

WORLD PATENT LAW AND PRACTICE

VOLUME 2

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To
S. C. B.

PREFACE

THIS book is intended as a work of general reference in day-to-day patent practice and it is therefore arranged in subject order so that the position in any given subject in a large number of countries can be readily ascertained.

I have commenced with a description of the various kinds of patents and have then dealt with the events, in their natural sequence, that occur in obtaining the patent, that is from the filing of the application, through the examination, up to acceptance and grant. I have then considered the post-grant events—the terms of patents, renewal fees, working, the various Conventions now in force, marking and contributory infringement. I have also included a chapter on new legislation, that is legislation that has come into force only in 1968, *e.g.*, the harmonization Acts in Scandinavia, the new Israeli law, the amended German law, and the new French law which, though enacted, does not come into force until 1969. Finally, for easy reference, the principal Conventions are set out in Appendix 3.

I have had recourse to the patent laws and rules throughout the world and also to many publications in the field of industrial property, a list of which is given in the bibliography. I have also received much valuable assistance from overseas patent agents who act for Imperial Chemical Industries Limited.

I wish to acknowledge the encouragement and help I have received from Mr. Walter Scott, the Company's Patent Agent, and I also wish to thank Mr. Bertram F. Drew, Chartered Patent Agent, for the invaluable criticism and help he gave me in preparing the book for the press.

J. W. BAXTER.

August 1, 1968

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| Brink, Gipple and Hughesdon | <i>An Outline of United States Patent Law</i> |
| Chartered Institute of Patent Agents | <i>European Patents Handbook</i>
<i>Patent Law of the United Kingdom</i> |
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| Fox | <i>Canadian Patent Law and Practice</i> |
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| Katzaroff | <i>Patent Directory</i> |
| Ladas | <i>International Protection of Industrial Property</i> |
| McCraday | <i>Patent Office Practice</i> (Third Edition) |
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LISTS OF COUNTRIES

1. *Provisions for the protection of inventions by the grant of letters patent, certificates of registration or inventors' certificates, exist in the laws of the following countries or territories:*

Aden	Chile
^{1a} African and Malagasy Union	Ciskei
Albania	^{3c} Colombia
¹ Algeria	^{1, 1a, 5} Congo
Antigua	^{3a} Costa Rica
^{1, 3b} Argentina	^{1, 3a} Cuba
^{1, 2, 5} Australia	¹ Cyprus
^{1, 4, 5} Austria	¹ Czechoslovakia
¹ Azores	^{1, 5} Denmark
^{1, 2} Bahamas	Dominica
Bahrain	^{1, 3a} Dominican Republic
² Bangladesh	^{3a, 3c} Ecuador
Barbados	¹ Egypt
^{1, 4, 5} Belgium	Falkland Islands
Belize	Fiji
^{1, 1a} Benin	^{1, 5} Finland
Bermuda	^{1, 4, 5, 7} France
^{3a, 3b, 3c} Bolivia	^{1, 1a, 5} Gabon
Bophuthatswana	⁶ Gambia
Botswana	Gaza
^{1, 3a, 5} Brazil	¹ Germany, Democratic Republic
British Solomon Islands	^{1, 4, 5, 7} Germany, Federal Republic
British Virgin Islands	^{1, 6} Ghana
Brunei	Gibraltar
^{1, 7} Bulgaria	Gilbert Islands
¹ Burundi	¹ Greece
Cambodia	Grenada
^{1, 1a, 5} Cameroon	^{3a} Guatemala
^{1, 2} Canada	Guernsey
^{1, 1a, 5} Central African Republic	Guyana
^{1, 1a, 5} Chad	^{1, 3a} Haiti
	^{3a} Honduras

- | | |
|--|---|
| 1. 4. 5. ⁷ Switzerland | 1. ⁶ Uganda |
| ¹ Syria | 1. 2. 4. 5. ⁷ United Kingdom |
| Taiwan | 1. 3a. 5. ⁷ United States |
| Tanganyika (See
Tanzania, United
Republic of) | 1. 1a Upper Volta |
| ¹ Tanzania, United
Republic of (patent
protection must be
obtained separately
in the Tanganyika
and Zanzibar
territories) | 1. 3a. 3b Uruguay |
| Thailand | 1. 5. ⁷ U.S.S.R. |
| 1. 1a. 5 Togo | Venda |
| Transkei | ^{3c} Venezuela |
| ¹ Trinidad and Tobago | ¹ Viet-Nam |
| ¹ Tunisia | Western Sahara |
| ¹ Turkey | Western Samoa |
| Tuvalu | ¹ Yugoslavia |
| | ¹ Zaire |
| | ^{1. 6} Zambia |
| | Zanzibar (See
Tanzania, United
Republic of) |
| | 1. ⁶ Zimbabwe |
- ¹ Member of the International Convention (Paris Union). The situation of Nauru with respect to the Paris Union is not clear.
- ^{1a} All members of the African and Malagasy Union are members of the International Convention (Paris Union). This Union, as revised at Bangui in 1977, will enter force on February 8, 1982 in Cameroon, Central African Republic, Gabon, Ivory Coast, Mauritania, Niger, Senegal and Togo.
- ² Party to the Inter-Imperial Arrangements.
- ^{3a} Member of the Pan-American (Buenos Aires) Convention.
- ^{3b} Member of the Pan-American (Montevideo) Convention.
- ^{3c} Member of the Pan-American (Caracas) Convention.
- ⁴ Member of The European Patent Convention.
- ⁵ Member of the Patent Cooperation Treaty.
- ⁶ Member of The Industrial Property Organization for English-Speaking Africa.
- ⁷ Member of Budapest Treaty (Microorganism Deposit).

2. *Countries where extra-territorial protection accrues from granted patents:*

<i>Country</i>	<i>Extra-territorial protection in</i>
Australia	Ashmore and Cartier Islands Norfolk Island
Denmark	Greenland Faroe Islands
France	Corsica

	Ciskei
	Lesotho
	Swaziland
	¹⁰ Transkei
	¹⁰ Venda
Spain	Alhucemas
	Balearic Islands
	Canary Islands
	Ceuta
	Chaffarinas
	Equatorial Guinea
	Ifni
	Melilla
	Penon de Velez
	Western Sahara
Switzerland	Liechtenstein
United Kingdom	Botswana
of Great Britain	Isle of Man
and Northern	Lesotho
Ireland	Swaziland
United States	Eastern Samoa
	Guam
	Panama Canal Zone
	Puerto Rico
	Virgin Islands (American)

In addition to the foregoing, it should be said that the African and Malagasy Union comprises the following sovereign countries:

- Benin
- ¹⁵ Cameroon
- ¹⁵ Central African Republic
- Chad
- ¹⁵ Congo
- ¹⁵ Gabon
- ¹⁵ Ivory Coast
- ¹⁵ Mauritania
- ¹⁵ Niger

bership in that Union, effective December 31, 1976 and has thus far failed to establish a Registry for receiving patent applications. Consequently, it appears that patent rights acquired under the Libreville Agreement prior to December 31, 1976 may continue to force in the Malagasy Republic while the status of potential rights subsequent to that date will depend on the adoption of new legislation.

On April 12, 1975, there was signed an Agreement of Co-operation on Industrial Property between the Portuguese Government and the Provisional Government of Mozambique. It was understood that, in accordance with the Agreement, the juridical rules of Patents and applications filed in Portugal up to June 25, 1975, would continue to be guaranteed until December 31, 1975, by the Portuguese Patent Office. New applications for patent protection in Mozambique lodged after June 25, 1975, were to be filed with the competent services in Mozambique. There is, however, no present indication of the inauguration of such services.

- ² In the People's Republic of China there is to be found a form of protection which can be assimilated to the inventor's certificate but there is no provision whatsoever for protection by patent grant, the earlier provisions of 1950 having been repealed.
- ³ The Republic of Equatorial Guinea, comprising the former Spanish territories of Fernando Poo and Rio Muni (Spanish Guinea) became a sovereign country on October 12, 1968. Spanish patent rights acquired up to December 31, 1969 are recognized in Equatorial Guinea. It is believed that both Spain and Equatorial Guinea will promulgate legislation concerning the patent position from January 1, 1970.
- ⁴ The former French colonies of Djibouti (former French Somaliland), Guinea and Mali, have not joined the African and Malagasy Union nor have they promulgated their own patent legislation. In principle, the former French patent law is still applicable as the national law in each state, and it is believed possible to file applications in each state; but in the absence of any implementing regulations it is not possible at this time to determine the value of such applications nor of any patents granted thereon.
- ⁵ Since 1958 there have been in existence in Indonesia provisions for the filing of patent applications, including the right to claim priority under the International Convention. However, unless and until a patent law is promulgated, there can be no official action, apart from recordal, on any such application. Indonesia comprises Java, Kalimantan, Sulawesi, Sumatra and West Irian. Timor, decolonized by Portugal, is now occupied by Indonesia. In these circumstances, Indonesian recordal procedure also might be applicable to Timor.
- ⁶ Hitherto Australian patent law extended to the territories of Papua and the part of New Guinea under mandate. With the grant of independence on September 16, 1975, application of Australian law ceased so that at this time there is no patent law in existence in the state of Papua-New Guinea, nor is one proposed.
- ⁷ The United Arab Emirates comprise Abu-Dhabi, Dubai, Fujairah, Ras-Al-Khaimah, Sharjah and Umn-Al-Qaiwan, which were Trucial States in the Persian Gulf.
- ⁸ But it is possible to register a British Patent in the former British colony of Aden which now forms part of the Yemen Arab Republic.
- ⁹ Member of the Patent Cooperation Treaty.
- ¹⁰ South African pending applications and granted patents as of the respective dates of independence of Bophuthatswana, Transkei and Venda will continue to be effective in those countries if local renewal fees are paid when due. Subsequent to the individual independence dates, however, local procedures must be pursued in these countries to acquire patent protection.
- ¹¹ The Republic of Belau, the Government of the Marshall Islands and the Federated States of Micronesia all are under United States trusteeship. It appears that United States patent law has not been extended to these United Nations trust territories.
- ¹² The Netherlands patent law applies to Surinam prior to the latter nation's independence. Subsequent to the independence of Surinam (November 25, 1975), the then existing patent law of the Netherlands has continued in effect as the patent law of Surinam.
- ¹³ Western Sahara was ceded, one part to Morocco and one part to Mauritania during 1976.

The exact status of Western Sahara at present is a subject of international dispute. Spanish patents formerly extended to both territories. The present position is not clear.

- ¹⁴ French patents have effect in the Comoro Islands. In mid-July, 1975, these Islands unilaterally declared independence and until the political position is clarified, the effect of this unilateral declaration of independence on patent rights is not certain.

- ¹⁵ Member of the Bangui Amendment to the Libreville Agreement

- ¹⁵ Senegal
- ¹⁵ Togo
- Upper Volta

3. *Sovereign countries having no patent laws:*

- Afghanistan
- Andorra
- ¹ Angola
- ¹¹ Belau, Republic of
- Bhutan
- ¹ Cape Verde Archipelago
- ² China (People's Republic)
- ⁴ Djibouti
- ³ Equatorial Guinea
- Ethiopia
- ¹¹ Marshall Islands, Government of
- ¹¹ Micronesia, Federated States of
- ⁴ Guinea
- ¹ Guinea-Bissau
- ⁵ Indonesia
- Malagas
- Malagasy Republic (Madagascar)
- Maldiv Islands
- ⁴ Mali
- ¹ Mozambique
- Muscat and Oman
- ⁶ Papua-New Guinea
- Qatar
- Saudi Arabia
- ¹ Sao Tome e Principe
- Sikkim
- Tonga
- ⁷ United Arab Emirates
- Viet-Nam (Democratic People's Republic)
- ¹³ Western Sahara
- ⁸ Yemen (Arab Republic)
- Yemen (People's Democratic Republic)

¹ Although Angola, Guinea-Bissau, Cape Verde Archipelago and Sao Tome e Principe are now sovereign countries, none has yet promulgated any patent law nor made any provisions for rights acquired prior to independence. The Malagasy Republic, moreover, is a member of the Paris Convention under the Stockholm Act. Having entered the African and Malagasy Union (Libreville Agreement), the Malagasy Republic cancelled its mem-

	¹⁴ Comoro Islands
	French Guiana
	French Polynesia
	Guadeloupe and dependencies
	Guyane
	Mali
	Martinique
	Mayotte
	New Caledonia and dependencies
	Reunion
	St. Pierre and Miquelon
	Wallis and Futuna Islands
	French Southern and Antarctic Territories
India	Burma
Italy	San Marino
	Vatican City
Jamaica	Turks and Cocos Islands
Netherlands	Curacao
	Dutch Antilles
	¹² Surinam
	West Irian (but only in respect of Dutch patents granted and applications filed before May 1, 1963)
New Zealand	Cook Islands
	Tokelau Islands
Portugal	Azores
	Macao
	Madeira
	Mozambique (but only in respect of Portuguese patents granted and applications filed before June 26, 1975)
Singapore	Christmas Island
South Africa	¹⁰ Bophuthatswana
	Botswana

- | | | | |
|-------------------|--------------------------------|---------------------------------|---------------------------------|
| 1 | Holy See | 1. 4. 5 | Netherlands |
| 1. 5 | Hong Kong | 1 | Netherland Antilles |
| 1. 5. 7 | Hungary | | New Hebrides |
| 1 | Iceland | 1. 2 | New Zealand |
| 2 | India | 3 ^a | Nicaragua |
| 1 | Indonesia | 1. 1 ^a | Niger |
| 1 | Iran | 1 | Nigeria |
| 1 | Iraq | 1. 5 | Norway |
| 1. 2 | Ireland | 2 | Pakistan |
| 1 | Israel | | Panama |
| 1. 4 | Italy | 3 ^a , 3 ^b | Paraguay |
| 1. 1 ^a | Ivory Coast | 3 ^b , 3 ^c | Peru |
| | Jamaica | 1. 7 | Philippines |
| 1. 5. 7 | Japan | 1 | Poland |
| | Jersey | 1 | Portugal |
| 1 | Jordan | 1. 5 | Roumania |
| 1. 6 | Kenya | | Rwanda |
| 1. 5 | Korea, Democra ^t ic | | Sabah |
| | Peoples Republic of | | St. Christopher, Nevis |
| 1 | Korea, Republic of | | and Anguilla |
| | Kuwait | | St. Helena |
| | Laos | | St. Lucia |
| 1 | Lebanon | | St. Vincent |
| | Lesotho | | Salvador |
| | Liberia | 1 | San Marino |
| 1 | Libya | | Sarawak |
| 1. 4. 5. 7 | Liechtenstein | 1. 1 ^a , 5 | Senegal |
| 1. 4. 5 | Luxembourg | | Seychelles |
| 1 | Madeira | 6 | Sierra Leone |
| 1. 5. 6 | Malawi | | Singapore |
| | Malaya | | Somali, Democra ^t ic |
| | Mali | | Republic |
| 1 | Malta and Gozo | 1. 2 | South Africa, Republic |
| 1. 1 ^a | Mauritania | | of |
| 1 | Mauritius | | South West Africa |
| 1 | Mexico | 1. 7 | Spain |
| 1. 5 | Monaco | 1. 5 | Sri Lanka |
| | Mongolia | 6 | Sudan |
| | Montserrat | 1 | Surinam |
| 1 | Morocco | | Swaziland |
| 1 | Nauru | 1. 4. 5. 7 | Sweden |
| | Nepal | | |

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