b).

(5) For the purposes of paragraph (4), any microorganism shall be deemed to be derived from the deposited microorganism if it is derived therefrom by culturing or in any other way of replication, provided that the derived matter still exhibits those characteristics of the deposited microorganism which are essential for the carrying out of the invention."

The corresponding passage of the report reads as follows:

"General. The Delegation of Sweden pointed out that several of the provisions included in the Suggested Solution required an Act of [...] Parliament, in particular the provisions under paragraph 4(c) relating to the reversal of the burden of proof. Moreover, it appeared that the Suggested Solution referred to matters which should be examined and discussed in the framework of the Assembly of the Budapest Treaty.

The Delegation of Hungary referred to paragraph 184 of the Notes³ on the Suggested Solution and asked how the Suggested Solution should supplement Rule 11.3 of the Regulations under the Budapest Treaty. It was replied that the question of the relationship between the Suggested Solution and the Budapest Treaty could be clarified in due course, and that for the time being the approach taken by the Suggested Solution was intentionally very broad, concerning both the Budapest Treaty and national and regional laws, and was not designed to directly amend the Treaty.

The Delegation of Ireland said that in its country no specific rules existed on the question of the furnishing of samples of deposited microorganisms. However, the Suggested Solution appeared to be in line with the general thinking in its country on this question.

³ Not reproduced here.

The Delegation of the Netherlands pointed out that in its country there did not exist a special rule on the furnishing of samples of deposited microorganisms, but only decisions of the Board of Appeal. Under the practice of its country, the requesting party was only required to give its name and address and to undertake vis-à-vis the depositor not to give the furnished sample to any third party.

The Delegation of the United States of America stated that in its country no restriction existed on the availability of samples once the patent was issued. Under the law in the United States of America, in exchange for the protection granted by the patent, the patentee agreed to fully disclose the invention to the public, which included the furnishing of samples of deposited microorganisms.

The Delegation of the Federal Republic of Germany said that in its country there was no special rule concerning the furnishing of samples of deposited microorganisms. Court decisions constituted the only form of regulation in this area, and the matter was still under discussion with the circles concerned.

The Delegation of Norway supported the reservations expressed by the Delegation of Sweden.

The Representative of the European Patent Organisation pointed out that Rule 28 of the Regulations under the European Patent Convention, which was amended in 1979 to take into account the views expressed by the interested circles, constituted a balance between public and private interests in this area. The Representative said that the Suggested Solution went further than the present scope of Rule 28 and that a change ha[d] neither been initiated by any of the Contracting States to the European Convention, nor suggested by the interested circles.

The Delegation of Ghana pointed out that it favored the availability of samples of deposited microorganisms without restrictions and that any such restrictions on availability would be contrary to some objectives of the patent system, such as access to technology.

The Delegation of Japan said that it supported the international harmonization activity and further stressed that the limitations placed on the availability of microorganism samples should be considered from the point of view of maintaining a proper balance between the interests of the depositor and those of the requesting party. This Delegation also stated that further consideration and study was needed on the question of the burden of proof.

The Delegation of India stated that if there [was] a misuse or an abuse made of samples of deposited microorganisms, efforts should be made to eliminate the misuse or abuse, but not to restrict the supply or availability of the supply of the microorganism.

Paragraph (1). It was indicated that the words 'requesting party' were defined in Rule 11.3(b) of the Regulations under the Budapest Treaty and that it was not deemed appropriate to use them in a different meaning than in that Treaty. Moreover, it was noted that the Suggested Solution did not mention industrial property offices either as a party to whom samples of deposited microorganisms should also be furnished upon request or as an organization which has any role in the proposed procedure for the furnishing of samples.

Paragraph (2). It was clarified that the Suggested Solution was limited to the case of furnishing of samples of microorganisms deposited for the purposes of patent procedure and did not cover cases of microorganisms deposited for scientific purposes.

Paragraph (3). Paragraph (3)(i) was not supported by any delegation because it established a discrimination based on the residence of the party requesting a sample of a deposited microorganism in a country where the depositary institution was located.

Concerning subparagraph (ii), the views were divided. Some delegations indicated that they were prepared to accept the restriction based on the residence of the requesting party in a country for or in which a patent application was filed or a patent was granted; some delegations expressed themselves against this restriction and others indicated that the question required further study. In this connection, it was also pointed out that under the

patent law of certain countries any person, regardless of the person's residence, could file an opposition against the grant of a patent following its publication for this purpose. Furthermore, it was noted that the territorial restrictions on the availability of a microorganism [were] a contradiction to the principle of worldwide state of the art, a principle which has been accepted by many modern patent systems and would result in substantial problems in the examination of patent applications.

Paragraph (4)(a). It was suggested that this provision should be drafted in a positive manner, so that an obligation to furnish samples would be established. In this connection, it should also be clarified that a right to obtain samples had to be certified by the competent industrial property office, according to Rule 11.3 of the Budapest Treaty, and that a right to inspect the files existed only under the applicable provisions of the national or regional laws.

As regards the point in time as of which samples should become available, views differed. Some delegations agreed with the solution that availability should start with the publication of the patent or patent application. Other delegations and a number of non-governmental organizations expressed the view that samples should become available only after the grant of the patent, or—as a minimum—after the publication for the purposes of opposition, if such publication was accompanied by a certain degree of protection conferred [on] the applicant, but not at the time of the first publication, when no enforceable right existed. It was added that, if agreement could not be reached in the sense that availability should start only at the time of the grant of the patent, then, as a compromise solution, the possibility of release only to an independent expert between first publication and grant, as provided for in the European Patent Convention, should be considered.

Attention was drawn to the need that each industrial property office should have access to samples of deposited microorganisms as of the date on which an application was filed with it.

Paragraph (4)(b). The provision contained in item (i) was supported by a number of delegations and representatives of inter-governmental and non-governmental organizations. The wish was expressed to better define what was meant by 'third party.'

With respect to the provisions contained in item (ii), it was suggested to explain the expression 'concerning the invention,' in order to clarify whether this expression only referred to the invention as claimed by the applicant, or whether experiments should be permitted also in respect of related technology.

Several delegations expressed the view that the need to provide an undertaking on experimental purposes was not justified after the grant of a patent, whereas representatives of non-governmental organizations underlined that, even after the grant of a patent, the said restriction was necessary, in order to protect legitimate interests and to prevent abuses.

With respect to the provisions contained in item (iii), it was noted that the suggested prohibition to export the deposited microorganism should be reexamined in the light of conclusions to be drawn with respect to paragraph (3): if paragraph (3) was deleted so that release could be requested by any interested party, wherever its country of residence was, it would not be justified to maintain the prohibition to export samples of the deposited microorganism to other countries. In any case, such a prohibition would create problems for those having residence in a country not satisfying paragraph(3)(ii) and wishing to file opposition or nullity suits against the relevant patent rights, and also for a large corporation which maintained research laboratories in countries other than the country in which it had its residence, because such a corporation would be prevented from testing the sample obtained in its research laboratory.

Paragraph (4)(c). It was pointed out that the application of paragraph (4)(c) would be difficult in connection with paragraph (4)(b)(i) and (ii), because the requesting party would have to prove that it did not make the deposited microorganism available to any third party, and did not export it. Such a proof of a negative fact would hardly be possible. Moreover, there could be a problem with the shifting of the burden of proof where there [was] more than one requesting party. It was replied that the reversal of the burden of proof, provided for in paragraph (4)(c), would apply only where

indicative facts had been established that the requesting party had violated one or several of the undertakings referred to in paragraph (4)(b)(i), (ii) or (iii). It was also observed that the reversal of the burden of proof was necessary because release of a sample of a deposited microorganism practically amounted to an invitation to infringe the patent. It was also pointed out that the question of the reversal of the burden of proof was under consideration by the Committee of Experts on the Harmonization of Patent Laws and further that there should be no deviation of the rules for biotechnology as compared to other kinds of patentable inventions.

Paragraph (5) did not give rise to any observations."

Future Action

During the course of its third session, the Committee of Experts also discussed any future action to be taken. In this regard, a clear majority of delegations and observers agreed that work should continue in this field where it was thought that much work remained to be done to assure adequate legal protection for the costly developments which were taking place in this area of technology. It was recommended that, since some States had not been able to submit their responses to the questionnaires in time for such responses to figure in the International Bureau's analysis, the International Bureau should prepare a revised version of its report. December 31, 1987, was suggested as the deadline for receipt by the International Bureau of any additional responses or of amendments to prior responses made to the questionnaires by any government, intergovernmental organization and/or non-governmental organization.

Finally, the wish was expressed by a clear majority that at least one more session of the Committee of Experts was needed to finalize its discussions and to agree on the suggested solutions. The Director General said that, taking into account the wish of the delegations to have another meeting of the Committee of Experts, he would make the necessary suggestions to the Governing Bodies.⁴

LIST OF PARTICIPANTS**

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⁴ In their session of September/October 1987, the Governing Bodies of WIPO approved a proposal by the Director General that he would convene, in 1988/89, at least one more session of the Committee of Experts on Biotechnological Inventions and Industrial Property.

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Studies

Industrial Design Protection in the United States of America— Present Situation and Plans for Revision

W.T. FRYER, III*

Introduction

Industry in the United States of America has shown an increased interest in industrial design protection.¹ This conclusion is based on several recent developments, including significant court decisions and an increased number of design patent applications received by the Patent and Trademark Office (PTO).² Another important fact is the renewed effort to improve industrial design protection, by adding an additional form of industrial designs intellectual property law.

The basic intellectual property law (hereinafter all reference to the law will be United States law unless otherwise indicated) available now for industrial design protection is the design patent, but there has been significant use of trademark law and some copyright law for certain designs. The consensus in the legal community and many industries is that a better way is needed to protect industrial designs. Generally, the present systems take too long to obtain protection. These rights are difficult to enforce in court and, usually, it is not clear what industrial design features are protected.

An important start in this review is to admit that there is a likelihood of misinterpretation when using the

“industrial design” term. For example, every product is the result of many designed considerations, including technical, cost, and appearance. The industrial designer plays an important role in achieving the desired combination of these factors.³ In contrast, industrial design law protects only product appearance.

One unrealistic way to consider the objective of industrial design law is that it should protect only the design appearance that is not part of or related to a functional feature of the product. This view is not consistent with the nature of industrial designs, for the usual source of most design features is product parts that necessarily form its structure and operation. Product appearance is dictated at least in part by the functional arrangement of product parts, and the proper way to consider industrial design law is to examine appearance and its relation to the functional parts. The law has to sort out what designs are protected, examining the relation between product function and appearance. While this question is a big issue in industrial design law, no matter what form of intellectual property is being discussed, there are several other important aspects deserving careful attention. This article will review the present industrial design protection provided by United States trademark law, design patent law, copyright law, and a proposal for a new form of protection called herein the “Design Copyright Registration” (DCR).

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¹ A.M. Freedman, “Forsaking the Black Box: Designers Wrap Products in Visual Metaphors,” *Wall Street Journal*, East Coast Edition, White Oak, Maryland, U.S.A. (hereafter identified as “WSJ”), March 26, 1987, p. 39; S. MacDonald, “As Awareness of Industrial Design Grows, Firms Start to Use It as a Marketing Tool,” *WSJ*, February 23, 1987, p. 27; S. MacDonald, “Looking Good: More Firms Place Higher Priority on Product Design,” *WSJ*, January 22, 1987, p. 33; J. Freestone, “Design Protection: The Pros, Cons of Knock-offs,” *Design Horizons*, October 1986, p. 12, Communications/Today, Ltd., High Point, North Carolina, U.S.A.; T. O'Donnell *et al.*, “Counterfeit Goods,” *Business Week*, McGraw-Hill, Inc., N.Y., N.Y., U.S.A., December 16, 1985, p. 64; E. Mervach and N. Jones, “The New Trade Strategy,” *Business Week*, October 7, 1985, p. 90; L. Lehrer, “Designers Want More Protection from Imitators,” *WSJ*, October 2, 1985, p. 35.

² According to the 1986 PTO Annual Report, p. 46, published by the U.S. Department of Commerce, U.S. Government Printing Office, Washington, D.C., U.S.A., 9,792 design patent applications were filed in 1986. This figure can be compared with 2,573 in 1954 (source 1973 PTO Annual Report, p. 8), and 4,774 for 1967 (source 1986 PTO Annual report, p. 46), an increase of 280% in 32 years or average increase per year of approximately 9%. The change in filing has been a steady increase in almost all years.

³ Industrial Design Society of America, Great Falls, Virginia, U.S.A., 1983 By Laws, Article II, Definition:

“Industrial Design is the professional service of creating and developing concepts and specifications that optimize the function, value and appearance of products and systems for the mutual benefit of both user and manufacturer.

This service is often provided in the context of a cooperative working relationship with other members of a development group. Typical groups include management, marketing, engineering and manufacturing specialists. The Industrial Designer's contribution places special emphasis on human characteristics, needs and interests which require particular understanding of visual, tactile, safety and convenience criteria. Industrial Designers combine these considerations with practical concern for technical processes and requirements for manufacture; marketing opportunities and economic constraints; and distribution, sales and servicing arrangements. Industrial Designers, as professionals, are guided by awareness of their obligations to protect the public safety and well-being, to respect the environment, and to observe ethical business practice.”

Trademark Protection of Industrial Designs

Trademark law is the best place to start in describing industrial design protection, or trade dress protection as it is sometimes called in trademark decisions. The primary reason is the relatively precise set of requirements on what can be a trademark. While trademark law is divided into federal law and the laws of each state, the federal law under the Lanham Act⁴ is by far the most important. It offers nationwide protection and several U.S. Supreme Court decisions have limited the scope of state laws in protecting product designs.⁵ A number of industrial designs have been protected under federal trademark law, including the appearance of a cube puzzle, cosmetic package, guitar, cordless telephone, bag, toy cars, and parking meters.⁶

The main reason why most industrial designs cannot be protected effectively by trademark law is that product design features are not distinctive in a trademark sense. Trademark law requires that the trademark design be recognized by the public as identifying a product source. Quite commonly design features are merely interpreted by the public as being attractive parts of the product's appearance that serve no trademark significance, just like many words can only have a descriptive meaning in the public's mind. For example, it had to be shown that the geographic term

"North American" was associated with a manufacturer of aircraft and not primarily the continent where the company was located.⁷ For industrial designs this requirement almost always means a public survey is needed to prove the design has secondary meaning. Generally, industrial designs do not start out as trademarks and it takes considerable time to reach the trademark status. During the period before adequate secondary meaning is reached, there is no trademark protection. For this reason, it is not wise to rely exclusively on trademark protection for an industrial design.

There is another equally good reason for not relying too much on trademark law to protect an industrial design. The scope of trademark product design protection has been carefully limited. In general, the design features that give a product a more competitive position cannot be protected by trademark law. An example of this rule is found in the Court of Appeals, Federal Circuit decision *In re Teledyne Industries* on an application for trademark registration under the Lanham Act.⁸ The court applied the following test for when a product design can be a trademark.

"Simply dissecting appellant's alleged trademark into its design features and attributing to each a proven or, commonly known utility is not, without more, conclusive that the design, considered as a whole is de jure functional and not registrable.... Rather, the decisive consideration is whether the overall design of appellant showerhead is so superior in de facto function or economy of manufacture that recognition of that design as a trademark would hinder competition in the showerhead trade."⁹

In this case there were holes in a certain pattern on the face of a nozzle through which water sprayed, as shown in Figure 1, below.



Figure 1

⁴ 15 U.S.C.A. Sections 1051 to 1127 (1963). 1987 Suppl., West Publishing Co., St. Paul, Minnesota, U.S.A. (hereafter all U.S.C.A. citations are from this publication, unless otherwise indicated). A leading treatise on trademark law is by J. Thomas McCarthy, *Trademark and Unfair Competition*, The Lawyers Cooperative Publishing Co., Rochester, N.Y., U.S.A., 2d ed., 1984, Suppl. 1986, with sections 7.23 to 7.33 devoted to protection of product shape.

⁵ *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 140 U.S.P.Q. 524 (1964 U.S.S.C.) and *Compco Corp. v. Day-Brite Lighting, Inc.*, 376 U.S. 234, 140 U.S.P.Q. 528 (1964 U.S.S.C.). In each of these cases state unfair competition law (also called unfair trade practices), excluding trademark law, was held to be preempted by the federal patent law, to the extent that the state laws provided protection equivalent to federal utility or design patent law for industrial designs. Unless there is a utility patent or design patent protecting a product design, the design can be copied by anyone. There was no evidence in these cases that the designs were trademarks, e.g., they were distinctive through development of secondary meaning. These decisions left unanswered whether state trademark law could be used to protect industrial designs, but it was clear that state law could operate to prevent consumer confusion due to improper labeling or deceptive trade practices. These cases and later United States Supreme Court cases have left unresolved whether federal law (Lanham Act) could be used to protect industrial design-type trademarks. Subsequent developments in lower courts have shown Lanham Act protection is available for industrial design-related trademarks, if the basic trademark requirements are met.

⁶ Trademark law has protected the industrial designs of several products. Examples of such products are guitar, *In re Ovation Instruments, Inc.*, 201 U.S.P.Q. 116 (1978 Trademark Trial and Appeal Board, hereafter identified as "TTAB"); *Yamaha International Corp. v. Hoshino Gakki Co., Ltd.*, 231 U.S.P.Q. 926 (1986 TTAB); cordless telephone (*Uniden Corp. of America v. Unipacific Corp.*, 223 U.S.P.Q. 70 (1983 D. C.D. CAL.)); bag (*Lesportsac, Inc. v. K Mart Corp.*, 754 F. 2d 71, 225 U.S.P.Q. 654 (1984 2d Cir.)); cube puzzle (*Ideal Toy Corp. v. Plawner Toy Mfg. Corp.*, 685 F. 2d 78, 216 U.S.P.Q. 102 (1982 3d Cir.)); cosmetic package (*Olay Co., Inc. v. Cococare Products, Inc.*, 218 U.S.P.Q. 1028 (1983 D. S.D.N.Y.)); parking meter (*Time Mechanisms, Inc. v. Qonaar Corp.*, 422 F. Supp. 905, 194 U.S.P.Q. 500 (1976 D. N.J.)); and toy cars (*Warner Bros., Inc. v. Gay Toys, Inc.*, 724 F. 2d 327 (1983 2d Cir.)).

⁷ *North American Aircoach Systems, Inc. v. North American Aviation, Inc.*, 231 F. 2d 205, 107 U.S.P.Q. 68 (1955 9th Cir.), cert. denied, 351 U.S. 920, 109 U.S.P.Q. 517 (1956 U.S.S.C.).

⁸ *In re Teledyne Industries, Inc.*, 696 F. 2d 968, 217 U.S.P.Q. 9 (1982 FC, CA).

⁹ *Id.*, 696 F. 2d at 971, 217 U.S.P.Q. at 11.

The device was a shower head that created a pulsating water flow, as a result of a mechanical device in the head. The application for trademark registration had been refused by the PTO. The court affirmed this rejection. It found suggestions in utility patents obtained on the same shower head that the hole configuration produced a very desirable spray effect on a person taking a shower. The burden was on the applicant to show other devices could perform equally well and that this design gave no competitive advantage. The evidence presented by the applicant did not convince the court. The court found trademark protection would include features that gave the product competitive advantages. In effect, the trademark would give the owner an exclusive right to sell a nozzle with this hole pattern, the equivalent of a utility patent on the hole pattern design, without having met the requirements for a utility patent. In contrast, it can be noted that the propeller-shaped design on the shower head face in Figure 1 was merely decorative and not a "functional feature." If it had been the subject of the trademark application, and the necessary secondary meaning was shown, a trademark registration should have been obtained.

Another example of a product design trademark is shown in the *Truck Equipment Service Company* decision.¹⁰ The alleged trademark was the shape of a truck body. The court found the truck body was one of many shapes that could be used. The shape had no special advantage in the operation of the truck or in its construction, a fact conveniently admitted in the records of the copier. There had been considerable use of the truck and the court was satisfied there was adequate secondary meaning, creating a distinctive mark. That case relied on a part of the federal law (Lanham Act), 15 U.S.C. §1125A, also known by its original bill section number 43(a). The fact that the design was copied and not independently created was a factor that helped the owner, but copying is not a requirement for trademark infringement.

The basic question in all industrial design trademark cases is whether the design is functioning as a trademark. A design may be the combination of shape and colors that primarily serve a non-trademark purpose and, therefore, it cannot be protected under the law. An example of this situation occurred recently in the U.S. Supreme Court case of *Inwood Laboratories, Inc. v. Ives Laboratories* where the alleged trademark was the color combination used on medicine capsules.¹¹ In applying the Lanham Act, the Court found that the public used these color combinations to identify the dosage content of each capsule, not primarily to identify the manufacturer of the medicine. The primary func-

tional use of the design prevented any trademark protection. This case answered the basic question, that occurs in each industrial design trademark case, whether the design is primarily serving a non-trademark purpose and, if it is, the design cannot be protected as a trademark.

Another way the same basic question of trademark distinctiveness has been evaluated is by the effect of the alleged trademark on product marketability. Does the design appearance add to the commercial attractiveness of the product? Some courts have held a design considered by customers as an important part of the visual attractiveness of a product cannot be a trademark.¹² Fortunately this test seems to be less popular now, replaced by more basic questions on the utilitarian function of the related product parts, as discussed above, and whether the design is recognized as a trademark in the marketplace.¹³ If consumers use the design primarily as recognition of the manufacturer, it can be a trademark.

This brief explanation of trademark law applied to industrial designs should demonstrate that there are many reasons why trademarks do not answer the need for a simple to establish and clearly defined industrial design protection system. The basic question is whether a particular design can be a trademark. The usual requirement of secondary meaning for an industrial design trademark is not easy to meet. It takes time to reach trademark status, and no enforceable rights are obtained until it becomes a trademark in the marketplace. The trademark does have the advantage of perpetual life, as long as it remains a trademark. Due to these disadvantages, most practitioners have turned to design patents for more consistent protection of industrial designs. They have not been completely satisfied with the design patent alternative either.

Design Patents

The first patent law in the United States of America was enacted on April 10, 1790, and it did not directly or by implication cover industrial designs.¹⁴ It applied to

¹² *Pagliari v. Wallace China Co.*, 198 F. 2d 339, 95 U.S.P.Q. 45 (1952 9th Cir.).

¹³ *Pagliari* is one of the earliest cases relying on the aesthetic functionality test. This test is described in the case as a determination whether the design is an important ingredient of the commercial success of the product, so a short name is the aesthetic functionality or commercial success test. The Second Circuit followed the aesthetic functionality test, but now this court in *Lesportsac, Inc. v. K Mart Corp.*, 754 F. 2d 71, 225 U.S.P.Q. 654 (1984 2d Cir.) changed its mind, shifting back to more basic analysis of trademark distinctiveness. See A.S. Oddi, "The Functions of Functionality in Trademark Law," *Trademark Reporter*, vol. 76 (July/August 1986), p. 308.

¹⁴ Patent Act of 1790, 1 Stat. at Large 109, April 10, 1790. Very useful treatises on design patent law are: A.W. Deller, *Deller's Walker on Patents*. Baker, Voorhis & Co, Inc., Mount Kisco, N.Y., U.S.A., 2d ed., Suppl. 1984, and W.C. Robinson, *The Law of Patents*, 1890, reprinted by Clark Boardman Co., New York, N.Y., U.S.A., in 1971.

¹⁰ *Truck Equipment Services v. Fruehauf Corp.*, 536 F. 2d 1210, 191 U.S.P.Q. 79 (1976 8th Cir.), cert. denied, 429 U.S. 861 (1976 U.S.S.C.).

¹¹ *Inwood Laboratories, Inc., et al v. Ives Laboratories, Inc.*, 456 U.S. 844, 214 U.S.P.Q. 1 (U.S.S.C. 1982).

the functional arrangement of machines. Patents obtained on this subject matter are commonly called utility patents. Why industrial designs were omitted is not easy to determine. The United States was a new country and needed to create industries and new products quickly. It is logical to think of the utility patent as more important. The first United States industrial design patent law was passed in 1842, and it applied to a wide range of products including articles of manufacture, designs printed on fabric, statues, designs placed on a product, or shape or configuration of a product.¹⁵ While there were changes, the subsequent statutes continued this broad subject matter scope. Products that were involved in very early industrial design court cases included a rug,¹⁶ saddle,¹⁷ and eating utensils.¹⁸

A most unique feature of design patent law is the fact that the utility patent law standards apply to design patents, except where there is a conflict with the design patent provisions.¹⁹ It is virtually impossible to understand design patent law without also understanding utility patent law. This close relationship is the result of the design patent statute being a part of the utility patent statute with only a few provisions specifically identified as applying exclusively to design patents. An inherent difficulty in this arrangement is the problem of determining which utility patent provisions are inconsistent with or need special interpretation for design patents. This question has been a continuous source of debate since the first patent laws were enacted and it is one of the major issues that shape the scope and effect of design patent law.

It is easier to begin with the features of the utility patent and design patent laws that are shared without controversy. The procedure is to file with the PTO an application for a design patent that describes and claims the design. The PTO examines the application and decides if a patent will issue. The basic requirement for a complete disclosure of the design is satisfied by the application drawing. It shows the design from several perspectives and with proper shading.²⁰ The requirement for a claim in the application is satisfied usually by a simple statement that the applicant claims the design as shown in the drawing, although a more

detailed claim description can be used.²¹ What design features to emphasize in the drawings and a determination of what is claimed can be critical, as in an attempt to obtain the priority date of an earlier design application. PTO examination of a design application will determine if the design is novel²² and unobvious.²³ Only if both of these standards are met can a design patent be obtained. In general, the novelty standard is like the utility patent requirements that no prior art designs show exactly the claimed design. If there are differences, no matter how slight, the design will be considered novel.

The standard of unobviousness has caused a lot of controversy over how it should be applied to design patents. In utility patent law it involves a well-developed method of analysis of relevant prior art to determine whether one who is skilled in a particular art would consider the invention, as a whole, within the skill of that art.²⁴ It is a very subjective standard and the analysis relies heavily on many factors that may show whether the invention is unobvious. Prior art teachings are used to see if the invention has been suggested. An example of an unpatentable utility invention is where one material is substituted for another, without any unexpected result. The decision is made from the viewpoint of a person who understands the technology and teachings of the prior art, known as one who is skilled in the art.

The design patent law standard for unobviousness has gone through considerable evolution. For many years there were conflicting decisions from the courts. The focus of the conflict was whether designs should be evaluated by an ordinary person,²⁵ or an ordinary designer,²⁶ to determine if a design was unobvious. Under either approach, if a prior art reference appearance was the same as the applicant's, as judged by an ordinary observer, the design was not novel and no design patent could be obtained. When differences between the designs existed, and these differences involved features found in the prior art, the addition or substitution of them could be considered an obvious step. Under these circumstances, there would be no design patent issued. From this brief, oversimplification of the unobviousness standard applied to design

¹⁵ Patent Act of 1842, 5 Stat. at Large 543, Section 3. The early history of United States patent law is reported in several treatises: W.L. Symons, *The Law of Patents for Designs*, John Byrne & Co, Washington, D.C., U.S.A., 1914; W.E. Simonds, *The Law of Design Patents*, Baker, Voorhis & Co., New York, N.Y., U.S.A., 1874; H.T. Fenton, *The Law of Patents for Designs*, William J. Campbell Law Publishers, Philadelphia, Pennsylvania, U.S.A., 1889.

¹⁶ *Dunlap v. Schofield*, 152 U.S. 244 (1894 U.S.S.C.).

¹⁷ *Smith v. Whitman Saddle Co.*, 148 U.S. 674 (1893 U.S.S.C.).

¹⁸ *Gorham Manufacturing Co. v. White*, 81 U.S. 511 (1872 U.S.S.C.).

¹⁹ 35 U.S.C.A. Section 171.

²⁰ 35 U.S.C.A. Section 113; C.F.R. (Code of Federal Regulations, published by the United States Government Printing Office, Washington, D.C., U.S.A., hereafter identified as "C.F.R."), Section 1.52.

²¹ 35 U.S.C.A. Section 112.

²² 35 U.S.C.A. Section 102.

²³ 35 U.S.C.A. Section 103.

²⁴ *Graham v. Deere, Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966 U.S.S.C.).

²⁵ *In re Laverne*, 356 F. 2d 1003, 148 U.S.P.Q. 674 (1966 C.C.P.A.); *Schwinn Bicycle Co. v. Goodyear Tire & Rubber Co.*, 444 F. 2d 295, 168 U.S.P.Q. 258 (1970 9th Cir.).

²⁶ *Sidewinder Marine, Inc. v. Starbuck Kustom Boats & Products, Inc.*, 597 F. 2d 201, 202 U.S.P.Q. 356 (1979 10th Cir.); *Hadco Products, Inc. v. Walter Kiddie & Co.*, 462 F. 2d 1263, 174 U.S.P.Q. 358 (1972 3rd Cir.), cert. denied, 409 U.S. 1023 (U.S.S.C. 1972); *Fields v. Schuyler*, 472 F. 2d 1304, 175 U.S.P.Q. 514 (1972 CA DC), cert. denied, 411 U.S. 987 (1973 U.S.S.C.); *Rains v. Niaqua, Inc.*, 406 F. 2d 275, 160 U.S.P.Q. 370 (2d Cir. 1969), cert. denied, 395 U.S. 909 (1969 U.S.S.C.).

patents, it is apparent that very little certainty existed in whether a design patent was valid. Even if the PTO granted a design patent, and the presumption of validity was given full weight, the courts have had their own "view" of how to apply the obviousness standard. The simplicity of the basic issue and a judge's willingness to make the decision and not rely on experts have made the unobvious determination even more unpredictable.

In 1981 a very important decision, *In re Nalbandian*, from the Court of Appeals, Federal Circuit (hereafter called "CAFC"), now the only court that decides design patent appeals, clarified the standard for analyzing unobviousness for design patents.²⁷ The court adopted a test that required the evaluation to be by an ordinary designer skilled in the particular design field. The court was very careful to state that this is not the same "skilled in the art" person used in evaluating the unobvious standard for utility patents. This change brought the utility patent and design patent tests into agreement, in general, recognizing that a different type of design person had to be used, and had some positive effects on the development of design patent law. The unobviousness standard could be addressed by witnesses who had expertise in creating the appearance of products in a particular field, or related fields, to determine what design techniques were common. The experts would interpret the prior art designs from product appearance designers' point of view. Designers have their own training schools and apprentice experience, and this input to the legal determination appeared to be very helpful. The court found that the ordinary observer test for unobviousness had led to "the less discerning eye" making it easier for a court to hold a design patent invalid.²⁸

Even with uniformity provided by the CAFC deciding all design patent appeals and only one standard for obviousness, several serious problems remain for successful enforcement of design patents. One of these concerns was how to apply the unobviousness standard now that it was clear that the ordinary designer person is one who could provide expert testimony on the question. Designers by their nature are highly opinionated, with strong likes and dislikes. They are very competitive on what design features are important or unacceptable. When a designer is asked what would be obvious, or whether this change was within the skill of a designer, the answer is very dependent on personal taste. This evaluation is in contrast, at least to a degree, with the utility patent technical invention, where scientific principles, basic teachings on technical subjects, and tests conducted on prior art inventions and the claimed invention, make it clearer what techniques are related and can be substituted for each other and

whether the performance is better.²⁹ There is a great deal more uncertainty in analysis for unobviousness of an industrial design. The only way to tell whether a design is unobvious is to see if experts agree. In the end, even with the help of appearance designers, the judge will have to decide the legal question whether the design is unobvious. This unpredictability makes the design patent less attractive to many industries. While statistical studies are not conclusive or complete on design patents, several surveys have indicated that the percentage of design patents held valid and infringed by the courts has been very low.³⁰ Recent statistics suggest some improvement, but several of these cases have involved copying of the patented design.³¹

One of the problems that is common to all industrial design protection laws is whether a design appearance feature that is related to a functional product part can be protected. Why this question exists may be hard to understand, since the purpose of design patents is to protect the appearance of useful products, including the appearance of product configurations and shapes created by functional parts. Design patent cases show a continual controversy on the issue of just where design patents fit under the law.³² In essence, the courts ask whether a design patent is an exclusive right to the appearance of a product that is equivalent to the protection given by a utility patent for that product embodiment. They pointed out that protection of the design appearance protects the necessary arrangements of parts and the related function produced by them that creates the appearance. An example is a chair. Clearly many, if not all, chair parts perform a function. The design patent protects the appearance created by a particular functional arrangement of these parts. The question is what standard should be used to determine the protected subject matter?

Design patent law started off with no clear direction on the subject matter issue. The case law and writers continually described the initial Patent Office experience as very "lax" or easy, allowing design patents on

²⁹ *Graham v. Deere, Co.*, 383 U.S. 1, 35, 148 U.S.P.Q. 459, 474 (1966 U.S.S.C.).

³⁰ For the period 1942 through 1951 30% of litigated design patents were held valid, as reported in "A Ten Year Survey of Design Patent Litigation," *Journal of the Patent Office Society* (hereafter identified as "JPoS" or "JPTOS", due to a later name change to the *Journal of the Patent and Trademark Office Society*), vol. 35, p. 390, June 1953.

³¹ *The American Bar Association, Section of Patent, Trademark and Copyright Law, 1984 Committee Report*, American Bar Association, Chicago, Illinois, U.S.A., statistics reported beginning at page 159 were that 55% of all litigated design patents during the year surveyed were held invalid. In the same organization's *1985 Committee Report*, beginning on page 148, it was reported that 44% of the litigated design patents in the surveyed year were held invalid and only 22% were held valid and infringed. The latter report attributed the improvement in validity to the CAFC resolving the debate over the obviousness test.

³² *Power Controls Corp. v. Hybrinetics, Inc.*, 806 F. 2d 234, 231 U.S.P.Q. 774 (1986 FC, CA); *In re Carletti*, 14 U.S.P.Q. 653 (1963 C.C.P.A.); *In re Garbo*, 129 U.S.P.Q. 72 (1961 C.C.P.A.). In each of these decisions, the design was found not to be proper subject matter for a design patent.

²⁷ *In re Nalbandian*, 661 F. 2d 1214, 211 U.S.P.Q. 782 (1981 C.C.P.A.).

²⁸ *In re Nalbandian*, 661 F. 2d 1214, 1216, 211 U.S.P.Q. 782, 784, in footnote 2 (1981 U.S.S.C.).

any product as long as it was a novel design.³³ The early court decisions took a different view, usually, setting up a test for validity that required something more than novelty, essentially the unobviousness standard discussed above. They found their guidance in the utility patent cases decided in the 1800s, relying on the general provision of the patent law that the same standards should be applied to design patents and to utility patents.³⁴ Some courts included a requirement that there be an artistic or ornamental quality to the design. Finally, in 1902, the design patent statute was amended to add the word "ornamental"³⁵ as a requirement and this provision has continued in the current law.³⁶ The courts have tried to identify what to look for in a design to meet the ornamental standard.

One approach to finding a design in "ornamental" is to see if some effort has been made to create a more pleasing product appearance. An artistic effort, even if not successful in the opinion of some, produces a protectable, ornamental design. Many products need this type of design development and this design should be considered ornamental. What happens, however, if no organized effort is made to improve the appearance of a product? This last mentioned situation leads to the necessity of looking at the subject matter from another point of view, asking the question if the product design, when protected, is going to prevent others from using a design appearance that is needed to compete in the marketplace for utilitarian reasons, not merely appearance considerations. The design may result in better performance, efficiency, or reduced manufacturing cost, for example. If there are other devices that can compete effectively using the same functional operation and have different appearances, then the protected

subject matter does not present a competitive problem. It is ornamental and design protection that is appropriate.

A recent example of how the ornamental standard is applied is found in the CAFC case of *Power Controls Corp.*³⁷ The design was a plastic packaging container for an electrical component. The container was arranged to close like a clam shell and fit tightly around the component. The court examined each design appearance feature and found that it was used for a functional reason. The design patent owner failed to present evidence to show that the arrangement was created, at least in part, to improve the appearance of the package, or that the package could be built using the same functional arrangement without creating essentially the same appearance. The CAFC held that the design was not ornamental. In the case of *In re Carletti*, a plumbing gasket with surface ribs was found to be a purely functional design and not protectable.³⁸ The court did examine all the evidence to see if any reasons other than function may have dictated the design. The court was looking for evidence that the design was ornamental and found none.

The difficulty in resolving the ornamental issue is even greater for many designs when one considers the broad role played by an industrial designer, who does more than make the product attractive. The industrial designer tries to change the parts to create a unique combination of function and appearance, with goals of reducing costs or optimizing some other criteria and to produce a marketable appearance. Drawing a line between protected and unprotected designs is not easy and the courts will not expand design patent protection to a scope where the design patent effectively serves the role of a utility patent.

In a recent CAFC design patent case, *In re Cho*, one judge reconsidered the proper standard for determining protectable design patent subject matter, i.e., what is ornamental.³⁹ Judge Newman, the dissenting judge, proposed to determine what is ornamental using as a first step the same analysis as applied to a utility patent invention to determine obviousness.⁴⁰ If the combination of the features for functional reasons would be obvious to one skilled in the art under the utility patent law standard, the judge took the position that the design applicant had to prove that the design features were not essential to that functional operation. The majority of the judges held that this issue was not raised in the appeal and did not address it. In the same analysis, Judge Newman considered the unobviousness standard as integrally related to the ornamental issue. Even though Judge Newman's view was not considered by the

³³ Simonds treatise, *supra* note 15 at 182. This treatise states that the Patent Office issued design patents "without well defined limits." The Fenton treatise, *supra* note 15 at 251 quotes an 1871 Patent Office decision, *Ex Parte Parkinson*, that refers to the "lax" practices and standards for design patents under prior Patent Office commissioners.

³⁴ Simonds treatise, *supra* note 15 at 192. This treatise reviews the common heritage of utility and design patents. The same standards were applied by the courts to each of these forms of patents, requiring the exercise of creative genius. This standard was expressed also as requiring more than the skill of an ordinary mechanic, *Hotchkiss v. Greenwood*, 52 U.S. 248 (1850 U.S.S.C.).

³⁵ Simonds treatise, *supra* note 15 at 12. This treatise quotes the Commissioner of Patents in testimony supporting the addition of the term "ornamental" to the design patent statute, as stating "[i]t is thought that if the present bill shall become a law the subject of design patents will occupy its proper philosophical position in the field of intellectual production, having upon the one side of it the statute providing protection to mechanical constructions, possessing utility of mechanical function, and upon the other side the copyright law, where objects of art are protected, reserving to itself the position of protecting objects of new and artistic quality pertaining, however, to commerce, but not justifying their existence upon functional utility. If the design patent does not occupy this position there is no other well defined position for it to take."

³⁶ 35 U.S.C.A. Section 171 states: "whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to conditions and requirements of this title."

³⁷ *Power Controls Corp. v. Hybrinetics, Inc.*, 806 F. 2d 234, 231 U.S.P.Q. 774 (1986 FC, CA).

³⁸ *In re Carletti*, 14 U.S.P.Q. 653 (1963 C.C.P.A.).

³⁹ *In re Cho*, 813 F. 2d 378, 1 U.S.P.Q. 2d 1662 (1987 FC, CA).

⁴⁰ *Id.* at 1664 and 1665.

other judges, it does raise more questions for anyone who will be litigating a design patent. At least this new case helps to focus on a design patent law issue that needs to be resolved. Whether the search is for artistic quality in the design, or subject matter that is non-threatening from a competitive functional point of view, or use of a standard based on utility patent analysis for an unobvious invention, the courts have their hands full in dealing with this design patent subject matter issue.

The brief introduction above to trademark law showed that essentially the same subject matter issue exists there. Trademark case law has resolved the issue in a more systematic and decisive way, to the satisfaction of most courts, by asking the question whether the product design makes the product more competitive. Fortunately for trademark law there is no standard comparable to unobviousness that has to be analyzed. The CAFC has taken the lead in this trademark issue, although it cannot control the other circuit courts that had equal opportunity to develop their own interpretation of federal trademark law. Only the U.S. Supreme Court can resolve finally the trademark and design patent issue of what subject matter is protected. The expectation is that the CAFC will clarify the test for an ornamental design and not make the unobviousness standard any more difficult to apply.

A design patent gives an exclusive right to make, use and sell the protected design.⁴¹ There is no requirement to show copying, as an independent creation is an infringement. The design patent is the same in this respect as the utility patent. An important issue in design patent law is how to determine infringement. This question was resolved long ago by the U.S. Supreme Court, in the case of *Gorham Manufacturing Co. v. White*.⁴² The Court's analysis was to compare the patented design and the alleged infringing design as an ordinary person would look at them.⁴³ If the designs appeared the same, even though differences existed, there was infringement. The problem for the design patent owner is what degree of change avoids infringement. One U.S. practitioner has surveyed the recent design patent cases and concluded that courts only find a design patent valid and infringed if there is evidence of copying.⁴⁴ Without the copying, showing access to the design owner's product or the design patent, he concluded that the courts do not find infringement as often. In effect, this survey suggested that the present design patent system is no more than the copyright-type system described below.

There are designers who object to the small differences that seem to be adequate to avoid design patent infringement. Even though the legal standard for design patent infringement is clearly established, the extent of alterations allowed within the scope of a designed patent is an issue in most design patent infringement cases. There is protection for some variations of the patented design that do not significantly change its appearance.

The flexibility given utility patents under the equity concept of the doctrine of equivalence is applicable to design patents, and it is the basis for some variations being permitted. On the other hand, the extent of design change permitted always goes back to the original test of whether the ordinary person would view the overall designs as substantially the same. The designer cannot ask for more under the design patent system. The courts always stress the need for reasonable predictability of what is protected in infringement analysis, whether it be in utility patent or design patent cases.

The design patent provides very important protection, giving the exclusive right to make, use and sell the protected design. The value of a design patent is greatly reduced due to the uncertainty of how to apply its standards. The unobviousness requirement is very difficult to apply. The subject matter issue is hard to resolve for many designs. Another factor decreasing the usefulness of the design patent system is the time the patent takes to obtain, an average of almost 2.5 years according to current figures.⁴⁵ During the time the application is pending there are no rights, and copiers can operate without risk. The protection term begins upon patent issuance and copiers can look forward to several more years of use before litigation ends, subject only to liability for damages, if and when the patent successfully passes all the significant obstacles in its path. The cost of obtaining a design patent is an important consideration. It is much less than the cost of a utility patent, but it is still expensive, approximately \$1,000, including attorney's and PTO fees, according to some estimates. As stated by Judge Rich, now on the CAFC, in his concurring opinion in *In re Nalbandian*, there should be another, less difficult system for design protection.⁴⁶ He encouraged passage of legislation to set up a copyright-type protection system for industrial designs, like the Design Copyright Registration (DCR) described below.

Copyright Law Protection of Industrial Designs

Copyright law protection in the United States prevents others from making a substantially identical

⁴¹ 35 U.S.C.A. Section 271(a).

⁴² *Gorham Manufacturing Co. v. White*, 81 U.S. 511 (1872 U.S.S.C.).

⁴³ *Id.* at 863.

⁴⁴ W. Thompson, "Industrial Design Protection in the U.S.," *Selected Legal Papers*, American Intellectual Property Law Association, Arlington, Virginia, U.S.A., Vol. IV, No. 7/1986, page L-1.

⁴⁵ 1986 PTO Annual Report, 21.

⁴⁶ *In re Nalbandian*, 661 F. 2d 1214, 1218, 211 U.S.P.Q. 782, 786 (1981 C.C.P.A.). In his concurring opinion in this case, Judge Rich outlined the history of efforts to obtain a better protection system for industrial designs. He found the unobviousness standard very difficult to apply, and he questioned whether it was appropriate for industrial designs. He urged that attention be given to legislation pending then in Congress that corresponded essentially to current legislation, discussed below under the Design Copyright Registration heading.

copy of a protected work.⁴⁷ There is no procedural requirement initially to obtain copyright protection. It occurs immediately when a work is created in tangible form.⁴⁸ At the time of publication a notice of copyright must be put on the work, or the right to the copyright may be lost.⁴⁹ There is some leeway when the notice has been omitted accidentally, if corrective steps are taken within five years from publication.⁵⁰ While copyright protection begins as the work is created, the enforcement in a court must be preceded by registration of the work in the Copyright Office.⁵¹ At that time the Copyright Office makes a decision whether the subject matter can be protected.⁵² If the Copyright Office refuses registration, the only alternative is to appeal the decision to a court. The term of protection can be as long as the life of the designer plus 50 years.⁵³ There is multi-country protection on works under the Universal Copyright Convention (UCC) and through many bilateral agreements.⁵⁴ Since the UCC does not dictate any minimum standards or scope of protection for industrial designs, the United States is free to decide the extent to which industrial designs are protected under the copyright law.

Copyright law offers very favorable protection for selected industrial designs, but most product designs cannot be protected under this law. The reason for the exclusion is historical and practical. The United States Constitution refers to copyright protection of authors' writings, and this provision has been expanded easily for conventional literary and artistic works.⁵⁵ Some useful product designs with a very strong artistic content have been granted copyright protection, such as jewelry, candlestick holders, salt and pepper shakers, fish bowls, and ashtrays.⁵⁶ Other useful product designs have been denied copyright protection, even though they have had

significant artistic features, or parts that could be protected separately as a work of art. It is not clear even today what standards are followed to accept or reject a copyright registration for a useful product design. Some clarification in the law occurred due to a significant U.S. Supreme Court decision, *Mazer v. Stein*, that allowed copyright protection for a very attractive statue of a woman's figure used as a lamp base.⁵⁷ The Mazer statue was an artistic work, independent of any useful purpose, and the fact that it was part of a lamp did not exclude copyright protection. The application for registration was for the statue only. The Mazer case left a lot of room for debate on the proper scope of copyrightable subject matter for industrial designs.⁵⁸ Revision of the copyright law in 1976 continued the debate.

The 1976 copyright law revision included a requirement that only industrial designs that could be conceptually separated from the functional features of a product could be protected.⁵⁹ The recent case of

⁵⁷ *Id.* In *Mazer* the court based its decision at least in part on the fact that the Copyright Office had registered similar useful articles. It decided not to interpret the maximum scope of the "work of art" provision or the Constitution term "writing." Justice Douglas in his concurring opinion urged the court to decide whether this lamp base statue and other useful articles being registered were within the constitutional requirement that copyrights apply to "writings." This question has not been decided up to now by the U.S. Supreme Court, but the long-standing practice of the Copyright Office in registering these articles would indicate that these items should receive copyright protection. The line between accepted and rejected useful works will be a continuous source of litigation and discussion in the literature.

⁵⁸ *Esquire, Inc. v. Ringer*, 414 F. Supp. 939, 194 U.S.P.Q. 30 (1976 D. D.C.), rev'd, 591 F. 2d 796, 199 U.S.P.Q. 1 (1978 D.C. Cir.), cert. denied, 440 U.S. 908, 201 U.S.P.Q. 256 (1979 U.S.S.C.). The *Esquire* case industrial design was an outdoor lighting fixture that was attractive in its shape. The Copyright Office had established rules after the *Mazer* case permitting registration of industrial designs only if they were conceptually separate from the product utilitarian features. This case was the first serious test of the rule. The Court of Appeals agreed with the Copyright Office that there should be no registration, because copyright protection should not cover the overall configuration of a useful article, *Esquire, Inc. v. Ringer*, 591 F. 2d at 803, 199 U.S.P.Q. at 6.

The next important case interpreting the conceptual separability test was *Kieselstein-Cord v. Accessories by Pearl, Inc.*, 489 F. Suppl. 732, 206 U.S.P.Q. 439 (S.D. N.Y. 1980, rev'd 632 F. 2d 989, 208 U.S.P.Q. 1 (2d Cir. 1980)). In *Kieselstein-Cord* the industrial designs were belt buckles. One design was found to have been created under the pre-1976 Copyright Act and another was created after the 1976 Act became law. The court held that the test was the same for each work, 489 F. Supp. at 735, 206 U.S.P.Q. at 442. The buckles had function-related shape features and attractive contoured surface appearance. The conceptually separable test allowed protection of the surface appearance.

⁵⁹ 17 U.S.C.A. Section 101, definition of "Pictorial, graphic, and sculptural works:" "... includes two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

17 U.S.C.A. Section 102(b), Subject Matter of Copyright: In General, "In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work."

⁴⁷ Copyright Act of 1976, 17 U.S.C.A. Sections 101 to 810. A leading treatise on copyright law is M. Nimmer and D. Nimmer, *Nimmer on Copyrights*, Matthew Bender & Co., New York, N.Y., U.S.A., 4 vols., 1987. The Nimmer treatise Section 2.18 relates to industrial design subject matter. See N. Milch, "Protection for Utilitarian Works of Art: The Design Patent/Copyright Conundrum," *Columbia-VLA Journal of The Law & The Arts*, vol. 10, 211 (1986), for a detailed review of copyright law legislation related to industrial designs. Another comprehensive review of United States and foreign design law is found in J.H. Reichman, "Design Protection in Domestic and Foreign Copyright Law: From the Berne Revision of 1948 to the Copyright Act of 1976," *Duke Law Journal*, vol. 1983, p. 1143 (December 1983).

⁴⁸ 17 U.S.C.A. Section 102(a); the definition of "fixed" is found in Section 101.

⁴⁹ 17 U.S.C.A. Section 401.

⁵⁰ 17 U.S.C.A. Section 405.

⁵¹ 17 U.S.C.A. Section 411.

⁵² 17 U.S.C.A. Section 410.

⁵³ 17 U.S.C.A. Section 302(a).

⁵⁴ *Annual Report of the Register of Copyrights for Fiscal 1985*, published in 1986 by United States Government Printing Office, Washington, D.C., U.S.A., pp. 16 to 20.

⁵⁵ United States Constitution, Article I, Section 8, U.S.C.A. Const. Art. I Section 8.

⁵⁶ *Mazer v. Stein*, 347 U.S. 201, 221, 100 U.S.P.Q. 325, 334 (1954 U.S.S.C.).

Barnhart v. Economy Cover Corp. summarized one view on the current status of copyright protection for industrial designs.⁶⁰ In that case, an attempt was made to copyright the appearance of a mannequin used to display clothes. The Copyright Office had refused to register the mannequin design and the court agreed. The Court of Appeals for the Second Circuit, a very experienced court in intellectual property matters, found the 1976 Copyright Act and related legislative history clearly limited protection of useful article designs to ones that can be conceptually separated from the product configuration. The fact that the mannequin alone could be used as an artistic display, without clothes on it, did not influence the court. The mannequin was created for a useful purpose. Under this interpretation, the 1976 Copyright Act has a very narrow scope of subject matter available for industrial design protection. The court found no basis for expanding copyright protection to this useful article.

The practical side of why copyright protection of industrial designs is so limited is the reluctance of the Copyright Office to become involved in the debate over what product designs can be protected. It is an understandable concern and the Copyright Office is satisfied with its role to protect the traditional forms of primarily non-functional works. There is no satisfactory explanation why some useful articles with attractive shapes are protected by copyright law and others with essentially the same artistic quality and used at least in part for decoration are not covered. The chair, used as an example above, is not within the copyright law, unless there is a portion of the design that could be visually separated from the legs, arms, and other configuration features. An emblem or seal design on the back might be protected by a copyright. Only when a very close analogy to existing copyrighted useful articles, in terms of artistic significance and decorative use, is there a reasonable likelihood that a useful product appearance will be protected by copyright law. There should be more effort to add such products to the copyright protected group.⁶¹

It is apparent that copyright law offers protection only for a limited group of industrial designs. For these favored designs, it does have several important features that serve the industrial design owner very well. The instant protection upon creation stops copiers immediately, as rights are usually protected without going to court. The administrative procedure is very simple for

the creator to follow, only requiring a notice on the work at the time of publication. The registration step usually takes only a few months and offers a centralized library on what is copyrighted, and the registration gives access to the copyright owner's name and address. The cost of obtaining a registration is relatively small. The creators can process their application, usually, and the registration is now \$10 per work. Another important feature of copyright law is the option it leaves open to apply also for design patent protection on the same subject.⁶² The Copyright Office refuses to register a work on which a design patent has been obtained, treating the design patent as an election of one of the available protection forms.

Industrial design protection is available to some extent under trademark law, to a limited degree under copyright law for certain classifications of designs, and primarily under design patent law. Design patent law has some serious problems that will remain with the system no matter how effectively the CAFC acts to clarify the legal standards. Even one of the CAFC judges has admitted design patent law is not predictable enough and a simpler system is needed to protect industrial designs. There is another choice under consideration in Congress, in the form of a proposed Design Copyright Registration (DCR), similar to the present copyright law. The DCR alternative will be described next and compared with existing forms of industrial design protection. There is a serious effort now to pass this legislation.

Proposed Design Copyright Registration (DCR)

What has been proposed in the United States is a Design Copyright Registration (DCR).⁶³ The full text of S. 791 (100th Congress, 1st Session), one of the pending

⁶⁰ *Barnhart v. Economy Cover Corp.*, 773 F. 2d 411, 228 U.S.P.Q. 385 (1985 2d Cir.).

⁶¹ See "Protection of Utilitarian Works of Art: The Design Patent/Copyright Conundrum," *supra* note 47, for another approach to interpreting the copyright subject matter scope that has not gone beyond the academic discussion stage. This article proposes establishing a category of copyright protected handcrafted utilitarian works of decorative art. These works by their nature are not duplicated by mass production techniques. Ceramic, wood and metal crafts are examples of arts that would benefit from this protection. This protection would encourage individuals to use their artistic talents in creating reproductions of useful articles.

⁶² *Mazer v. Stein*, 347 U.S. 201, 217, 100 U.S.P.Q. 325, 333 (1954 U.S.S.C.); *C.F.R.*, vol. 37, Section 210.10(a) and (b). The C.F.R. rule of the Copyright Office specifically prohibits registration of a design after a design patent has been obtained. The law is not settled yet by the courts whether copyright and design patent protection can exist simultaneously on the same design, or when copyright protection ends, if a design patent is obtained. Basic public policy considerations would appear to dictate anyone could use a design once the design patent on it has expired. Up to that time the requirements and nature of these rights are so different, and the uncertainty of design patent protection so great that simultaneous protection can be justified. Another view would be that an election has been made and the benefits received, at least up to the time a design patent is held invalid, so the copyright protection should terminate as soon as the design patent is issued. The design patent provides greater protection, eliminating the need for a copyright, as long as it is held valid. It is likely that public policy considerations would be most persuasive and the election approach would prevail, if and when the issue comes before the United States Supreme Court.

⁶³ See Denicola, "Applied Art and Industrial Design: A Suggested Approach to Copyright in Useful Articles," 67 *Minn. L. Rev.* 707 (1983), for a detailed review of prior legislation on industrial design protection. A very thorough analysis of industrial design legislative proposals is found in J.H. Reichman, "Design Protection After the Copyright Act of 1976: A Comparative View of the Emerging Models," *Journal of the Copyright Society of the U.S.A.*, New York, N.Y., U.S.A., vol. 31, p. 276 (1984). See *JPOS*, vol. 39, p. 595 (1957) for remarks of Congressman Willis in 1957 introducing industrial design legislation similar to the current legislative proposal.

bills on DCR, is found in Appendix A. While there are several bills currently pending in Congress on DCR, they each follow the same basic approach. The legislation would set up a separate system, but it would function in a manner very similar to existing copyright law, tailored to the special needs of industrial design protection. The easiest way to describe how the proposed system would work is to take a typical product design through each stage of development and use, to see how the proposed law would affect it. For example, when a chair designer creates a new design by first making a sketch of the design on paper, there is no design protection from a DCR at this time. The design must be incorporated into a useful article to be protected by a DCR, and there are other requirements.⁶⁴ A chair must be built and protection begins when the chair is offered for sale, sold or publicly exhibited.⁶⁵ No registration or other steps are needed to begin the protection. The designer can rely on trade secret law to protect against misappropriation up to the time the DCR protection begins.

Another basic requirement for the DCR is that the designer's creation must be original, i.e., not copied from another designer's work, the same rule that applies to current copyright law.⁶⁶ The designer has one year to apply for a registration, measured from the first time the design incorporated in a useful article was offered for sale, sold or publicly exhibited.⁶⁷ The protection ends if no application for registration is filed during this period. In S. 791 the Copyright Office is assigned the responsibility of processing the registration.⁶⁸ It examines the application for compliance with formalities, including determining whether it is proper subject matter for protection.⁶⁹ These applications should be processed quickly and the registration issued in a few months, about the same time it takes currently for copyright registration. If the chair designer decides to apply for a DCR registration before the chair is offered for sale, sold or publicly exhibited, it must be stated in the application registration that a chair with the design has been constructed.⁷⁰ The requirement encourages development of the product, and keeps the intellectual property protection relevant to economic needs.

The protection term for a DCR is 10 years from the first date the product is placed on sale, sold or publicly exhibited, or from the date the registration is published, if none of the earlier mentioned events have occurred.⁷¹ This term of protection is considerably shorter than

copyright law design protection, and slightly shorter than the 14-year maximum for design patents. The relatively short life span for most products seems to fit into this time frame. Another important influence on selecting a 10-year period was that Congress has already accepted a 10-year term for the protection under the Semiconductor Chip Protection Act of 1984 (Chip Act).⁷² The Chip Act has other similarities to the DCR, because it was fashioned from the pending DCR legislation and given expedited consideration because of political and economic concerns.⁷³ It is very unlikely that efforts will be made to extend the proposed 10-year DCR protection period for industrial designs, even though many countries use longer protection periods in their industrial design laws.

Enforcement of a DCR is based on copyright law concepts. The chair designer with a DCR can go to a federal district court to bring an infringement action.⁷⁴ The evidence presented must show the design was copied.⁷⁵ In copyright law this requirement means that there must be proof that the alleged infringer saw the protected design, or heard enough about it to know how it looked, and created a substantially identical design. Wide publicity on the protected design may be strong circumstantial evidence of access to it. The question of whether the designs are substantially identical is answered by a comparison of the product appearances, to see if the ordinary person is likely to consider the designs the same. Side-by-side comparison is the only way to resolve this issue. There may be certain parts of the design that cannot be protected and these components are not considered in making the comparison, as explained below in the discussion of Section 1003.

The legislation takes particular care in protecting the innocent infringer, one who does not know of the DCR protection, or one who is merely part of a chain of business transactions involving the protected design and who will cooperate by revealing the source of the goods being sold.⁷⁶ The overall purpose of these provisions is to target as the infringers the manufacturer and those acting closely with the manufacturer. There is an advantage to using a special notice on each product, to indicate that the design is protected under the DCR law.⁷⁷ Omission of the notice does not invalidate the DCR, but it prevents recovery of damages from the

⁶⁴ S. 791 (100th Congress, 1st Session) (hereafter identified as "S. 791"), Section 1001(b)(2).

⁶⁵ S. 791, Sections 1004 and 1009(b).

⁶⁶ S. 791, Sections 1001(a), (b)(3), and 1008(e).

⁶⁷ S. 791, Section 1009(a).

⁶⁸ S. 791, Section 1030.

⁶⁹ Sections 1012 and 1016.

⁷⁰ S. 791, Section 1009(d).

⁷¹ S. 791, Section 1004.

⁷² Semiconductor Chip Protection Act of 1984, 17 U.S.C.A. Sections 901 to 914.

⁷³ The Semiconductor Chip Protection Act of 1984 was written using concepts and many specific provisions from a co-pending industrial design bill, Design Protection Act of 1983, H.R. 2985 (98th Congress, 1st Session). The Chip Act allows protection of a utilitarian design, one dictated by function and that has a competitive advantage because of this function. A section corresponding to Section 1002(a)(4) of S. 791 was not included in the Chip Act.

⁷⁴ S. 791, Sections 1008 and 1020.

⁷⁵ S. 791, Section 1008(b) and (d).

⁷⁶ S. 791, Section 1008(a)(2) and (c).

⁷⁷ S. 791, Sections 1006 and 1007.

infringer until written notice is given. This practice follows the copyright law, except that the omission of the notice may invalidate a copyright. It should not be difficult for a designer to develop the habit of placing a notice on the work, especially when it is explained that there can be a potential loss of damages without the notice on the product, and without the notice there may be no injunction to stop sale of a copier's product in some situations.

The chair design example should fit into the authorized scope of subject matter for the proposed legislation. The requirement is that a protected design be "attractive" or "distinctive," but there is no definition for these terms.⁷⁸ There are some persons who would like to interpret these terms as adding a requirement for artistic product quality to obtain a DCR, similar to the effect of "ornamental" in the design patent law, as explained above. Other persons consider the "attractive" and "distinctive" terms adequate, defining any product design that can be recognized and that fits into the other subject matter of requirements of the legislation. They consider that adding an artistic requirement would unduly complicate the law. It is a fact that Sections 1002 and 1003 of the legislation carefully limit the subject matter scope that can be protected.

Sections 1002 and 1003 provide a list of what designs *cannot* be protected. The first excluded designs are the ones listed in Section 1002(a)(2):

"staple or common place, such as a standard geometric figure, familiar symbol, emblem or motif, or other shape, pattern or configuration which has become common, prevalent, or ordinary;"

As mentioned in an earlier article by this author, this requirement operates like a very low-level novelty standard preventing protection of the basic designs in common use.⁷⁹ As a practical matter there would not be much exclusion under this Section, since designs usually involve a combination of many basic design configurations that create a much more complex design appearance. This standard is not an absolute novelty requirement, where a design must be different from all prior designs. It just keeps the basic design parts free for everyone to use, once they become widely accepted. Some experience will be needed with this provision to refine its full impact.

The second design subject matter excluded from protection are the ones listed in Section 1002(a)(3):

"different from a design excluded by paragraph (2) and only in insignificant details or in elements which are variants commonly used in the relevant trades;"

In essence, this provision gives the exclusion standard of Section 1002(a)(2) some flexibility. It may be applied from the point of view of one skilled in the design art familiar with what is commonly used and what varia-

tions are insignificant. This provision should not exclude many designs, for the same reasons given for Section 1002(a)(2). As mentioned in an earlier article by this writer, the analysis under Section 1002(a)(3) is similar to the obviousness standard used in U.S. utility patent law, 35 U.S.C. Section 103, with a much more restricted set of requirements, as spelled out in Section 1002(a)(2) and (3).⁸⁰ To satisfy the requirements set by the terms "common place," "common," "prevalent," and "ordinary," strong evidence is needed of widespread use for a design feature in the pertinent design field.

Probably the most difficult subject matter exclusion to apply is the one in Section 1002(a)(4). It excludes designs that are:

"dictated solely by utilitarian function of the article that embodies it[.]"

This statement sounds logical, but the question is how should it be applied? The legislation helps to answer this question by stating in Section 1003:

"Protection for a design under this chapter shall be available notwithstanding the employment in the design of the subject matter excluded from protection under Section 1002(a)(2) through (4), if the design is a substantial revision, adaptation or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection and subject matter employed in the design shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection."

The impact of Section 1003 is to make it clear that design features falling under the Section 1002(a)(2) through (4) categories are not protected, but the remaining portion of the product design can be protected if it is a substantial revision, adaptation, or rearrangement of the excluded subject matter. Using the chair example, the overall appearance required to have a four-legged chair with seat and backrest cannot be protected. It is solely dictated by function and everyone will have to use that design to build this type of chair. A utility patent is the appropriate form of protection for this invention, to claim the functional relationship of the parts. A design that simply rounds the chair back in a semicircular shape may not be protected, in view of that common, basic design configuration in the industry. A chair that uses more features to create a distinct design, one that appears different from the commonly used configurations or insignificant variations thereof, will be protected. In the same fashion, numerous chairs can use the functional configuration of legs, seat, and back, and if each of these designs takes on a distinct appearance it is protected. Only the specific design rearrangement, distinct from the essential functional design everyone must use is protected.

The subject matter definition of Sections 1002 and 1003 gives meaning to the Section 1001 requirement that a design be "distinct" or "attractive." The issue of what functionally-related features can be protected is reduced to a two-step analysis: (1) what design features

⁷⁸ S. 791, Section 1001(a).

⁷⁹ *American Bar Association, Section of Patent, Trademark and Copyright Law, 1982 Summary of Proceedings*, American Bar Association, Chicago, Illinois, U.S.A., p. 166.

⁸⁰ *Id.*

are required to carry out the product functional; and (2) is the design a substantial revision in appearance of the functionally dictated design determined in the first step of the analysis? If the answer to part 2 is "yes," the design can be protected. To the extent that the design has features that fall under the prohibition of Section 1002(a)(2) to (4), they are not protected. It is clear that the protected, distinct design does not include appearance features of functional parts that everyone must use to have a product work competitively. The above analysis of Sections 1002 and 1003 using the chair example shows that this subject-matter definition-approach encourages the development of product industrial designs, while leaving product functional operation free for everyone to use. In other words, as long as chairs can be built that perform the same function and they have different appearances, these chair designs can be protected. These product designs will be competitive. There are special provisions permitting the protection of typefaced designs that meet the standard of Sections 1002 and 1003. The legislation sets up an effective way to determine what subject matter can be protected without using a subjective standard that measures the artistic nature of a particular design.

The subject matter definition under Sections 1002 and 1003 is important in the analysis of infringement. There is no infringement if excluded subject matter of Section 1002 is copied. When the design includes both excluded and non-excluded subject matter, the non-excluded subject matter is protected even if the excluded design features cannot be protected. In practice, the infringement analysis will look at design features that can be protected and if the protectable subject matter creates a design in and of itself, it is a distinct design under the legislation.

The familiar copyright test is used to determine infringement, requiring access to the protected design and side-by-side comparison with it to see if the designs are substantially identical. The infringement analysis looks at only the protected features to see if they have been copied.

There are many advantages to the proposed legislation. The system will give protection at an early stage of commercial development, or immediately upon public exhibition. The procedures used are quite simple and can be handled directly by the designer, without the regular help of lawyers and other specialists. The registration process is geared to take very little time, while still giving the Government an opportunity to inspect each application. Infringement standards used are very familiar, following basic copyright law concepts. While the subject matter scope of the legislation has some very specific standards, the end result is a workable scope that avoids the necessity of a subjective measure of the artistic quality of the work. This approach protects the public interest and gives the DCR reasonable predictability on what is protected. The legislation carefully avoids upsetting the marketing system, most retailers,

wholesalers, and other middle persons able to easily avoid an infringement suit. The proposed legislation makes it clear that it will not change existing trademark, copyright or unfair competition law protection of industrial designs.⁸¹ It will preclude a DCR from being obtained whenever a design patent has been obtained on the same design.

The DCR legislation has a way to go before it becomes law. There are significant industries supporting this legislation, including the automotive companies which want to protect their auto parts. They have had considerable problems with copiers of their replacement parts and many of these parts have been of inferior quality. On the other side of the debate are auto insurance companies which want to use the cheapest parts available, consistent with quality, and prefer to use parts that look alike. In fact, some "crash parts" like hoods and doors, with special styling, must look alike to be acceptable. Serious negotiations are in process to resolve the apparent conflict between these two interest groups. These negotiations and other efforts may work out a solution. There is no basic dispute that a better system is needed for industrial design protection. The main debate is over the application of the legislation to a very unique industry situation. Until a new law is enacted, the existing forms of protection, primarily by design patent law, will have to be utilized.

Appendix A

Legislation Pending in U.S. Congress for Design Copyright Registration, S. 791 (100th Congress, 1st Session)

S. 791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Industrial Innovation and Technology Act of 1987."

INDUSTRIAL DESIGNS

2(a) Title 17, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 10—Protection of industrial Designs of Useful Articles

Sec.

1001. Designs protected.
1002. Designs not subject to protection.
1003. Revision, adaptations, and rearrangements.
1004. Commencement of protection.
1005. Term of protection.
1006. The design notice.
1007. Effect of omission of notice.
1008. Infringement.
1009. Application for registration.
1010. Benefit of earlier filing date in foreign country.
1011. Oaths and acknowledgments.
1012. Examination of application and issue or refusal of registration.

⁸¹ S. 791, Sections 1027, 1028, and 1029.

- 1013. Certification of registration.
- 1014. Publication of announcements and indexes.
- 1015. Fees.
- 1016. Regulations.
- 1017. Copies of records.
- 1018. Correction of errors in certificates.
- 1019. Ownership and transfer.
- 1020. Remedy for infringement.
- 1021. Injunction.
- 1022. Recovery for infringement.
- 1023. Power of court over registration.
- 1024. Liability for action on registration fraudulently obtained.
- 1025. Penalty for false marking.
- 1026. Penalty for false representation.
- 1027. Relation to copyright law.
- 1028. Relation to patent law.
- 1029. Common law and other rights unaffected.
- 1030. Administrator.

Designs Protected

1001(a) The author or other proprietor of an original design of a useful article which design is intended to make the article attractive or distinct in appearance to the purchasing or using public, may secure the protection provided by this chapter upon complying with and subject to the provisions hereof.

(b) For the purposes of this chapter—

(1) a 'useful article' is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article;

(2) the 'design of a useful article,' hereinafter referred to as a 'design' consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article. The design must be fixed in a useful article to be protectable under this chapter;

(3) a design is 'original' if it is the independent creation of an author who did not copy it from another source;

(4) typeface consists of a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a notational system; and

(5) 'typeface' is a design subject to protection under this chapter when the repeating design elements in the combinations employed in a notational system are (A) original, (B) attractive or distinct, and (C) incorporated in a useful article whose normal use is in composing text or other cognizable combination of characters.

Designs Not Subject to Protection

1002(a) Protection under this chapter shall not be available for a design that is—

(1) not original;

(2) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

(4) dictated solely by a utilitarian function of the article that embodies it;

(5) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel, including undergarments and outerwear; or

(6) a semiconductor chip product which is protected under chapter 9 of this title.

(b) In no case does protection for a design under this chapter extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such design.

Revisions, Adaptations, and Rearrangements

1003. Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1002(a)(2) through (4), if the design is a substantial revision, adaptation, or rearrangement of such subject matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

Commencement of Protection

1004. The protection provided for a design under this chapter shall commence upon the date of publication of the registration pursuant to section 1012(a) or the date the design is first made public as defined by section 1009(b), whichever occurs first.

Term of Protection

1005(a) Subject to subsection (b) and the provisions of this chapter, the protection herein provided for a design shall continue for a term of ten years from the date of the commencement of protection as provided in section 1004.

(b) All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

(c) Upon expiration or termination of protection in a particular design, as provided in this chapter, all rights under this chapter in such design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

The Design Notice

1006(a) Whenever any design for which protection is sought under this chapter is made public as provided in section 1009(b), the proprietor shall, subject to the provisions of section 1007, mark it or have it marked legibly with a design notice consisting of the following three elements;

(1) the words 'Protected Design,' the abbreviation 'Prot'd Des.,' or the letter 'D' within a circle thus \textcircled{D} or the symbol 'D';

(2) the year of the date on which protection for the design commenced; and

(3) the name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor, any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is registered.

After registration the registration number may be used instead of the elements specified in paragraphs (2) and (3).

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this chapter shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

Effect of Omission of Notice

1007. The omission of the notice prescribed in section 1006 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection,

begins an undertaking leading to infringement, except that such omission shall prevent any recovery under section 1022 against a person who began an undertaking leading to infringement before receiving written notice, and without knowledge of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse such person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of providing written notice shall be on the proprietor.

Infringement

1008(a) It shall be infringement of a design protection under this chapter for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article, except that a seller or distributor of any such article who did not make or import such article shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer, to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall not be infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraph (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An 'infringing article' as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor, except that an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in paragraphs (1) through (4) of section 1002(a).

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a *prima facie* showing that such design was copied from such work.

(f) It is not an infringement of the exclusive rights of a design owner for a person to reproduce the design in a useful article or in any other form solely for the purpose of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design, or the function of the useful article embodying the design.

Application for Registration

1009(a) Protection under this chapter shall be lost if application for registration of the design is not made within one year after the date on which the design was first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

(c) Application for registration may be made by the proprietor of the design.

(d) The application for registration shall be made to the Administrator and shall state (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; (4) the date, if any, that the design was first made public, if such date was earlier than the date of application; (5) affirmation that the design has been fixed in a useful article; and (6) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this chapter.

(e) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; and (3) the applicant is the person entitled to protection and to registration under this chapter. If the design has been made public with the design notice prescribed in section 1006, the statement shall also describe the exact form and position of the design notice.

(f) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered shall not affect the protection secured under this chapter.

(g) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design if it is shown that the error occurred without deceptive intent. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(h) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(i) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but not more than one registration shall be required.

(j) More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

Benefit of Earlier Filing Date in Foreign Country

1010. An application for registration of a design filed by any person or his assignees who has previously duly filed an application for registration of the same design in a foreign country shall have the same effect as if filed in the United States on the same date on which the application was first filed in any such foreign country, if—

(1) such foreign country affords similar privileges in the case of an application filed in the United States or to citizens of the United States, and

(2) such application in the United States is filed within six months after the earliest date on which any such foreign application was filed.

Oaths and Acknowledgments

1011(a) Oaths and acknowledgments required by this chapter may be made before—

- (1) any person in the United States authorized by law to administer oaths,
- (2) any diplomatic or consular officer of the United States authorized to administer oaths when made in a foreign country, or
- (3) any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if it complies with the laws of the State or country where made.

(b) The Administrator may, by rule, prescribe that any document to be filed in the Office of the Administrator which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration. Such declaration shall be in such form as the Administrator may prescribe and shall be in lieu of the oath otherwise required.

(c) Whenever a written declaration, as permitted in subsection (b), is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application, document, or registration resulting therefrom.

Examination of Application and Issue or Refusal of Registration

1012(a) Upon the filing of an application for registration in proper form as provided in section 1009, and upon payment of the fee provided in section 1015, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and if so the Administrator shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

(b) If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send the applicant a notice of refusal to register and the grounds therefor. The applicant shall have three months after the notice of referral is sent to request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the ground that the design is not subject to protection under the provisions of this chapter, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of such application, and the proprietor shall have a period of three months after the date such notice was mailed to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish conditions, by regulation, under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this chapter, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record.

(d) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 1020, and no ground for cancellation under subsection (c) of this section or under section 1023.

Certification of Registration

1013. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of such Office. The certificate shall—

- (1) state the name of the useful article,
- (2) state the date of filing of the application,
- (3) state the date of registration,
- (4) state the date the design was made public, if such date the design was made public was earlier than the date of filing of the application, and
- (5) contain a reproduction of the drawing or other pictorial representation showing the design.

Where a description of the salient features of the design appears in the application, such description shall also appear in the certificate. A certificate of registration shall be admitted in any court as *prima facie* evidence of the facts stated therein.

Publication of Announcements and Indexes

1014(a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

Fees

1015(a) There shall be paid to the Administrator the following fees:

- (1) On filing each application for registration or for renewal of registration of a design, \$15.
- (2) For each additional related article included in one application, \$15.
- (3) For recording an assignment, \$3 for the first six pages, and for each additional two pages or less, \$1.
- (4) For a certificate of correction of an error not the fault of the Office, \$10.
- (5) For a certification of copies of records, \$1.
- (6) On filing each application for cancellation of a registration, \$15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified in this section which are reasonably related to the cost thereof.

Regulations

1016. The Administrator may establish regulations, not inconsistent with law, for the administration of this chapter.

Copies of Records

1017. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

Correction of Errors in Certificates

1018. The Administrator may correct any error in a registration incurred through the fault of the Office, or upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office, occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall there-

after have the same effect as if the same had been originally issued in such corrected form.

Ownership and Transfer

1019(a) The property right in a design subject to protection under this chapter shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgment as provided in section 1011 shall be *prima facie* evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

Remedy for Infringement

1020(a) The proprietor of a design shall have a remedy for infringement by a civil action instituted after the date of the issuance of a certificate of registration of the design.

(b) The proprietor of a design may have judicial review of a final refusal by the Administrator to register the design, by a civil action brought for infringement and shall have a remedy for infringement by the same action if the court adjudges the design subject to protection under this chapter, if (1) he has previously duly filed and duly prosecuted to such final refusal an application in proper form for registration of the design, and (2) he causes a copy of the complaint in the action to be delivered to the Administrator within ten days after the commencement of the action, and (3) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.

(c) The Administrator may, at his or her option, become a party to the action with respect to the issue of registrability of the design claim by entering an appearance within sixty days after such service, but the Administrator's failure to become a party shall not deprive the court of jurisdiction to determine such issue.

(d) The parties to an infringement dispute under this chapter may determine such contest or any aspect thereof by arbitration, within such time as may be specified by the Administrator by regulation. Such arbitration shall be governed by the provision of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Administrator, and such award shall, as between the parties to the arbitration be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Administrator from determining whether a design is subject to registration in a cancellation proceeding under section 1012(c).

Injunction

1021. The several courts having jurisdiction of actions under this chapter may grant injunctions in accordance with the principles of equity to prevent infringement, including, in their discretion, prompt relief by temporary restraining orders and preliminary injunctions.

Recovery for Infringement

1022(a) Upon finding for the claimant, the court shall award such claimant damages adequate to compensate for the infringement, but in no event shall such award be less than the reasonable value. In addition, the court may increase the damages to such amount, not exceeding \$50,000 or \$1 per copy, whichever is greater. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid in determining the amount of damages to be awarded.

(b) Alternatively, the court may award the claimant the infringer's profits resulting from the sale of the copies if it finds that the infringer's sales are reasonably related to the use of the claimant's design. In such a case, the claimant shall be required to prove only the infringer's sales and the infringer shall be required to prove its expenses against such sales.

(c) No recovery under paragraph (a) or (b) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(d) The court may award reasonable attorney's fees to the prevailing party. The court may also award other expenses of suit to a defendant prevailing in an action brought under section 1020(b).

(e) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

Power of Court Over Registration

1023. In any action involving a design for which protection is sought under this chapter, the court, when appropriate, may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make an appropriate entry upon the record.

Liability for Action on Registration Fraudulently Obtained

1024. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this chapter, shall be liable in the sum of \$1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

Penalty for False Marking

1025(a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold, a design notice as specified in section 1006 or any other words or symbols importing that the design is protected under this chapter, knowing that the design is not so protected, shall be fined not more than \$500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

Penalty for False Representation

1026. Whoever knowingly makes a false representation materially affecting the rights obtainable under this chapter for the purpose of obtaining registration of a design under this chapter shall be fined not less than \$500 nor more than \$1,000, and any rights or privileges he may have in the design under this chapter shall be forfeited.

Relation to Copyright Law

1027(a) Nothing in this chapter shall affect any right or remedy now or hereafter held by any person under chapters 1 through 8 of this title.

(b) When a pictorial, graphic, or sculptural work in which a copyright subsists under chapters 1 through 8 of this title is utilized in an original ornamental design of a useful article by the copyright proprietor or under an express license from such proprietor, the design shall be eligible for protection under the provisions of this chapter.

Relation to Patent Law

1028(a) Nothing in this chapter shall affect any right or remedy available to or held by any person under title 35.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under title 35 shall terminate any protection of the design under this chapter.

Common Law and Other Rights Unaffected

1029. Nothing in this chapter shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter, or (2) any trademark rights or right to be protected against unfair competition.

Administrator

1030(a) The Administrator and Office of the Administrator referred to in this chapter shall be the Register of Copyrights and Library of Congress, respectively.

(b) The table of chapters at the beginning of title 17, United States Code, is amended by adding at the end thereof the following:

“10. Protection of industrial designs of useful articles 1001.”

Severability Clause

3. If any provisions of this Act or the amendments made by this Act or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act or the application to other persons or circumstances shall not be affected thereby.

Amendment of Other Statutes

4. Title 28 of the United States Code is amended by—

(1) inserting “designs,” after “patents,” each place it appears in section 1338(a);

(2) inserting “design,” after “copyright,” in section 1338(b);

(3) inserting “and registered designs” after “copyrights” in section 1400(a); and

(4) amending section 1498(a) to read as follows:

“(a)(1) Whenever a registered design or invention described in and covered by a patent of the United States is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner’s remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

(2) For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

(3) The court shall not award compensation under this section if the claim is based on the use of manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, the effective date of this section.

(4) A Government employee shall have the right to bring suit against the Government under this section except where such employee was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any design registrant or patentee or any assignee of such design registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used.”

Effective Date

5. This Act and the amendments made by this Act shall take effect one year after the date of enactment of this Act.

No Retroactive Effect

6. Protection under chapter 10 of title 17, United States Code, as added by this Act, shall not be available for any design that has been made public as provided in section 1009(b) of title 17, United States Code, prior to the effective date of this Act.

Scope

7. Section 113 of title 17, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Protection under chapters 1 through 8 of this title of a work in which copyright subsists shall not terminate with respect to its utilization in useful articles whenever the copyright proprietor or its authorized person has obtained registration of a design of a useful article embodying said work under the provisions of chapter 10 of this title.”

News Items

AUSTRIA

*President,
Austrian Patent Office*

We have been informed that Dr. jur. Walter Böhm has been appointed President of the Austrian Patent Office.

ECUADOR

National Director of Industrial Property

We have been informed that Mr. F. Larreategui Russi has been appointed National Director of Industrial Property.

Calendar of Meetings

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible change.)

1988

- April 18 to 22 (Paris) — Committee of Governmental Experts on Photographic Works (convened jointly with Unesco)
- April 18 to 22 (Geneva) — Madrid Union: Assembly (Extraordinary Session)
- April 25 to 28 (Geneva) — Committee of Experts on Measures Against Counterfeiting and Piracy
- May 2 to 6 (?) — Permanent Committee on Industrial Property Information (PCIPI): Ad hoc Working Group on the Revision of the Guide to the IPC
- May 16 to 20 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property (Twelfth Session)
- May 24 to 27 (Geneva) — Consultative Meeting of Experts from Developing Countries on Legal Matters Relating to Intellectual Property in Respect of Integrated Circuits
- May 25 to June 1 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Executive Coordination Committee (second session); Patent Cooperation Treaty (PCT) Committee for Technical Cooperation (PCT/CTC) (eleventh session); PCIPI Ad hoc Working Group on Management Information
- May 30 to June 1 (Geneva) — Review Meeting on Intellectual Property in Respect of Integrated Circuits
- June 2 and 3 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Ad hoc Working Group on IPC Revision Policy
- June 6 to 17 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on Search Information
- June 13 to 17 (Geneva) — Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Fifth Session)
- June 20 to 24 (Geneva) — Nice Union: Preparatory Working Group (Ninth Session)
- June 27 to July 1 (Geneva) — Committee of Governmental Experts for the Synthesis of Principles Concerning the Copyright Protection of Various Categories of Works (convened jointly with Unesco)
- September 12 to 19 (Geneva) — International Patent Classification (IPC) Union: Committee of Experts (Seventeenth Session)
- September 14 to 16 (Geneva) — WIPO Worldwide Forum on the Impact of Emerging Technologies on the Law of Intellectual Property
- September 22 and 23 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI) (Second Session)
- September 26 to October 3 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions) (Nineteenth Series of Meetings)
- October 10 to 14 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on General Information (Second Session)
- October 24 to 28 (Geneva) — Committee of Experts on Biotechnological Inventions and Industrial Property (Fourth Session)
- November 21 to December 2 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on the Search Information (Second Session)
- November 28 to December 2 (Geneva) — Committee of Experts on Model Provisions for Legislations in the Field of Copyright
- December 5 to 9 (Geneva) — Madrid Union: Preparatory Committee for Diplomatic Conference for the Adoption of Protocols to the Madrid Agreement
- December 12 to 16 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Executive Coordination Committee (Third Session); Ad hoc Working Group on Management Information (Second Session)
- December 19 (Geneva) — Information Meeting for Non-Governmental Organizations on Intellectual Property

UPOV Meetings

1988

- April 18 to 21 (Geneva) — Administrative and Legal Committee
- April 22 (Geneva) — Consultative Committee
- June 7 to 9 (Edinburgh) — Technical Working Party on Automation and Computer Programs
- June 13 to 15 (Wageningen) — Technical Working Party for Vegetables

- June 16 and 17 (Wageningen) — Workshop on Variety Examination (for Lettuce)
June 20 to 24 (Melle) — Technical Working Party for Ornamental Plants and Forest Trees
June 28 to July 1 (Hanover) — Technical Working Party for Fruit Crops, and Subgroups
July 5 to 8 (Surgères) — Technical Working Party for Agricultural Crops
September 27 and 28 (Cambridge) — Workshop on Variety Examination (on Examination Techniques)
October 11 to 14 (Geneva) — Administrative and Legal Committee
October 17 (Geneva) — Consultative Committee
October 18 and 19 (Geneva) — Council
October 20 and 21 (Geneva) — Technical Committee

Other Meetings Concerned with Industrial Property

1988

- April 10 to 15 (Sydney) — International Association for the Protection of Industrial Property (AIPPI): Executive Committee
April 15 (Vienna) — International League for Competition Law (LIDC): Colloquium on Aspects of Competition Law in Distribution Systems, Including EEC Law
May 1 to 4 (Phoenix) — The United States Trademark Association (USTA): Annual Meeting
June 6 to 10 (Munich) — European Patent Organisation (EPO): Administrative Council
June 7 to 10 (Strasbourg) — Center for the International Study of Industrial Property (CEIPI): Licensing and Technology Transfer Course (first module)
June 27 to July 1 (Cannes) — International Federation of Industrial Property Attorneys (FICPI): World Congress
July 24 to 27 (Washington, D.C.) — International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): Annual Meeting
September 15 to 18 (Angers) — International League for Competition Law (LIDC): Congress
September 28 to 30 (Stockholm) — Pharmaceutical Trade Marks Group (PTMG): Conference on "A Commission of Enquiry—In Search of a System"
October 4 to 7 (Strasbourg) — Center for the International Study of Industrial Property (CEIPI): Licensing and Technology Transfer Course (second module)
November 7 to 11 (Buenos Aires) — Inter-American Association of Industrial Property (ASIPI): Congress
December 5 and 6 (Ithaca, New York) — Cornell University, Department of Agricultural Economics: Animal Patent Conference (Consideration of Applicable United States and International Law, Technicalities of Deposit Requirements, Status of Animal Science Research into Potentially Patentable Animal Types, Anticipated Impact of Patents on Livestock Breeding Sector and Production Agriculture, and Perspectives of Farmers and Those Concerned About Ethical Issues Involved)
December 5 to 9 (Munich) — European Patent Organisation (EPO): Administrative Council

