PATENT COOPERATION TREATY

HEARING

BEFORE THE

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION OF JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 24

TO CARRY INTO EFFECT CERTAIN PROVISIONS OF THE PATENT COOPERATION TREATY, AND FOR OTHER PURPOSES

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PATENT COOPERATION TREATY

THURSDAY, JULY 31, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON
COURTS, CIVIL LIBERTIES, AND
THE ADMINISTRATION OF JUSTICE,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2226, Rayburn House Office Building, Hon. Robert W. Kastenmeier [chairman of the subcommittee] presiding.

Present: Representatives Kastenmeier, Danielson, Drinan, and Pattison.

Also present: Herbert Fuchs, counsel; and Thomas E. Mooney, associate counsel.

Mr. KASTENMEIER. The hearing will come to order.

The subcommittee has before it this morning two bills. We will begin by taking testimony from representatives of the State, Justice, and Commerce Departments on S. 24, a bill to carry into effect certain provisions of the Patent Cooperation Treaty.

The basic objective of that treaty is to simplify the procedure for applying for patents on the same invention in a number of countries by providing, among other things, centralized filing procedures and a standardized application format.

As a culmination of efforts begun by the United States in 1966, the Senate gave its advice and consent to the treaty on October 30, 1973. The treaty will come into force 3 months after eight countries have adhered to it, four of which must have certain defined major patent activities.

The subcommittee is advised that the executive branch will withhold the filing of the instrument of ratification until the subject of implementary legislation is enacted.

S. 24 makes changes in domestic patent law which would enable U.S. applicants for patents and foreign applicants filing in the United States to take advantage of the benefits of the treaty when it comes into effect with respect to the United States.

We understand that the American Bar Association favors enactment of S. 24.

We look to our witnesses this morning to inform us concerning one, the particular provisions of the treaty, two, the declarations subject to which advice and consent were given and three, the major impact of S. 24 on domestic patent law.

To this end the Chair now welcomes the Deputy Assistant Secretary of State for Commercial and Special Bilateral Affairs, the Honorable Joel W. Biller, accompanied by Harvey J. Winter, Director of the Office of Business Practices, also at the State Department.

Second, the Honorable Rex. E. Lee, Assistant Attorney General, Civil Division, Department of Justice, and Dr. Betsy Ancker-Johnson, Assistant Secretary of Commerce for Science and Technology, and the new Commissioner of Patents and Trademarks, Mr. C. Marshall Dann.

If you will, I think all witnesses may come forward and you may proceed, I assume first with Secretary Biller. But actually all of the six people who are going to testify this morning may come forward. Perhaps it is customary for the State Department to speak first.

We will call on you, Mr. Biller.

[The bill referred to follows:]

94TH CONGRESS
1ST SESSION

S. 24

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 1975

Referred to the Committee on the Judiciary

AN ACT

To carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35, United States Code, entitled "Patents", be amended by adding at the end thereof a new part IV to read as follows:

"PART IV.—PATENT COOPERATION TREATY

"Chapter 35.—DEFINITIONS

"Sec.
"351. Definitions.

"§ 351. Definitions

"When used in this part unless the context otherwise indicates—

"(a) The term 'treaty' means the Patent Cooperation Treaty done at Washington, on June 19, 1970, excluding chapter II thereof.

"(b) The term 'Regulations', when capitalized, means the Regulations under the treaty excluding part C thereof, done at Washington on the same date as the treaty. The term 'regulations', when not capitalized, means the regulations established by the Commissioner under this title.

"(c) The term 'international application' means an application filed under the treaty.

"(d) The term 'international application originating in the United States' means an international application filed in the Patent Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

"(e) The term 'international application designating the United States' means an international application specifying the United States as a country in which a patent is sought, regardless where such international application is filed.

"(f) The term 'Receiving Office' means a national patent office or intergovernmental organization which receives and processes international applications as prescribed by the treaty and the Regulations.

"(g) The term 'International Searching Authority'

means a national patent office or intergovernmental organization as appointed under the treaty which processes international applications as prescribed by the treaty and the Regulations.

"(h) The term 'International Bureau' means the international intergovernmental organization which is recognized as the coordinating body under the treaty and the Regulations.

"(i) Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"Chapter 36.—INTERNATIONAL STAGE

"Sec.
"361. Receiving Office.
"362. International Searching Authority.
"363. International application designating the United States: Effect.
"364. International stage: Procedure.
"365. Right of priority; benefit of the filing date of a prior application.
"366. Withdrawn international application.
"367. Actions of other authorities: Review.
"368. Secrecy of certain inventions; filing international applications in foreign countries.

"§ 361. Receiving Office

"(a) The Patent Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Patent Office may also act as a Receiving Office for international applications filed by residents or nationals of such country who are entitled to file international applications.

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"(b) The Patent Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

"(c) International applications filed in the Patent Office shall be in the English language.

"(d) The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376 (a) of this part, shall be paid on filing of an international application. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.

"§ 362. International Searching Authority

"The Patent Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.

"§ 363. International application designating the United States: Effect

"An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent Office except as otherwise provided in section 102(e) of this title.

"§ 364. **International stage: Procedure**

"(a) International applications shall be processed by the Patent Office when acting as a Receiving Office or International Searching Authority, or both, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Commissioner of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are compiled with.

"§ 365. **Right of priority; benefit of the filing date of a prior application**

"(a) In accordance with the conditions and requirements of section 119 of this title, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

"(b) In accordance with the conditions and requirement of the first paragraph of section 119 of this title and the treaty and the Regulations, an international application

designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

"(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Commissioner may require the filing in the Patent Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 366. Withdrawn international application

"Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect and

shall be considered as not having been made. However, such international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

"§ 367. Actions of other authorities: Review

"(a) Where a Receiving Office other than the Patent Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Commissioner, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

"(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12 (3) of the treaty.

"§ 368. Secrecy of certain inventions; filing international applications in foreign countries

"(a) International applications filed in the Patent Office shall be subject to the provisions of chapter 17 of this title.

"(b) In accordance with article 27 (8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

"(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent Office when acting as a Receiving Office or International Searching Authority, or both, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

"Chapter 37.—NATIONAL STAGE

"Sec.
"371. National stage: Commencement.
"372. National stage: Requirements and procedure.
"373. Improper applicant.
"374. Publication of international application: Effect.
"375. Patent issued on international application: Effect.
"376. Fees.

"§ 371. National stage: Commencement

"(a) Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports is required in the case of all international applications designating the United States, except those filed in the Patent Office.

"(b) Subject to subsection (f) of this section, the na-

tional stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section.

"(c) The appplicant shall file in the Patent Office—

"(1) the national fee prescribed under section 376 (a) (4) of this part;

"(2) a copy of the international application, unless not required under subsection (a) of this section or already received from the International Bureau, and a verified translation into the English language of the international application, if it was filed in another language;

"(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

"(4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants.

"(d) Failure to comply with any of the requirements of subsection (c) of this section, within the time limit provided by article 22 (1) or (2) of the treaty shall result in abandonment of the international application.

"(e) After an international application has entered the national stage, no patent may be granted or refused thereon before the expiration of the applicable time limit under article 28 of the treaty, except with the express consent of the applicant. The applicant may present amendments to the specification, claims, and drawings of the application after the national stage has commenced.

"(f) At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

"§ 372. National stage: Requirements and procedure

"(a) All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent Office.

"(b) In case of international applications designating but not originating in, the United States—

"(1) the Commissioner may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

"(2) the Commissioner may cause the question of unity of invention to be reexamined under section 121 of this title, within the scope of the requirements of the treaty and the Regulations.

"(c) Any claim not searched in the international stage in view of a holding, found to be justified by the Commissioner upon review, that the international application did not comply with the requirement for unity of invention under the treaty and the Regulations, shall be considered canceled, unless payment of a special fee is made by the applicant. Such special fee shall be paid with respect to each claim not searched in the international stage and shall be submitted not later than one month after a notice was sent to the applicant informing him that the said holding was deemed to be justified. The payment of the special fee shall not prevent the Commissioner from requiring that the international application be restricted to one of the inventions claimed therein under section 121 of this title, and within the scope of the requirements of the treaty and the Regulations.

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"§ 373. Improper applicant

"An international application designating the United States, shall not be accepted by the Patent Office for the national stage if it was filed by anyone not qualified under chapter 11 of this title to be an applicant for the purpose of filing a national application in the United States. Such international applications shall not serve as the basis for the benefit of an earlier filing date under section 120 of this title in a subsequently filed application, but may serve as the basis for a claim of the right of priority under section 119 of this title, if the United States was not the sole country designated in such international application.

"§ 374. Publication of international application: Effect

"The publication under the treaty of an international application shall confer no rights and shall have no effect under this title other than that of a printed publication.

"§ 375. Patent issued on international application: Effect

"(a) A patent may be issued by the Commissioner based on an international application designating the United States, in accordance with the provisions of this title. Subject to section 102(e) of this title, such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11 of this title.

"(b) Where due to an incorrect translation the scope of a patent granted on an international application desig-

nating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

"§ 376. Fees

"(a) The required payment of the international fee, which amount is specified in the Regulations, shall be paid in United States currency. The Patent Office may also charge the following fees:

"(1) A transmittal fee (see section 361(d));

"(2) A search fee (see section 361(d));

"(3) A supplemental search fee (to be paid when required);

"(4) A national fee (see section 371(c));

"(5) A special fee (to be paid when required; see section 372(c));

"(6) Such other fees as established by the Commissioner.

"(b) The amounts of fees specified in subsection (a) of this section, except the international fee, shall be prescribed by the Commissioner. He may refund any sum paid by mistake or in excess of the fees so specified, or if required

under the treaty and the Regulations. The Commissioner may also refund any part of the search fee, where he determines such refund to be warranted.".

SEC. 2. Section 6 of title 35, United States Code, is amended by adding a paragraph (d) to read as follows:

"§ 6. Duties of Commissioner

* * * * * * *

"(d) The Commissioner, under the direction of the Secretary of Commerce, may, with the concurrence of the Secretary of State, allocate funds appropriated to the Patent Office, to the Department of State for the purpose of payment of the share on the part of the United States to the working capital fund established under the Patent Cooperation Treaty. Contributions to cover the share on the part of the United States of any operating deficits of the International Bureau under the Patent Cooperation Treaty shall be included in the annual budget of the Patent Office and may be transferred by the Commissioner, under the direction of the Secretary of Commerce, to the Department of State for the purpose of making payments thereof to the International Bureau.".

SEC. 3. Item 1 of section 41 (a) of title 35, United States Code, is amended to read as follows:

"§ 41. Patent fees

"(a) The Commissioner shall charge the following fees:

"1. On filing each application for an original patent, ex-

cept in design cases, $65; in addition on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2, for each claim (whether independent or dependent) which is in excess of ten. For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.".

SEC. 4. Section 42 of title 35, United States Code, is amended to read as follows:

"§ 42. Payment of patent fees; return of excess amounts

"All patent fees shall be paid to the Commissioner who, except as provided in sections 361 (b) and 376 (b) of this title, shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs, and the Commissioner may refund any sum paid by mistake or in excess of the fee required by law."

SEC. 5. Paragraph (e) of section 102 of title 35, United States Code, is amended to read as follows:

"§ 102. Conditions for patentability; novelty and loss of right to patent

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"(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or".

SEC. 6. The first sentence of section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"In proceedings in the Patent Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in sections 119 and 365 of this title.".

SEC. 7. The second sentence of the second paragraph of section 112 of title 35, United States Code, is amended to read as follows:

"§ 112. Specification

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"A claim may be written in independent or, if the nature of the case admits, in dependent or multiple dependent form.

"Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previ-

ously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

"A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.".

SEC. 8. Section 113 of title 35, United States Code, is amended to read as follows:

"§ 113. Drawings

"The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof

for the purpose of interpretation of the scope of any claim.".

SEC. 9. Section 120 of title 35, United States Code, is amended to read as follows:

"§ 120. Benefit of earlier filing date in the United States

"An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, by the same inventor shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.".

SEC. 10. The first paragraph of section 282 of title 35, United States Code, is amended to read as follows:

"§ 282. Presumption of validity; defenses

"A patent shall be presumed valid. Each claim of a patent (whether in independent, dependent, or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any clam thereof shall rest on the party asserting such invalidity.".

SEC. 11. (a) Section 1 of this Act shall come into force on the same day as the entry into force of the Patent Cooperation Treaty with respect to the United States. It shall apply to international and national applications filed on and after this effective date, even though entitled to the benefit of an earlier filing date, and to patents issued on such applications.

(b) Sections 2 to 10 of this Act shall take effect on the same day as section 1 of this Act and shall apply to all applications for patent actually filed in the United States on and after this effective date, as well as to international applications where applicable.

(c) Applications for patent on file in the Patent Office on the effective date of this Act, and patents issued on such applications, shall be governed by the provisions of title 35, United States Code, in effect immediately prior to the effective date of this Act.

Passed the Senate June 21 (legislative day, June 6), 1975.

Attest: FRANCIS R. VALEO,
Secretary.

TESTIMONY OF HON. JOEL W. BILLER, DEPUTY ASSISTANT SECRETARY OF STATE FOR COMMERCIAL AND SPECIAL BILATERAL AFFAIRS, ACCOMPANIED BY HARVEY J. WINTER, DIRECTOR OF THE OFFICE OF BUSINESS PRACTICES, DEPARTMENT OF STATE

Mr. BILLER. Thank you, Mr. Chairman.

The State Department, Mr. Chairman, appreciates very much having the opportunity to present its views to this committee on S. 24. The Department strongly supports this legislation. As you have described, S. 24 would amend U.S. patent law by adding to the current system of obtaining a patent in the United States, the new international procedures provided for in the Patent Cooperation Treaty. The Department of Commerce, Mr. Chairman, and the Patent and Trademark Office will focus on the technical details of the implementing legislation of this treaty. I would like to deal very briefly with the treaty itself and its importance to the foreign policy interests of the United States and the international interests of our citizens in the industrial property field.

Before doing so, however, I would like to emphasize that the international advantages which would result from the legislation would not affect domestic operation of present patent law. No change would be made by S. 24 in the present law insofar as the substantive requirements for obtaining patents are concerned. And the procedure under the treaty would be entirely optional and would not supplant current domestic filing procedures. Finally, these procedures would not reduce "national treatment" and the right of priority under the Paris Industrial Property Convention which are available to all U.S. nationals.

The treaty is important because it would be the first worldwide agreement for patent cooperation. Because of the demonstrated need for international cooperation to deal with urgent problems concerning patents during the two decades after World War II, the United States took the initiative in 1966 among the member states of the Paris Industrial Property Convention to deal with these problems through a multilateral agreement. This effort culminated in the Patent Cooperation Treaty, which was negotiated by representatives of 77 countries in the Department of State in Washington in June 1970. At the conclusion of the Diplomatic Conference, the United States and 19 other countries signed the treaty, and before the treaty was closed for signature on December 31, 1970, a total of 35 countries had become signatories.

The Patent Cooperation Treaty will enter into force 3 months after eight States have ratified or acceded to it. Four of these eight countries must have a certain level of major patent activity. To date, eight countries—all developing countries—have become parties to the treaty.

There are a number of significant advantages offered by the treaty which are of a procedural nature. It will simplify the filing of patent applications on the same invention in different countries by providing, among other things, centralized filing procedures and a standardized application format. Another major advantage provided by the treaty is the longer period of time available to an applicant before he must

commit himself to a foreign patenting program by undertaking the expenses of translation, national filing fees, and prosecution in each country. In the present situation, a 12-month priority period is provided by the Paris Industrial Property Convention while under the Patent Cooperation Treaty an applicant will normally have 20 months or more. This extra time will enable the applicant to evaluate better the strength of the patent he is seeking and its commercial potential. An additional advantage of the treaty is to facilitate the examination process in those countries like the United States which examine patent applications.

These advantages will have the effect of expanding existing foreign patent filing programs of U.S. industry, encouraging smaller firms and individual inventors to seek foreign patent protection, and reducing costs to applicants filing in several countries. Increased patents abroad for U.S. nationals can be of significant benefit to our balance of payments in terms of increased exports and royalties from licensing agreements.

The information services established by the treaty will facilitate the acquisition of technical information by developing countries. This information will be derived from published documents, such as patents and published patent applications. Among the types of information which may be of interest to developing countries are identification of documents relating to a certain technical field or problem, and identification of documents issued in different countries but relating to the same invention.

As to the technical assistance features of the treaty, there will be a committee which will organize and supervise technical assistance to improve the patent systems of developing countries.

During the past several years developing countries have expressed a strong interest in technical information of the type mentioned above as a contribution to their economic development. They have also indicated the need for assistance to improve their patent systems. U.S. ratification of the treaty would signify our continuing interest in helping developing countries in their development process.

One of the major reasons for the negotiation of the Patent Cooperation Treaty was to reduce duplication of effort not only for applicants but also for national patent offices with respect to the filing and processing of patent applications for the same invention in different countries. In addition to the interest of Western European nations in the worldwide Patent Cooperation Treaty, these countries have also been moving toward the alleviation of this problem on a regional basis. In October 1973, 21 European countries concluded the negotiation of the first of two European Patent Conventions. This convention would establish a patent granting procedure to be carried out by a European Patent Office, beginning with the filing of a single European patent application and ending with the grant of a European patent in the form of a bundle of national patents subject to national law. In November of this year the second European Patent Convention will be negotiated. It will combine the granted European patent for the nine Common Market countries into a unitary patent having effect in the entire Common Market. A crucial question to the United States is the compatability of the European patent system and the Patent Cooperation Treaty. The first European Patent Convention

assured the compatability of the two systems and the availability of the European patent to American nationals, and has set the pattern for the second European Patent Convention.

The Europeans are now moving ahead with their preparations for the ratification of the European Patent Conventions. It would, of course, be highly desirable if these countries would at the same time put forward the ratification of the Patent Cooperation Treaty. It is very likely that the extent to which the Europeans will also go ahead with concurrent ratification of the PCT will largely depend upon timely action by the United States.

If the Europeans do not combine PCT ratification with ratification of the European Patent Conventions, there may be considerable delay in the entry into force of the PCT. Entry into force of the European Conventions without the concurrent entry into force of the PCT would be to the disadvantage of American nationals. For example, patent applications filed by our applicants in Europe would undoubtedly be more cumbersome and costly if direct filings for the European patent must be made without having the benefits of the PCT procedure. If the PCT were in force, U.S. applicants could file PCT applications here designating the member States of the European convention and having immediate effect as applications in those countries. Thus, U.S. applicants would have the practical advantage of dealing with their own national office, the U.S. Patent Office, which would be a receiving office under the PCT. They would have the benefit of an international search report before deciding to incur the costs of proceeding with their applications for a European patent.

There is a widespread support for the Patent Cooperation Treaty by American industry and patent bar. The treaty has been endorsed by the American Bar Association, the U.S. Group of the International Association for the Protection of Industrial Property, the American Patent Law Association, the Association for the Advancement of Invention and Innovation, the Chicago and Milwaukee Patent Law Associations, and others.

As you know, Mr. Chairman, the Senate gave its advice and consent to ratification of the Patent Cooperation Treaty on Ocober 30, 1973. At that time the Department of State indicated that U.S. ratification would be accompanied by three declarations as permitted by the article of the treaty on reservations, article 64. These declarations, which are set forth in the Senate resolution on advice and consent, are the following: (1) the United States shall not be bound by chapter II of the treaty regarding "international preliminary examination"; (2) as far as the United States is concerned, international publication of international applications is not required; and (3) the United States may differentiate between an international filing date abroad and an actual filing date in the United States for prior art purposes.

For all of the above reasons, Mr. Chairman, the Department of State strongly supports the enactment of S. 24, the implementing legislation for the Patent Cooperation Treaty. With the United States likely to be the first industrialized country to ratify the treaty, we believe that this action could serve as the stimulus for the other major industrialized countries to accede to the agreement and bring it into force. The entry into force of the Patent Cooperation Treaty will be a most significant development in the area of international patent

cooperation and will, in our belief, serve to strengthen the patent system in developing as well as developed countries.

Thank you, Mr. Chairman.

Mr. KASTENMEIER. Thank you, Mr. Biller. I think we will withhold questions pending a complete opportunity for the panel to testify, so the Chair will now call on Mr. Lee.

TESTIMONY OF REX E. LEE, ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, ACCOMPANIED BY JOSEPH A. HILL, CHIEF OF PATENT SECTION

Mr. LEE. Thank you, Mr. Chairman.

Mr. Chairman, Congressmen, I am pleased to respond to the committee's invitation to the Department of Justice for our views on S. 24.

I have with me Joseph A. Hill, chief of our patent section.

We support the general purpose of the Patent Cooperation Treaty and the provisions of S. 24 implementing that treaty.

The Patent Cooperation Treaty is an international effort to simplify and expedite the filing of patent applications on the same invention in different countries by providing, among other things:

First, a centralized filing procedure and a standardized application format, and

Second, a period of up to 20 months from the filing date of the international application before an applicant must commti himself to undertake the expenses of translation, national filing fees, and prosecution of applications in each country. The Paris Convention for the Protection of Industrial Property provides a 12-month priority period.

The United States signed the Patent Cooperation Treaty on June 19, 1970. A total of 35 countries are now signatories. The treaty will come into force 3 months after eight countries have adhered to it, four of which must have certain defined major patent activity. It was submitted to the Senate in September 1972 for its advice and consent to ratification. The Senate gave its advice and consent on October 30, 1973.

We wish to emphasize that the use of the procedures established by the treaty is optional for applicants. Applicants may continue to file individual patent applications in each country in which they seek protection subject to the format and basic principles on national law. This is in accord with the fact that the treaty in no way diminishes the right of priority and national treatment which applicants are accorded under the Paris Convention for the Protection of Industrial Property. In addition, this treaty is basically procedural in nature. It does not prescribe the substantive conditions of patentability, article 27(5). These are left to the discretion of each signatory state. The United States, for example, is left able to adhere to the long-standing principles found in our patent law.

The treaty, however, is not self-executing. Before it can be implemented in the United States, and before the instruments of ratification can be deposited, implementing legislation must be adopted.

The treaty, in article 64, provides that a state may declare that it shall not be bound by any of several specified provisions of the treaty. The United States in submitting the treaty to the Senate specified three declarations, or reservations; that is, it specified, in effect, three

aspects of the treaty to which it would not be bound. Consequently, S. 24 deals with implementation of the treaty provisions for which the United States has no reservations, and those treaty provisions for which there is a reservation.

S. 24 has a total of 11 sections. The first section, pages 1–14 of S. 24, specifies procedures, and grants the Patent and Trademark Office authority, to implement certain provisions of the treaty. It would add a new part IV to title 35 U.S.C. Sections 2–10 of the act would, (1) empower the Patent and Trademark Office to operate under the treaty with respect to funds, fees, and changes in application format; and (2) carry out the concept of multiple dependent claims, the changes in requirements for drawings, priority dates for applicants seeking patents and the declarations which the United States will make with respect to the treaty. Section 11, the last section, provides for the effective date of S. 24.

We would like to make a brief comment on section 8 of S. 24. To conform to the format requirements of the treaty, article 7, rule 7, section 8 would reduce the present requirements of 35 U.S.C. section 113 concerning the submission of drawings in those cases where it is possible to make drawings. The proposed change would require drawings only where necessary to understand the subject matter sought to be patented—although the Commissioner has the discretion to require drawings in other cases. We agree, as indicated in the Senate report on S. 24, Report No. 94–215, page 22, that the Commissioner should generally require that the traditionally required drawings be submitted for three purposes—(1) to assist Patent Office examiners and members of the public in evaluating the patents as evidence of prior technology; (2) to assist the Patent Office examiner in evaluating the applications; and (3) as assistance to the public in putting the inventions to practical use.

Thank you very much, Mr. Chairman.

Mr. KASTENMEIER. Thank you, Mr. Lee.

I will now call on Dr. Ancker-Johnson.

TESTIMONY OF DR. BETSY ANCKER-JOHNSON, ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY C. MARSHALL DANN, COMMISSIONER OF PATENTS AND TRADEMARKS, U.S. DEPARTMENT OF COMMERCE

Dr. ANCKER-JOHNSON. Mr. Chairman and members of the subcommittee, thank you for your invitation to appear today. With me is Commissioner C. Marshall Dann of the U.S. Patent and Trademark Office.

The Department of Commerce greatly appreciates the opportunity to present its views in support of S. 24, a bill to implement the Patent Cooperation Treaty. The U.S. Senate has already unanimously given its advice and consent to ratification on October 30, 1974. It was understood, however, that the United States would not ratify the Treaty before the enactment of suitable implementing legislation such as S. 24.

The treaty establishes worldwide cooperation in the field of industrial property protection and is, therefore, of direct and immedi-

ate importance to the United States. When it comes into force, it will provide the means to reduce needless duplication of effort in the U.S. Patent and Trademark Office. Of equal, if not greater importance, however, is the fact that the treaty facilitates the entry of U.S. industry into foreign markets. The obtaining of patent protection abroad is simplified by the treaty through advantages such as centralized filing procedures and a standardized application format.

Technological innovation has progressed at an ever-increasing pace in recent years, created more jobs, established new industries and reinvigorated old ones. World trade increased accordingly and in the years following World War II, American industry became the world's leading exporter of technology embodied in products, as well as in the form of patent rights, licenses, and other forms of services. Thus the patent system, in protecting industrial property both here and abroad, has always been an invaluable ingredient in international commerce.

There is one consistently favorable factor in our balance of trade, which was negative in 1971 for the first time in our history as a major industrialized country. It is the export of technology-intensive manufactured products. This large segment of industry, responsible for the bulk of our research and development efforts, employs proportionately many times more scientists, engineers, and technicians than do industries manufacturing nontechnology-intensive products. The employment of craftsmen in relation to laborers is also much greater than in the other industries. Because of the constant innovative effort to develop new technology, we should expect a continued high level of export, indeed an increase in export, of products embodying intensive technology. This in turn should call for higher employment in this segment of industry, that is to say, jobs which are so sorely needed in our present time of difficulty. The maintenance of our foreign markets, therefore, makes international patent protection more indispensable than ever.

Our technology must be protected from our trading competitors both here and abroad. The most effective method is to obtain patents in countries which are either markets for our technology, or which possess the technological potential to copy it in order to compete in our markets. Since individual patents for the same invention have to be obtained in each country of interest, this represents no easy task. It is, nevertheless, necessary because patents do not have extraterritorial effect.

Foreign licensing of patents and associated technical know-how provides another one of the few consistent means we have in the United States for earning income from abroad. Our international trade in licensing patented technology and its related know-how has represented, in itself, a favorable balance of payments of about $1.5 billion a year, over the past several years. And to the extent that license arrangements replace direct investment in foreign countries, they contribute considerably in moderating overseas lending and investment. Consequently, international patent cooperation is extremely important to the United States.

A quick look at the number of patent applications filed in foreign countries by U.S. nationals, about 120,000 in 1973, demonstrates the significance of foreign patent protection to our businessmen and inventors. A closer look, however, indicates that the number of

separate inventions which generate this mass of applications lies somewhere around 21,000. In other words, many applications are filed for the same invention in different countries. This fact points to a real problem in our present patent system, that is, enormous duplication of effort by applicants and patent offices alike. Thus, the need for a patent cooperation treaty has been compounded year after year.

Wide variances in the patent laws and regulations of different countries have, in the past, provided a formidable obstacle to any international effort to standardize patent applications and filing procedures. However, at the behest of the United States, intense international negotiations on a solution to this problem began among interested countries in 1966. These efforts culminated in the signing of the Patent Cooperation Treaty at a diplomatic conference held in Washington in 1970. Thirty-five countries, including the United States, are signatories to the treaty.

It will come into force, however, only after ratification or accession by eight countries, four of which must have major patent activity. The criteria for such patent activity are closely defined in the treaty. For example, a country qualifies if the number of patent applications filed there exceeds a yearly rate of 40,000.

Of course, the Patent Cooperation Treaty will not only benefit the United States but also other member countries. In this regard, European countries, the Soviet Union, Japan, Canada, Australia, and others continue to voice their great interest in the treaty. In the meantime, European countries have also negotiated the European Patent Convention which is expected to come into force in the middle of 1977. Although that convention provides for a single, centralized system for the issue of patents for European member states, it was not intended, nor has it the potential, to become a worldwide system. In contrast, the Patent Cooperation Treaty, which is basically a patent filing convention, is designed to become worldwide in scope.

As a consequence, the European Patent Convention and the Patent Cooperation Treaty each contain provisions assuring their smooth interrelationship, thereby constituting together a sound, integrated international patent system. European and other major industrialized countries, however, have indicated to us that they would await our ratification of the Patent Cooperation Treaty, before ratifying the treaty themselves.

In our view, the Patent Cooperation Treaty is of great importance to the United States. Once in force, it could well serve to expand established programs of U.S. industry to file foreign patent applications, thereby leading to better protection of our inventions in foreign markets. This in turn should contribute to an improved U.S. foreign trade posture and result in better employment opportunities in this country. The treaty would also encourage smaller businesses and individual inventors to become more active in seeking patent protection abroad. A giveaway of our technology to our trading competitors must be avoided, and this effort would be aided considerably by the treaty. Accordingly, we urge favorable consideration and speedy enactment of S. 24, after which the United States would deposit its instrument of ratification, thereby setting into motion the coming into force of the Patent Cooperation Treaty.

Thank you, Mr. Chairman.

Mr. KASTENMEIER. Thank you, Dr. Ancker-Johnson.

Now, the committee would appreciate hearing from Commissioner Dann.

Mr. DANN. As Dr. Ancker-Johnson has stated, enactment of S. 24 will permit ratification of the Patent Cooperation Treaty by the United States. When the treaty comes into effect, it will aid U.S. patent applicants in seeking patent rights in other member countries.

In this regard, she noted that the treaty will provide centralized filing procedures and a standardized application format. These two basic advantages are of great importance.

The treaty will allow a U.S. applicant to file a single international application in the Patent and Trademark Office, designating the other member countries in which he also desires a patent. Other member countries will accept this filing as though it had been made on the same date in their respective patent offices. Thus, a single international application will in fact represent a bundle of foreign national applications. In addition, by following the format prescribed for international applications, applicants will no longer be subjected to all the varying and troublesome formal requirements now faced when seeking patent protection in a variety of foreign countries.

There is a further advantage offered by the treaty to U.S. applicants. This involves the longer time period available to an applicant before he must decide whether to incur the expense of seeking patent protection in different countries. At present, as has been mentioned, a 12-month priority period is provided by the Paris Convention, starting from the filing date of his first application, within which an applicant must file the foreign application, pay national filing fees, and commit himself to the expenses of translation and patent prosecution. Under the treaty, after an applicant has filed his single international application and designated the countries in which he desired protection, he has 20 months from the priority date to evaluate the strength of his potential patent and to determine his marketing plans before incurring the expenses of proceeding on a national level. During this period and before having to make his decision, he will have received an international search report, which I will mention later.

Ultimately, the treaty should reduce substantially the search load handled by our Patent and Trademark Office, since most applications originating abroad will have been searched by a foreign searching authority before our Office begins to examine them.

S. 24 was introduced by Senator McClellan on Junaary 15, 1975, and passed the Senate on June 21. It is identical to the committee print of S. 2469 of the 93d Congress. S. 2469 was introduced by Senator McClellan at the request of the administration, as was the House version, H.R. 10673, which was introduced in the 93d Congress by you, Mr. Chairman.

By adding a new part IV to title 35 of the United States Code, S. 24 will provide implementation of the Patent Cooperation Treaty. It is designed to make no substantive changes in U.S. patent law and to insure that procedural benefits available to international applicants are also available to applicants from the United States.

Section 361 of S. 24 would authorize the U.S. Patent and Trademark Office to act as a receiving office under the treaty. In that capacity, it would initially process international applications filed by U.S. nationals or residents. Similarly, under section 363 and chapter 37 of S. 24, the Patent and Trademark Office would process inter-

national applications filed by foreign applicants, when the applications had designated the United States as a country where protection was desired. In this case, the applications would first have been filed in the respective foreign receiving offices. Such an international application would have the effect of a regular national application filed on the international filing date, except in one respect.

When the Patent Cooperation Treaty was negotiated, it was understood that it would not serve as a vehicle to change substantive national law. Under our present law, a patent is treated as prior art from the date of filing in the United States, even though it may have been first filed in a foreign country at an earlier date. S. 24 maintains this principle by giving prior art effect to patents granted on international applications only from the date on which certain national requirements have been fulfilled in the United States. The Patent Cooperation Treaty permits any country to take a reservation consistent with this approach, and the United States intends to take such a reservation when ratifying.

Under section 362, the Patent and Trademark Office would also be authorized to act as an international searching authority. In that capacity, the Patent and Trademark Office would prepare international search reports with respect to domestically filed international applications. These reports would identify prior art references considered to be relevant with respect to the claims contained in the international application without, however, expressing an opinion regarding the patentability of the claims. Given this information, an applicant could decide whether to proceed further, both domestically and internationally.

Foreign-filed international applications designating the United States which arrive at the Patent and Trademark Office for national processing would also be accompanied by search reports established by foreign searching authorities. These incoming reports are expected to facilitate our examining process by reducing duplication of search efforts.

As I mentioned earlier, chapter 37 of S. 24 would authorize the Patent and Trademark Office to process in the national stage international applications designating the United States and, where deserving, to issue patents thereon.

In keeping with the understanding not to change substantive national law by implementing the treaty, S. 24 would change the law applicable to national applicants in only two very minor, nonsubstantive areas, one dealing with claim format, section 112, and the other having to do with drawing requirements, section 113. These changes would provide applicants who file applications only in the United States with the same flexibility afforded applicants filing under the treaty.

I will not attempt to describe in detail all of the provisions of S. 24, but will be glad to try to answer any questions you may have on it.

Mr. Chairman, I join Dr. Ancker-Johnson in her support of this bill. Enactment will permit the United States to ratify the Patent Cooperation Treaty, an event which we think will trigger early ratification by enough other countries having major patent activity to bring the treaty into force within the next few years. This will be of great potential benefit to the patent system in general and to the United States in particular. Thank you.

Mr. KASTENMEIER. Thank you.

Patents, in general, is rather a complicated subject. It appears to be complicated a bit more by the fact that it is also involved in the treaty, and treaty implications are also a complicated matter, in and of themselves.

Do I understand, Mr. Dann, that this is the same bill that was introduced in the 93d Congress, and has not been altered at all?

Mr. DANN. It is identical with S. 2469 Committee Print, which had some very minor, technical clarifying changes from S. 2469, and from the House bill, which you sponsored in the last Congress.

Mr. KASTENMEIER. The principal purpose of the treaty is to make it less costly, more efficient for our nationals to get protection and indeed, foreign as well, and other countries, to seek patent protection. That is the primary purpose without requiring some individual initial filing in a series of countries, one by one?

Mr. DANN. Yes; that is correct. And also to save duplication of effort by the different patent offices, so that ultimately a given application need be searched only once, depending on the wishes of the country where protection is sought. This would be accomplished by the international search.

Mr. KASTENMEIER. Where would that take place?

Mr. DANN. It would be in an international searching authority. It is contemplated there will be about four such authorities throughout the world. We would expect our Patent and Trademark Office to be one, and we would do the searching for all applications originating in the United States and possibly from some other countries, subject to a satisfactory agreement with such other countries.

Mr. KASTENMEIER. Mr. Biller, why is it that only eight developing countries have concurred in this treaty thus far? Apparently, we are the first major developed country that is pressing for hearings.

Mr. BILLER. I think, Mr. Chairman, that as far as the other developed countries are concerned, that they are largely waiting to see what we are going to do. The treaty was negotiated principally at our initiative, and the United States is the principal proponent of the treaty. Certainly, the European countries have made plain that they are waiting for our lead. They are interested in the treaty, and I think that their ratification of the treaty would follow our ratification.

Mr. KASTENMEIER. In addition to the legislative enactment of S. 24, are there other impediments, or other, let's say, steps to be achieved before that ratification can be realized?

Mr. BILLER. I am not aware of any, Mr. Chairman.

Mr. KASTENMEIER. This is the last remaining step to be taken?

Mr. BILLER. Yes, sir.

Mr. KASTENMEIER. Before we have acted fully in accordance with our responsibilities?

Mr. BILLER. Yes, sir.

Mr. KASTENMEIER. Briefly, I perhaps should ask you—I do not know if the members of this committee are aware, when countries enter into treaties of this sort, it may be mutually agreed upon that they take reservations. For example, if there are 24 sections of a treaty, each country can take, under circumstances, let's say, take three reservations to the treaty, in which they would adhere to only 21 sections, and not three others, as in this case. Is that common?

Mr. BILLER. It is not uncommon, Mr. Chairman. There are many treaties, particularly technical treaties of this kind, where you have a treaty that covers a well-established area. Each country has a long history of protection, and in this kind of treaty, it is not unusual.

Mr. KASTENMEIER. What is meant by national treatment of the right of priority under the Paris Agreement? Perhaps I ought to address that to Mr. Dann.

Mr. DANN. Under the existing Paris Convention, to which we have been a party for many years, the principle of national treatment says that any member country, having whatever kind of patent system it desires, must treat foreigners under that system the same way it treats its own nationals.

And as to the right of priority, again under the Paris Convention, when an applicant files a patent application in one member country, and then, within 12 months, files in any other member country, the second application is treated as if it had been filed on the date of the original application.

Mr. KASTENMEIER. Mr. Lee, does the Antitrust Division of the Justice Department have any reservations about this treaty?

Mr. LEE. I understand they have not, Mr. Chairman.

Mr. KASTENMEIER. You indicate a series of people or organizations that support the treaty. Mr. Biller listed them. Are you aware of any opposition to S. 24?

Mr. BILLER. We have no indication of any opposition at all, Mr. Chairman.

Mr. KASTENMEIER. In the event the Congress should undertake in the near future to substantially revise domestically our patent law—and there have been for years various formulations or provisions pending—would this in any respect affect the Patent Cooperation Treaty? Perhaps I should ask Commissioner Dann.

Mr. DANN. Well, I think the answer is no. The proposed patent revision bills which have been discussed in the Senate have all contained a part IV, which would be analogous to the provisions of S. 24. There could be, of course, substantive changes there, but there would be no adverse effect on our participation in the treaty.

Mr. KASTENMEIER. Mr. Biller, once this Patent Cooperation Treaty is perfected or adhered to fully, looking down the road into the future, a decade or so, and perhaps contingent upon what the Europeans do as a community in this connection, do you see any further treaties or international conferences affecting the subject matter of interest to this country, in terms of patent law and international cooperation? In other words, what do you see beyond this particular treaty, let's say, in the next 10 years, more so with respect to the United States?

Mr. BILLER. I think, Mr. Chairman, that in the same way that the flow of technology over international borders has increased enormously in the past 2 decades and has required the kinds of steps that are provided in the treaty, this is going to continue. One can foresee in the future work by governments like ours, which are interested in the flow of technology and protection of industrial property rights, on negotiations and possibly future treaties for the harmonization of domestic laws and procedures.

I suppose that the ideal would be someplace out in the distant future, some kind of international parent system, which would be

fully harmonized, although this might be extremely difficult to achieve in the real world, because of the different interests of different countries. But certainly, there is the prospect of future harmonization in the next decade.

Mr. KASTENMEIER. I suspect to a very great extent it would depend on the direction of our internal revision of our patent law, to the extent it takes place within the years ahead.

I would like to yield to the gentleman from Massachusetts, Mr. Drinan.

Mr. DRINAN. Thank you very much, Mr. Chairman.

It is fortunate and a happy occasion when you find yourself in agreement with everybody, the Patent and Trademark Office, Department of State, Department of Commerce, and Commissioner Dann.

I have just a couple of questions. I have no opposition, no questions about this, but one question of fact. Which precisely is the Paris Industrial Property Convention?

Mr. DANN. This is a treaty that the United States first adhered to, I believe in 1887, and it provides, among other things, for these matters that we mentioned, namely, national treatment and the right of priority.

Mr. DRINAN. I guess my question is this: Would the proposed treaty supersede that?

Mr. DANN. No, not at all.

Mr. DRINAN. You say there is no opposition in the United States. Would there be any opposition in the developing nations, worldwide? Would they have any objection, feeling that the heavily industrialized somehow are dominating this situation?

Mr. DANN. I think quite to the contrary, with respect to this treaty. There are current efforts on the part of the developing countries to make modifications in the Paris Convention itself. They are not entirely enthusiastic about the principle of national treatment, for example. They feel that in some cases they would like preferred treatment.

But with respect to this treaty, there is no opposition. Quite a large number of developing countries signed the treaty. I am quite sure many will adhere to it.

Mr. DRINAN. I thank you all for your testimony, and hope that we can move this out of the committee rather rapidly. Thank you.

Mr. KASTENMEIER. The gentleman from New York.

Mr. PATTISON. I have no questions.

Mr. KASTENMEIER. Then, in behalf of the committee, I desire to thank you for your appearance this morning. We appreciate your presence.

[Whereupon, at 10:45 a.m. hearing was recessed, subject to the call of the Chair.]

CORRESPONDENCE

The subcommittee received for the record the following letter from Walther E. Wyss, Esq., chairman of the American Bar Association Section of Patent, Trademark, and Copyright Law:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., July 25, 1975.

HERBERT FUCHS, Esq.,
Council, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Rayburn House Office Building, Washington, D.C.

DEAR MR. FUCHS: This will confirm our telephone conversation of this morning during which I invited you to attend meetings of our Section (Patent, Trademark, and Copyright Law) of the American Bar Association in Montreal from August 8–13, 1975. You indicated that you would not be able to attend such meetings.

I am writing this letter primarily to let you know that in February, 1975 the American Bar Association approved the following resolution:

"*Resolved,* That the American Bar Association favors in principle the enactment of appropriate enabling legislation by the Congress of the United States to carry into effect the provisions of the Patent Cooperation Treaty; and to this end, recommends the enactment of legislation such as S. 24 (McClellan), 94th Congress."

I understand that on July 31, 1975 the House Judiciary Committee is holding hearings on the aforesaid legislation and I am very interested in getting before this Committee this resolution of the American Bar Association.

George R. Clark, a past chairman of the Patent, Trademark and Copyright Law Section, hopes to appear before the Committee on July 31 representing our Section of the American Bar Association and the private sector. I am sending a number of extra copies of this letter in the hope that you will see that they get to the members of the Judiciary Committee.

Thank you very much.

Cordially yours,

WALTHER E. WYSS.

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