

BUREAUX INTERNATIONAUX
RÉUNIS POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE
GENÈVE, SUISSE

BIRPI

UNITED INTERNATIONAL
BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY
GENEVA, SWITZERLAND

UNION INTERNATIONALE
POUR LA PROTECTION DE LA PROPRIÉTÉ INDUSTRIELLE
Conférence des Représentants, Comité Exécutif, Deuxième Session

INTERNATIONAL UNION
FOR THE PROTECTION OF INDUSTRIAL PROPERTY
Conference of Representatives, Executive Committee, Second Session

(Genève, 26-29 septembre 1966)

(Geneva, September 26 to 29, 1966)

D r a f t

REPORT

Composition and Opening of the Session

1. The Second Ordinary Session of the Executive Committee of the Conference of Representatives of the International (Paris) Union for the Protection of Industrial Property (hereinafter designated as "the Committee") was held at Geneva from September 26 to 29, 1966.

2. At the opening of the Session, the Committee had eighteen members. Fourteen of them were represented: Czechoslovakia, France, Germany (Federal Republic), Hungary, Italy, Japan, Netherlands, Spain, Sweden, Switzerland (ex officio), Union of Soviet Socialist Republics, United Kingdom, United States of America, Yugoslavia. Four were not represented: Ceylon, Morocco, Nigeria, Portugal.

3. In the course of the Session, Mexico was co-opted as member. It was represented.

4. The following fourteen States were represented by observers: Algeria, Australia, Austria, Belgium, Democratic Republic of Congo, Denmark, Greece, India, Poland, Rumania, San Marino, Thailand, United Arab Republic, Viet-Nam.

5. The International Patent Institute was represented by observers.

6. The list of participants is attached to this report.

7. The meeting was opened by the Chairman of the last Session, Mr. E.J. Brenner (United States of America).

8. In his opening speech, Mr. Brenner pointed out that the Session might well be a most important one in the history of the Paris Union. The increasing volume of patent applications, the complexity of the task of examination, and the cost in time and money arising from the need of filing and examining in several countries applications concerning the same invention, were rapidly leading to a crisis of the whole patent system. In this critical situation, his Delegation would present a proposal that BIRPI mount an urgent and vigorous effort to overcome the difficulties by international cooperation. This effort should, in the long run, lead to a truly international patent system.

Election of New Officers

9. On the proposal of Mr. Kiss (Hungary), the Committee elected by acclamation the following delegates as officers: Mr. F. Savignon (France), Chairman, and Messrs. Artemiev (Soviet Union) and Benkichi (Japan), Vice-Chairmen.

Adoption of the Agenda

10. The Committee unanimously adopted the agenda of the Session as contained in document CEP/II/1 Rev.

Co-opting of an Additional Member
to the Executive Committee

11. As a result of new accessions to the Paris Union, the Committee was in a position to enlarge its membership by one State (see document CEP/II/3). The Delegation of the United States proposed the election of Mexico, whereas the Delegation of the Soviet Union proposed the election of Algeria. The first proposal was supported by the Delegations of the United Kingdom, Spain, and the Netherlands, * The second proposal was supported by the Delegations of France, Czechoslovakia, Yugoslavia, and Hungary. A secret ballot was ordered in which 9 votes were cast for Mexico, and 5 votes for Algeria.

12. Consequently, Mexico was declared to have been co-opted as the nineteenth member of the Committee.

Report on the Activities of BIRPI
since October 1965

13. This item was discussed on the basis of document CEP/II/4, those parts of document CCIU/IV/3 which relate to the Paris Union, and document CCIU/IV/8.

14. The Committee noted with approval the activities thus reported upon.

Plan for the "World Patent Index"

15. This item was discussed on the basis of document CEP/II/8.

16. Mr. Artemiev (Soviet Union) said that his Delegation considered the BIRPI initiative for a World Patent Index as an initiative of great importance. Experience had shown that the rationalization of retrieval was the first problem to be solved both for examination and information activities. Such rationalization could be carried out step

*) and Germany (Federal Republic).

by step, for example, in the following stages: (a) annual publication of application indexes for published patents; (b) unification of the publication of patent specifications and gazettes; (c) introduction of a common numbering for applications and patents; (d) introduction of uniform methods for preparing the printing of specifications and patents through the use of uniform programming of the type-setting with the production of punched tapes according to a common code; (e) conclusion of bilateral and multilateral agreements on the exchange of punched tapes and on the introduction of uniform standards for publishing bibliographical data.

17. Dr. Bogsch (BIRPI) said that the results of the survey of the possible usefulness of the plan were encouraging but that BIRPI would go ahead with the plan only if enough money were to be pledged by interested parties for the initial investment needed. BIRPI would get in touch with the Patent Offices of the countries which seemed to show the greatest interest, in particular, France, Italy, Germany, Japan, Soviet Union, United Kingdom, and United States, to see whether they were ready to contribute, either directly or by organizing a fund raising campaign in the interested private circles of their respective countries, or in both ways, towards defraying the initial investment, since it was obvious that the budget of the Paris Union could not absorb the amounts necessary.

18. Mr. Brenner (United States of America) said that the plan was interesting and the results of the survey encouraging. The study of feasibility, particularly the financing of the project, should continue.

19. Mr. de Haan (Netherlands) agreed with Mr. Brenner and urged that the cooperation with the International Patent Institute be continued.

20. The Director of BIRPI said that he intended to continue the cooperation with the International Patent Institute as had been done hitherto: most of the actual work was carried out in and by BIRPI, but BIRPI consulted with the Institute at every important step, as it had done, for example, in connection with the preparation of the report under consideration. As far as financing was concerned, extraordinary means were necessary, and BIRPI would go ahead with the plan only if these means were forthcoming.

21. Mr. von Zweigbergk (Sweden) and Mr. de Haan (Netherlands) said that their Governments wanted to be included among the Governments to be consulted on the possibility of their contributing to the initial financing of the plan.

22. Mr. Haertel (Federal Republic of Germany) expressed his agreement with the plans outlined by the Director of BIRPI and Dr. Bogsch.

23. The Committee noted with unanimous approval the plans of BIRPI, outlined in paragraphs 17 and 20 above, concerning the next steps to be taken in connection with the plan for the "World Patent Index."

International Classification of Industrial Designs

24. This item was discussed on the basis of document CEP/II/6.

25. The Director of BIRPI, introducing the question, said that it appeared to the majority of the Committee of Experts (May 1966) which had worked on the subject and to him that the only effective way of instituting an international classification would be by concluding a special agreement, generally similar to the Nice Agreement which dealt with classification in respect of trademarks. Such an agreement would have to be adopted by a diplomatic conference which could not, however, be included in BIRPI's crowded program for 1967.

26. Mr. Uggla (Sweden) said that he had expressed the opinion in the Committee of Experts, and he continued to be of the opinion, that other, simpler forms should be found than the conclusion of a special agreement.

27. Mr. Grant (United Kingdom) agreed with Mr. Uggla. In any case, the matter did not seem to be urgent.

28. Mr. Artemiev (Soviet Union) said that his country was interested in the establishment of a classification.

29. Mr. de Haan (Netherlands) and Mr. de Sanctis (Italy) said that neither a classification nor a conference seemed to be urgent.

30. The Director of BIRPI said that experience with the trademark classification had shown that, unless there was a treaty on the subject and unless a mechanism was established for periodical review of the classification, the classification was not usable and was not applied.

31. Mr. Lorenz (Austria) who had been the rapporteur of the May 1966 Committee of Experts said that the majority of that Committee was of the same opinion as the Director of BIRPI, the more so as any classification not regularly revised by an international body was necessarily adapted by each country without regard to the other countries. Such adaptations led in a very short time to a diversity of classification, a situation which it was one of the main purposes of all international classifications to avoid.

32. After a further exchange of views between Messrs. Uggla (Sweden), Haertel (Federal Republic of Germany), Morf (Switzerland), de Haan (Netherlands), the Chairman, and the Director of BIRPI, the Committee unanimously decided that it would be desirable to have a diplomatic conference for the purpose of adopting a treaty, to have this meeting held at BIRPI at about the same time as another regular BIRPI meeting (in order to reduce costs for the participating delegations), and to ask the Swiss Government to host the conference if convocation by a Government was considered necessary.

Work Plan for Possible Future Action in the Patent Field

33. This item was discussed on the basis of document CEP/II/5, containing an Aide Mémoire by the Government of the United States of America addressed to the Director of BIRPI, and document CEP/II/10, consisting of a draft resolution presented by the Delegation of the same country.

34. Mr. Brenner (United States of America) said that it was all too well known that the cost, delays, and difficulties, of obtaining patents, particularly in several countries, and the cost, delays, and difficulties, of issuing

patents in countries which have an examining system, had become so great that the workability of the whole patent system was, or would be in the near future, in jeopardy. The main reasons for this critical situation were: the growing number of applications, the growing complexity of the prior art to be examined, the growing volume of the documentation to be stored and consulted, the need of securing and consulting documentation in more and more languages, and the differences in the requirements for filing and the laws of the various countries. Applicants desiring to obtain patents for the same invention in different countries had to make completely separate efforts in each of them, and the examining patent offices of each of these countries went through the same procedures without any cooperation with each other. In other words, the same work had to be repeated many times, which necessarily resulted in a tremendous waste of talent, money, and time, both for the applicants and the Governments. It was for these reasons that the United States Government recommended an urgent study of the possibilities of remedying the situation. This study should be carried out by BIRPI, with the help of outside experts. Due regard should be paid to the current efforts of other international organizations and groups of States. BIRPI should come up with specific recommendations. The solutions to be proposed should probably include the conclusion of special agreements among the interested countries of the Paris Union.

35. Mr. Haertel (Federal Republic of Germany) said that he strongly supported the United States proposal. In Germany, applicants had to wait 5 to 12 years before a patent could be issued. Such long delays endangered the usefulness of the system. His country was working actively on making the system more efficient. However, domestic measures would never suffice, as many of the problems could only be solved through international cooperation.

36. Mr. Artemiev (Soviet Union) said that the United States proposal was of interest to his country. The Soviet Union was prepared to participate in any working group which BIRPI might constitute to explore the possibilities of international cooperation. Such exploration should include: (a) the examination of the role of the International Patent Classification, the possibilities of unifying patent documentation, and of simplifying the retrieval of information contained in patents; (b) examination of the possibilities of the exchange of patent documentation among the member countries of the Paris Union, in particular, the exchange of patent specifications, patent office gazettes, classification indexes, reclassification lists; (c) examination of the possibilities of

creating an international service for the identification of corresponding patents; (d) examination of the ratio between the patent literature and the non-patent (scientific and technical) literature in the total amount of the reference documentation consulted for novelty searches, and examination of the possibilities of mechanized retrieval of information from both the patent and non-patent literatures; (e) examination of the problem of translating the patent literature and of the possibilities of exchanging translations; (f) examination of the possibilities of an international division of labor in the shared use systems and the role of ICIREPAT.

37. Mr. Grant (United Kingdom) said that the need for rationalization was imperative. Without substantial rationalization the patent system was doomed. It was pure nonsense to have the same work done, over and over again, separately in each country, by highly qualified technicians so scarce and so much needed by the economy. His experience with the international efforts thus far conducted did not inspire him with optimism. Only if there was a strong will to cooperate could one hope for success because the difficulties were great and overcoming them would require substantial changes in the laws, traditions, and habits of all participating countries. Without such changes, nothing could be achieved. The participants must mean business. Academic discussions were certain to lead nowhere. The Council of Europe had achieved some results. These should be taken into account. The International Patent Institute was an existing reality. It should not be ignored. The language problems required centralized solutions. With these warnings, he strongly supported the United States initiative.

38. Mr. von Zweigbergk (Sweden), speaking also for the other Nordic countries, expressed his support for the United States proposals. The proposals came at the right time and, although they were somewhat vague, this might be an advantage as it left more scope for exploring the possibilities. It was essential that the existing efforts, including the Nordic patent system, should be left untouched. The same held for the achievements of the Council of Europe. What was needed was practical work, practical solutions.

39. Mr. Marinete (Rumania) said that his country was ready to support the United States plan. The Rumanian authorities had suggested to BIRPI, more than two years ago,

during a visit by the Director to Bucharest, that BIRPI should try to do something about closer international cooperation in the patent field. He was satisfied to see that this suggestion was on the point of taking the form of action by BIRPI.

40. Mr. de Haan (Netherlands) expressed his thanks for the United States proposal and the United Kingdom support for the International Patent Institute. It was his predecessor in office who had made the first suggestions for practical cooperation on the international level. The International Patent Institute had been created. The Institute and the national patent offices were existing, practical tools for cooperation. BIRPI should collaborate with the Institute. It would be a mistake not to make full use of the existing possibilities.

41. Mr. Finniss (International Patent Institute) said that he was glad that the United States had made the proposal under discussion. The problem of delays was serious. The problem of languages was growing daily more difficult since no true world-wide novelty search was possible any longer without looking into the documents in Russian and Japanese. The establishment of a documentation center was most important.

42. The Chairman, as representative of France, welcomed the United States proposal. As he understood that proposal, it did not mean that BIRPI was given the task of executing a commission but merely of exploring the possibilities of coordinating the existing national and international efforts and of examining the possibilities of new means of cooperation.

43. Mr. Talamo (Italy) said that he was ready to support the United States proposal. That proposal was also of interest to non-examining countries which, in any case, might always become examining countries in the future. Such countries should, too, be represented on any BIRPI committee of experts as they had also been in the Council of Europe and the European Economic Community to whose work Italy had always actively contributed.

44. Mr. Radnoti (Hungary) said that his country welcomed the United States proposal and would do its best to contribute to the success of the work to be initiated by BIRPI on the basis of that proposal.

45. The Director of BIRPI said that BIRPI was ready to undertake the study called for by the United States proposal. What is more, it was ready to undertake it urgently, as it was fully aware of the need for speedy action. He could not, of course, promise success in a field in which so many efforts in other circles had been abandoned or had been only moderately successful. In any case, he expected to convene a first group of consultants in February or March 1967.

46. The Committee unanimously adopted the resolution proposed by the United States Delegation reading as follows:

"The Executive Committee of the International (Paris) Union for the Protection of Industrial Property (Second Session, Geneva, September 29, 1966),

"Having noted:

"that all countries issuing patents, and particularly the countries having a preliminary novelty examination system, have to deal with very substantial and constantly growing volumes of applications of increasing complexity,

"that in any one country a considerable number of applications duplicate or substantially duplicate applications concerning the same inventions in other countries thereby increasing further the same volume of applications to be processed, and

"that a resolution of the difficulties attendant upon duplications in filings and examination would result in more economical, quicker, and more effective protection for inventions throughout the world thus benefiting inventors, the general public and Governments,

"Recommends:

"that the Director of BIRPI undertake urgently a study on solutions tending to reduce the duplication of effort both for applicants and national patent offices, in consultation with outside experts to be invited by him, and giving due regard to the efforts of other international organizations and groups of States to solve similar problems, with a view to making specific recommendations for further action, including the conclusion of special agreements within the framework of the Paris Union."

Program and Budget of the Paris Union
for 1967

47. This item was discussed on the basis of document CEP/II/7 and those parts of document CCIU/IV/3 which deal with the Paris Union.

48. The Director of BIRPI referred to the reasons, explained in detail in the documents considered, for the deficit for 1967 and for the changes in the three-year program established in 1964. He said that the only possibility of reducing the deficit would be by eliminating the technical assistance activities but that he strongly recommended that this should not be done as their usefulness to developing countries and to the Paris Union was obvious. The reserve fund of the Paris Union could carry the deficit and no increase in contributions was proposed. However, at or shortly after the Stockholm Conference, a considerable increase in the contributions would become inevitable and would be proposed.

49. Mr. Winter (United States of America) urged that the technical assistance activities should not be eliminated. He urged the States which had not yet accepted the 900,000 Swiss francs ceiling of annual contributions to do so.

50. Mr. Artemiev (USSR) said that part of the deficit would disappear if BIRPI used the contributions paid by the German Democratic Republic.

51. The Director of BIRPI replied that the payments of the German Democratic Republic were kept on a separate account and not used pending the determination of the question of the membership of the German Democratic Republic. That question was a purely political one, clearly outside the competence of the Secretariat.

52. The Committee unanimously expressed a favorable view of the plans and proposals concerning the Paris Union as contained in documents CEP/II/7 and CCIU/IV/3.

/End of document CEP/II/11/