

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 DE PARIS: COMITÉ EXÉCUTIF, CINQUIÈME SESSION PARIS UNION: EXECUTIVE COMMITTEE, FIFTH SESSION

(Genève, 22-26 septembre 1969)
(Geneva, September 22 to 26, 1969)

DRAFT REPORT

Composition and Opening of the Session

1. The Fifth 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 22 to 25, 1969.
2. The 20 States members of the Committee were represented: Argentina, Australia, Austria, Cameroon, France, Germany (Federal Republic), Hungary, Iran, Japan, Kenya, Mexico, Morocco, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America.
3. The following 17 States were represented by observers: Algeria, Belgium, Brazil, Canada, Cuba, Czechoslovakia, Denmark, Finland, Holy See, India, Ireland, Israel, Italy, Norway, Portugal, Rumania, Yugoslavia.
4. The International Patent Institute (IIB) and the African and Malagasy Industrial Property Office (OAMPI) were represented by observers (see paragraphs 10 and 11, below.)

5. The list of participants is attached to the present report.

6. The session was opened by Mr. Yuri Maksarev (Soviet Union), Vice President, in the absence of the President, Mr. Gordon Grant, C.B. (United Kingdom).

Adoption of the Agenda

7. The Committee unanimously adopted the agenda of the session as contained in document CEP/V/1.

Election of the New Officers

8. The following officers were unanimously elected: Mr. W.M.J.C. Phaf (Netherlands), as Chairman; Mr. J.P. Harkins (Australia) and Mr. J. Eked-Samnik (Cameroon), as Vice-Chairmen.

9. Dr. Arpad Bogsch, First Deputy Director, BIRPI, acted as Secretary of the Committee.

Admission of Observers

10. The Committee decided to admit the International Patent Institute (IIB) as observer for the discussion of such items of the agenda as were of interest to it.

11. The Committee also decided to admit the African and Malagasy Industrial Property Office (OAMPI) as an observer.

Activities of BIRPI Since the Last Ordinary Session of the Committee

12. The Committee had before it documents CEP/V/3 and 13, as well as those portions of documents CCIU/VII/3 and 12 which concern the Paris Union.

13. The Director introduced these reports on the activities of BIRPI in the past year, emphasizing those activities in favor of developing countries, in particular traineeships offered to nationals of such countries, the preparation of a model law for developing countries on the protection of industrial designs, the publication of his "Guide" to the Paris Convention, the preparatory work for the Arab Seminar and the South American Seminar, and the assistance given to individual countries, for example, the Sudan in the preparation of its industrial property legislation. He called the attention of the member States to the fact that in matters of technical legal assistance in the field of industrial property BIRPI had the greatest expertise and said that BIRPI's jurisdiction in these matters should be underlined in meetings of other international organizations.

14. Furthermore, the Director emphasized BIRPI's participation in meetings organized by other bodies, in particular the Moscow Jubilee Symposium of July 1969. He expressed the view that such meetings were particularly useful to alert public opinion to the importance of industrial property.

15. After the interventions of several delegates commending BIRPI for the work accomplished in the last year, the reports contained in the documents referred to above were noted with approval by the Committee.

Matters Concerning the Proposed Patent Cooperation Treaty

16. The Committee had before it documents CEP/V/4, 5, 11, and 16.

17. In connection with document CEP/V/4, the Delegate of the United States informed the Committee that his country

fully supported BIRPI's work in the field of the proposed Patent Cooperation Treaty (PCT). The United States Government hoped to be able to extend a formal invitation for the diplomatic conference to be held in Washington in May and June 1970. The executive branch of the Government had requested the necessary authorization of the United States Congress. This authorization, however, had not yet been accorded, although favorable action had already been taken by the Senate. It was hoped that the House of Representatives would also act favorably, in which case the invitation would be extended. In any case, the conference facilities of the State Department had been reserved for the PCT diplomatic conference from May 25 to June 19, 1970, in the event that the necessary authorizations were given in time.

18. The Committee noted the above declaration, as well as the contents of document CEP/V/4.

19. In connection with documents CEP/V/5 and 16, the Delegate of the United States suggested that in the draft resolution (paragraph 24) the words "or equivalent" be added after the word "cash" since the United States planned to furnish its contribution in 1970, as in the past, in the form of a staff loan to BIRPI rather than a cash payment. Authorizations for cash contributions beyond 1970 were being sought from the competent US authorities. The said amendment was adopted by the Committee, which also noted with approval the rest of documents CEP/V/5 and 16. The resolution as amended reads as follows:

"The Executive Committee of the International (Paris) Union for the Protection of Industrial Property,

"Considering that the ordinary contributions to the budget of the Paris Union are insufficient to cover BIRPI's expenses connected with the work for the preparation of the Patent Cooperation Treaty,

"Taking as a basis the volume of work in the respective national Offices in the field of patents and inventors' certificates,

"Recommends the following amounts (expressed in US dollars) as the cash or equivalent contributions of the member countries of the Paris Union for the year 1970:

"Algeria: \$500; Argentina: \$500; Australia: \$2,700; Austria: \$2,700; Belgium: \$2,700; Brazil: \$500; Bulgaria: \$500; Canada: \$2,700; Czechoslovakia: \$500; Denmark: \$500; Finland: \$500; France: \$9,600; Germany (Federal Republic): \$9,600; Greece: \$500; Hungary: \$500; Indonesia: \$500; Iran: \$500; Ireland: \$500; Israel: \$500; Italy: \$9,600; Japan: \$9,600; Mexico: \$500; Netherlands: \$2,700; New Zealand: \$500; Norway: \$500; Poland: \$500; Portugal: \$500; Rumania: \$500; South Africa: \$500; Spain: \$2,700; Sweden: \$2,700; Switzerland: \$2,700; Turkey: \$500; Uganda: \$500; Soviet Union: \$9,600; United Arab Republic: \$500; United Kingdom: \$9,600; United States: \$9,600; Yugoslavia: \$500.

"Other member countries of the Paris Union: such amount as they wish to contribute."

20. Still in connection with document CEP/V/5, the Committee noted the following declarations (presented here in the English alphabetical order of States):

Algeria:	pledged the suggested amount (\$500)
Argentina:	pledged the suggested amount (\$500)
Australia:	pledged a certain amount, but whether it would be the amount suggested (\$2,700) was not yet certain, since the Australian authorities were not entirely convinced that the manner of calculation was equitable. A percentage based on the number of domestic

applications would appear to be more acceptable. The interest of Australia in the PCT would probably considerably increase if patents granted in Australia to Australian nationals were included in the minimum documentation

- Austria: pledged the suggested amount (\$2,700)
- Belgium: hopes to be able to contribute for 1970 as well as for 1969, but the amount of its contribution has not yet been determined
- Canada: pledged the suggested amount (\$2,700) notwithstanding severe budgetary restrictions due to the austerity program of the Canadian Government
- Czechoslovakia: pledged the suggested amount (\$500)
- France: expected to contribute the suggested amount (\$9,600), but a formal commitment was conditional upon approval of the budget of the Institut national de la propriété industrielle
- Germany
(Federal Republic): pledged the suggested amount (\$9,600) provided that the other States, at least of the same category, did likewise
- Hungary: pledged the suggested amount (\$500)
- Ireland: pledged the suggested amount (\$500)
- Israel: after having received assurances from the Secretariat that the special usefulness of the PCT plan for developing countries would be further studied, pledged the suggested amount (\$500)
- Italy: stated that in principle it was ready to contribute the suggested amount (\$9,600), but suggested that a more equitable basis for establishing percentages should be studied, since the percentage now suggested for Italy was too high

Japan: stated that the necessary proposals for paying the suggested amount (\$9,600) had been made to the competent financial authorities of the Japanese Government, but that these authorities had not yet made a decision

Mexico: stated that it refused the PCT and therefore would not contribute

Netherlands: pledged the suggested amount (\$2,700)

Norway: pledged the suggested amount (\$500)

Poland: pledged the suggested amount (\$500)

Spain: reserved its position since the degree of interest in the PCT was not yet determined

Sweden: pledged the suggested amount (\$2,700)

Switzerland: pledged the suggested amount (\$2,700), subject to the approval of the budget of the Federal Bureau of Intellectual Property by the Swiss Parliament

Soviet Union: pledged a contribution to the value suggested (\$9,600), but would probably furnish it in the form of a staff loan

United Kingdom: pledged the suggested amount (\$9,600), provided that its contribution did not exceed 10% of the total contributions

United States of America: pledged a contribution to the value suggested (9,600), but would furnish it in the form of a staff loan.

21. In connection with document CEP/V/11, paragraph 4, concerning the question what form contributions should take beyond 1970, two opposing opinions were expressed.

22. According to one opinion, the system of special contributions should be discontinued and expenses connected with

preliminary work on the PCT incorporated in the ordinary budget of the Paris Union. The main argument in favor of this opinion was that the PCT was of general or almost general interest to the members of the Paris Union and consequently special contributions were an unnecessary complication. It was clearly understood that this opinion related only to the period which would elapse before the entry into force of the Patent Cooperation Treaty. The Delegations of the following countries were of this opinion (in the order in which they made their declarations): Germany (Federal Republic), Soviet Union, France, United States, Switzerland, Australia, Sweden, United Kingdom, Netherlands, Ireland, Italy, Poland, Hungary, Czechoslovakia, Norway.

23. According to the other opinion, the system of special contributions should be continued beyond 1970. Such opinion was expressed by the Delegates of Argentina and Brazil. They, as well as the Delegate of Mexico--who reserved his country's position on the question--said that they were not, or not yet, convinced of the usefulness of the PCT for their countries and as long as such usefulness was not established they would find it inequitable to incorporate such expenses in the ordinary budget of the Paris Union.

24. The Delegate of Spain said that the Paris Union budget should not include the PCT expenses.

25. The Observer of OAMPI declared that the member States of his Organization could under no circumstances accept the incorporation of PCT expenses in the Paris Union budget.

26. The Delegate of Austria said that it was a matter of indifference to his country whether the system of special contributions was continued beyond 1970 or whether the expenses were included in the Paris Union budget.

27. The Delegate of Israel reserved his country's position pending the outcome of the studies concerning the usefulness of the PCT to developing countries.

Matters Concerning ICIREPAT

28. The Committee had before it documents CEP/V/6, 7, 11, and 15.

29. In connection with document CEP/V/6, the Delegate of the United States suggested that in the draft resolution (paragraph 12) the words "or equivalent" be added after the word "cash" since the United States planned to furnish its contribution in 1970, as in the past, in the form of a staff loan to BIRPI rather than cash payment. Authorizations for cash contributions beyond 1970 were being sought from the competent US authorities. The said amendment was adopted by the Committee, which also noted with approval the rest of document CEP/V/6. The resolution as amended reads as follows:

"The Executive Committee of the International (Paris) Union for the Protection of Industrial Property,

"Considering the Organizational Rules of the Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT),

"Taking as a basis the volume and nature of work in the respective national Offices,

"Recommends the following amounts (expressed in Swiss francs) as the cash or equivalent contributions of the participating countries for the year 1970:

"Australia: 4,700 francs; Austria: 4,700 francs; Canada: 4,700 francs; Czechoslovakia: 1,000 francs; Denmark: 1,000 francs; Finland: 1,000 francs; France: 4,700 francs; Hungary: 1,000 francs; Germany (Federal Republic): 18,000 francs; Ireland: 1,000 francs; Israel: 1,000 francs; Japan: 18,000 francs; Netherlands: 4,700 francs; Norway: 1,000 francs; Soviet Union: 18,000 francs; Spain: 1,000 francs; Sweden: 4,700 francs; Switzerland: 4,700 francs; United Kingdom: 18,000 francs; United States: 18,000 francs."

30. Still in connection with document CEP/V/6, the Committee noted the following declarations (presented here in the English alphabetical order of States):

Australia:	declared it would notify BIRPI later whether it would contribute cash or loan staff
Austria:	pledged the suggested amount (4,700 francs)
Canada:	pledged the suggested amount (4,700 francs)
France:	expected to contribute the suggested amount (4,700 francs), but a formal commitment was conditional upon approval of the budget of the Institut national de la propriété industrielle
Germany (Federal Republic):	pledged the suggested amount (18,000 francs), provided at least the Group A countries contributed the same amount
Hungary:	pledged the suggested amount (1,000 francs)
Israel:	pledged the suggested amount (1,000 francs)
Netherlands:	pledged the suggested amount (4,700 francs)
Norway:	pledged the suggested amount (1,000 francs)

Spain: pledged the suggested amount (1,000 francs)

Sweden: pledged the suggested amount (4,700 francs)

Switzerland: pledged the suggested amount (4,700 francs), subject to the approval of the budget of the Federal Bureau of Intellectual Property by the Swiss Parliament

Soviet Union: pledged the suggested amount (18,000 francs), provided the other participating countries contributed as suggested

United Kingdom: pledged the suggested amount (18,000 francs), provided that its contribution did not exceed 14% of the total contributions

United States of America: pledged the suggested amount (18,000 francs), but may furnish it in the form of a staff loan.

31. In connection with documents CEP/V/7 and 15, the Delegate of Austria asked whether sufficient attention was being given to the need for avoiding duplication of effort between the various Technical Committees. The affirmative answer of the Delegate of the United Kingdom was confirmed by the Secretariat. On a question from the Delegate of Austria, the Secretariat informed the meeting that its duties in connection with ICIREPAT were purely secretarial and not those of planning, carrying out, or supervising technical tasks.

32. The Delegate of Israel asked that the 1970 sessions of the Executive Committee of the Paris Union and the Plenary Committee of ICIREPAT be furnished with a comprehensive report on ICIREPAT activities carried out during the preceding year. The Secretariat replied that such a report would be furnished.

33. The Delegate of Canada expressed concern over the slow progress of ICIREPAT's work and the wish that the Plenary Committee of ICIREPAT should have a more active role in controlling the activities of the other bodies of ICIREPAT.

34. The Committee established the program of ICIREPAT for 1970 as contained in the Annex to document CEP/V/15.

35. In connection with document CEP/V/11, paragraphs 1 to 3, concerning the question what form contributions should take beyond 1970, two opposing opinions were expressed.

36. According to one opinion, the system of special contributions should be discontinued and the secretarial (i.e., BIRPI) expenses connected with ICIREPAT should be incorporated in the ordinary budget of the Paris Union. The main argument in favor of this opinion was that ICIREPAT was of general or almost general interest to the members of the Paris Union and consequently special contributions were an unnecessary complication.

37. According to the other opinion, the system of special contributions should be continued beyond 1970. The main argument in favor of this opinion was that ICIREPAT was not of interest to all Paris Union member States and that those to which it was of no interest should not be asked to contribute to the expenses (which is what they would have to do if such expenses were included in the ordinary budget of the Paris Union).

38. When put to the vote, nine countries Voted for and four countries voted against inclusion of such expenses in the ordinary Paris Union budget. Those voting for were Australia, Germany (Federal Republic), Hungary, Poland, Soviet Union, Sweden, Switzerland, United Kingdom, United States. Those voting against were Argentina, Cameroon,

Mexico, Spain. Four countries abstained: Austria, France, Iran, Netherlands, and three were not present when the vote was taken: Japan, Kenya, Morocco.

39. The Delegate of the Netherlands suggested that since ICIREPAT is not intended to become a Special Union with its own finances the contributions to its work should probably remain voluntary. The Delegate of Austria said that he had abstained since it was a matter of indifference to him which form of contribution was adopted.

40. Among the observers, the view of those opposing inclusion in the ordinary budget of the Paris Union was shared by the Delegates of Brazil and Italy, as well as by the Observer of OAMPI.

41. The Delegate of Argentina, supported by that of Brazil, asked that all countries members of the Paris Union should be consulted on the matter, and not only the members of the Executive Committee. The Secretariat replied that this would necessarily be so, since the budget proposals for the years 1971 to 1973 would be presented to all Paris Union members, which would all be convened to the administrative meetings scheduled for September 1970.

Matters Concerning the World Patent Index

42. The Committee had before it documents CEP/V/8 and 14. The Committee decided that the "Ad Hoc Subcommittee on Contracting for the World Patent Index," established in its 1968 session, should continue and that its membership--now consisting of Germany (Federal Republic), Soviet Union, Switzerland, and the United States of America--should be enlarged by the addition of the United Kingdom. Furthermore, it was decided that the International Patent Institute

should be invited to the meetings of the Ad Hoc Subcommittee as an observer. The Subcommittee thus enlarged would have the task of advising BIRPI and would have the power to approve any contract between BIRPI and any private enterprise with which BIRPI would enter into contractual relationship for the establishment of the "World Patent Index."

43. The Delegate of Canada said that Canadian patent specifications were under the copyright of the Queen's printer and that it had not yet been decided whether such copyright would be waived for the purpose of the World Patent Index copy service. The Secretariat observed that a similar situation existed in the United Kingdom but that the United Kingdom had recently waived its Crown copyright for the said purpose and the Secretariat hoped that Canada could do likewise.

44. The Delegate of the United Kingdom called the attention of the Committee to the fact that the United Kingdom, which had been an observer at the meeting of the Subcommittee on September 16, 1969, could not and did not participate in the vote on the resolution reproduced in document CEP/V/14.

45. On a question from the Delegate of France, the Secretariat said that only one copy of each national patent document and national gazette issue would have to be furnished free of charge to BIRPI and that the World Patent Index copy service would probably hardly affect the sales of copies by national Patent Offices since such sales were mainly domestic whereas the sales under the World Patent Index copy service were expected mainly to be made to customers abroad. In any case, even today private firms sell copies.

International Classification of Patents for Invention

46. The Committee had before it document CEP/V/9 together with its Annexes (CE/BIRPI/14 and the Annex to that document), and document CEP/V/12.

47. In connection with the latter document, the Delegate of Canada remarked on the usefulness of the information given and added that it would however be interesting to know the extent to which the International Classification was used for search purposes.

48. The Committee took note of the principles drafted by BIRPI and the Secretariat General of the Council of Europe governing the revision of the European Convention on the International Classification of Patents for Invention (Annex IV to document CE/BIRPI/14).

49. The Committee unanimously approved the program proposed in connection with the revision work and decided to extend the terms of reference of the Joint ad hoc Committee of the Council of Europe and BIRPI, to allow it to prepare for the revision of the European Convention.

50. A thorough discussion took place on the need to establish a Special Union and on the opinion to be given regarding the question whether that Union should have its own budget or whether that budget should be incorporated in the budget of the Paris Union.

51. The Delegates of Austria, France, Germany (Federal Republic), the Soviet Union, the United States of America, as well as the Observer of OAMPI remarked that the International Classification was a work of general interest which was useful to the Paris Union as a whole. The

Delegate of the Soviet Union expressed his gratitude to the European States which had contributed to international cooperation by accomplishing this important work.

52. The Delegate of France wondered whether it was necessary to establish a Special Union, if it did not have a budget of its own.

53. The Delegate of the United Kingdom expressed himself in favor of the creation of a Special Union. He said that a separate agreement should be concluded which would make it mandatory for the member States to use the symbols of the International Classification. The member States alone would at the same time be entitled to decide on the amendments to be made to the Classification. However, in view of the general interest of the International Classification, the budget of that Special Union could be included in the budget of the Paris Union.

54. The Delegates of Germany (Federal Republic), the Soviet Union and the United States of America also expressed themselves in favor of the creation of a Special Union whose budget would be included in that of the Paris Union.

55. The Delegate of Austria and the Observer of OAMPI declared that they could accept, for the Special Union, either a separate budget or a budget incorporated in that of the Paris Union.

56. The Delegate of Argentina said, for his part, that his country believed in the principle that activities concerning only a part of the member States of the Paris Union should be financed by those States and not by the Union as a whole. It was a principle, he added, which had always been respected in the past, since each Special Union had its own budget, and there seemed to be no reason to deviate from it. He remarked in conclusion that the Committee could not make any decisions on this matter which would be binding on the other States.

57. The Delegates of Brazil and Mexico also declared that they were in favor of the rule according to which each Special Union should have a separate budget, financed solely by the members of that Union.

58. The Director of BIRPI said there was no question of making a decision at this stage, but rather of giving a provisional opinion with a view to offering guidance for the preparation of the revision of the European Convention.

59. With regard to the substance of the question, he said that the Paris Union could organize the performance of its tasks in various ways, but in the particular case it was necessary to create a Special Union. There was, in fact, a need for an agreement which could be substituted for the European Convention, which would make it mandatory for the member States to use the International Classification, and which would permit the establishment of the organs necessary to keep the Classification up to date and to make improvements to it.

60. As regards the financial aspect, the Director of BIRPI said that while the studies were continuing the costs would be borne by the Paris Union as had always been the case in the past, unless in exceptional cases where such studies were particularly expensive. When the Special Union started to function, he continued, it should be financed from the budget of the Paris Union provided the Special Union was of considerable general interest, a condition which seemed to be fulfilled in this particular case. Thus, he concluded, undue complication of the sharing of costs between the Unions would be avoided, a task which was already the cause of considerable work for BIRPI.

61. The Chairman invited the Delegations wishing to make further statements or explanations regarding their position to do so in the form of brief notes which would be assembled in a separate document (see CEP/V/18).

Protection of Type Faces

62. The Committee had before it document CEP/V/10.

63. The Delegate of the United Kingdom, noting the lack of enthusiasm on the part of member countries of the Paris Union, suggested referring the question to the Council of Europe, which appeared to be willing to take up the matter.

64. The Delegate of the United States of America said he had no objection to the inclusion of this question in the program of the Vienna Conference provided that the resulting expenses were not too high for BIRPI.

65. The Delegates of the Netherlands and Switzerland were also in favor of placing the question on the agenda of the Vienna Conference.

66. The Delegate of Brazil stressed the lack of interest on the part of most of the member States of the Paris Union.

67. The Director of BIRPI pointed out that a decision of principle had already been made by the Committee last year. He added that it would not be wise to refer the question to the Council of Europe; it was BIRPI that had done all the preparatory work for the agreement and, furthermore, two of the interested States, Czechoslovakia and Hungary, were not members of the Council of Europe and could not therefore be party to an agreement concluded within the

framework of that organization. And, finally, while the number of interested countries was small, there are useful Special Unions which do not have a large number of members. The Director of BIRPI concluded with the remark that the conclusion of a special agreement for the protection of type faces within the framework of the Vienna Conference would not cause considerable extra expense.

68. The Delegate of Canada said that his country had set up a body with the task of making an inventory of the various forms of intellectual property and indicating how best to protect them. Its task included type faces. The report of that body would be available at the beginning of next year.

69. Finally, the Committee expressed the unanimous opinion that the conclusion of a special agreement for the protection of type faces should be placed on the agenda of the Vienna Conference.

70. The Delegate of Austria informed the Committee that the Council of Ministers of his country had just decided that the invitation to the Vienna Conference, scheduled in the first place for the revision of the Paris Convention, would be extended to include the revision of the Madrid Agreement (Marks) and the conclusion of a new special agreement for the protection of type faces.

Program and Budget of the Paris Union for 1970

71. The Committee had before it paragraphs 6 to 18 and 58 to 60, and items P.1 to P.9, of document CCIU/VII/9, as referred to in paragraph 1 of document CEP/V/11.

72. The Director of BIRPI introduced the draft program and draft budget. He expressed regret at the fact that the draft budget forecast a slight deficit. He said that BIRPI would do its best, by economizing, to avoid the deficit actually materializing.

73. The Delegate of the United States of America, while approving the proposed program and budget, expressed concern at what he called the precarious financial situation of the Paris Union. He asked whether the reserve fund was solid enough. The Secretariat replied that the budgeted deficit was amply covered by the reserve fund.

74. The Delegate of Austria also deplored that the budget showed a deficit.

75. The Delegate of Germany (Federal Republic) questioned the need for a committee of experts on the matter of type faces since, in his opinion, any diplomatic conference on that matter would already be sufficiently well prepared. The Delegates of France, Sweden and the United Kingdom having expressed the contrary opinion, the Delegate of Germany (Federal Republic) did not insist.

76. Thus, the Committee unanimously expressed a favorable view on the draft program and budget of the Paris Union as contained in document CCIU/VII/9.

/End of Draft Report/

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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