

No. 11655

CZECHOSLOVAKIA
and
GERMAN DEMOCRATIC REPUBLIC

Agreement concerning the legal protection of inventions, industrial designs and trade marks within the framework of economic, scientific and technical co-operation. Signed at Berlin on 14 October 1971

Authentic texts : Czech and German.

Registered by Czechoslovakia on 29 March 1972.

TCHÉCOSLOVAQUIE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE

Accord sur la protection juridique des inventions, dessins industriels et marques de commerce dans le cadre de la coopération économique, scientifique et technique. Signé à Berlin le 14 octobre 1971

Textes authentiques : tchèque et allemand.

Enregistré par la Tchécoslovaquie le 29 mars 1972.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC CONCERNING THE LEGAL PROTECTION OF INVENTIONS, INDUSTRIAL DESIGNS AND TRADE MARKS WITHIN THE FRAMEWORK OF ECONOMIC, SCIENTIFIC AND TECHNICAL CO-OPERATION

The Government of the Czechoslovak Socialist Republic and the Government of the German Democratic Republic, desiring to promote the further development of economic, scientific and technical co-operation between the Czechoslovak Socialist Republic and the German Democratic Republic by regulating questions of the legal protection of industrial rights arising in that connexion, have decided to conclude the following Agreement.

They have for that purpose appointed as their plenipotentiaries :

The Government of the Czechoslovak Socialist Republic :

Miroslav Bělohávek;

The Government of the German Democratic Republic :

Dr. Joachim Hemmerling,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

APPLICATION OF THE AGREEMENT

Article 1

(1) This Agreement shall apply to questions relating to the legal protection of inventions, industrial designs and trade marks, as well as questions relating to patents, which arise in connexion with co-operation in research, planning and design work, co-operation and specialization in production, and the transfer of the results of research, planning and design work.

(2) The agencies of the Contracting States may in individual cases agree that the provisions of articles 2, 6, 8 and 9 of this Agreement shall also apply to inventions, industrial designs and trade marks originating in forms of co-operation between the Contracting States other than those referred to in paragraph (1).

¹ Came into force on 14 October 1971 by signature, in accordance with article 19 (1).

CO-OPERATION IN RESEARCH, PLANNING AND DESIGN WORK

Article 2

(1) The agencies of the Contracting States shall, as necessary, regulate in agreements concerning co-operation in research, planning and design work all questions relating to the legal protection of inventions, industrial designs and trade marks as well as those relating to patents.

(2) The agreements concluded pursuant to paragraph (1) shall, in particular, deal with measures to ensure the legal protection of the results of co-operation as well as the treatment of protected rights of the co-operating parties and of third parties which are in existence at the time the co-operation agreements are concluded.

Article 3

(1) Rights in respect of inventions and industrial designs shall include :

- a) The right of domestic utilization of the invention or industrial design;
- b) The right to register the invention or industrial design in third countries for purposes of protection;
- c) The right to export goods produced with the aid of the invention or industrial design;
- d) The right to transfer the invention or industrial design to third countries.

(2) The exercise of the rights referred to in paragraph (1) shall be governed by the agreements concluded between the co-operating agencies. Each of the said agencies shall, in exercising these rights, comply with the legal provisions of its own State and pay due regard to the agreements concerning the rights of utilization of the results of co-operation in force between the Czechoslovak Socialist Republic and the German Democratic Republic.

Article 4

The Contracting States shall recognize the authorship of, and other personal rights in respect of, inventions originating within the framework of co-operation in research, planning and design work.

Article 5

The Contracting States shall ensure that their nationals who produce inventions or industrial designs within the framework of co-operation in research, planning and design work immediately so inform the agency responsible for ensuring their legal protection.

Article 6

(1) Applications for the registration for purposes of protection of inventions, industrial designs and trade marks originating in the course of the implementation of agreements concerning co-operation in research, planning and design work shall be filed without delay.

(2) The agreements themselves shall, in so far as possible, specify who is to appear as the legal subject in the filing of applications for protection and as the legal subject where protected rights are granted, in which countries applications are to be filed, which agency is to be responsible for the filing of applications, and how the measures required for the acquisition and maintenance of the protected rights are to be financed.

(3) The first application shall normally be filed with the agency having jurisdiction in matters of inventions in the State in whose territory the invention, industrial design or trade mark originated. An application shall also be filed without delay with the agency having jurisdiction in matters of inventions in the other Contracting State.

(4) The application for registration of an invention filed with the agency having jurisdiction in matters of inventions in the other Contracting State shall contain a request for the issuance of a certificate of protection conferring upon the other State the right of utilization, provided that the invention which is the object of the application originated in the course of the implementation of agreements concerning co-operation in research, planning and design work and that both States have the right to utilize the results of such co-operation.

(5) The agencies of the Contracting States shall maintain secrecy with regard to the invention until the necessary measures have been taken to ensure its legal protection in the two countries as well as in third countries.

(6) Where a uniform designation is envisaged for articles produced as a result of co-operation, the type of designation and the conditions of its use shall be agreed upon.

Article 7

In proceedings for the acquisition and maintenance of legal protection for inventions, industrial designs and trade marks conducted before the agencies having jurisdiction in matters of inventions in the Czechoslovak Socialist Republic and the German Democratic Republic, it shall not be necessary for bodies corporate and nationals of the Contracting States to be represented by a national of the country in which the proceedings are conducted.

Article 8

(1) In the event of the utilization of protected inventions which originated in the course of the implementation of agreements concerning co-operation in research, planning and design work, the inventor's remuneration shall be paid by the utilizing agency. The amount of the remuneration and the manner of payment shall be determined in the agreements concluded by the co-operating agencies of the Contracting States in accordance with special guidelines for remuneration in respect of inventions made in the course of co-operation in research, planning and design work; the said guidelines shall be issued by agreement between the agencies having jurisdiction in matters of inventions in the two Contracting States.

(2) If the co-operating agencies do not determine the amount and the manner of payment of the inventor's remuneration in an agreement pursuant to paragraph (1), the utilizing agency shall fix the remuneration for utilization of the invention in accordance with the provisions of its national legislation and shall remit such remuneration to the competent agency of the other Contracting State.

Article 9

(1) Where income is derived in a third country from a licensing agreement or other form of exploitation of an invention, such income shall be divided either in proportion to the respective contributions of the co-operating agencies to the financing of the work in question or in a manner determined by special agreement.

(2) In the case referred to in paragraph (1), the amount of the inventor's remuneration shall be fixed as a percentage of the income prior to its apportionment. The co-operating agencies shall bear the cost of the remuneration in proportion to their respective shares in the income and shall remit the said remuneration to the co-operating agencies of the Contracting State of which the inventor is a national.

CO-OPERATION AND SPECIALIZATION IN PRODUCTION

Article 10

(1) The agencies of the Contracting States shall include in the agreements concerning co-operation and specialization in production the necessary arrangements for ensuring the protection of inventions, industrial designs and trade marks.

(2) The arrangements provided for in paragraph (1) shall, in particular, regulate all questions arising from the existence of rights vested in bodies corporate and individuals of the Contracting States and of third countries as well

as from similar rights which come into existence following the conclusion of the arrangements.

(3) Where a uniform designation of products is envisaged within the framework of co-operation and specialization in production, the type of designation and the conditions of its use shall be agreed upon.

(4) In cases of the utilization of inventions which, before their transfer to agencies of the other Contracting State within the framework of co-operation and specialization in production, enjoyed legal protection in the recipient State, remuneration shall be paid by the agency of the State in which they are utilized. Otherwise, the provisions of article 8 shall apply as appropriate. Where the transfer of the protected invention was effected against payment of a purchase price or a licence fee, no inventor's remuneration shall be payable by the utilizing agency.

TRANSFER OF THE RESULTS OF RESEARCH, PLANNING AND DESIGN WORK

Article 11

(1) Where a transfer of the results of research, planning and design work takes place outside the scope of agreed research, planning and design work and outside the scope of co-operation and specialization in production, the competent agencies of the Contracting States shall, on the basis of the provisions concerning the utilization of transferred results of research, make the necessary arrangements for ensuring legal protection, e.g., the conclusion of licensing agreements, the assignment of protected rights or the grant, free of charge, of rights of joint utilization.

(2) Where an invention enjoying protection in the recipient State is transferred in connexion with the transfer of the results of research, planning and design work, the inventor's remuneration shall be paid by the recipient agency. The provisions of article 8 shall apply as appropriate with regard to the amount of the remuneration and the manner of payment. Where the invention is transferred against payment of a purchase price or a licence fee, no inventor's remuneration shall be payable by the recipient agency.

(3) Where an invention originating in one Contracting State which enjoys protection in the other Contracting State is utilized in the other Contracting State without a transfer having been effected and the right of utilization by the utilizing Contracting State arises from the nature of the protected right, the inventor's remuneration shall be paid by the utilizing agency of that Contracting State.

MUTUAL ASSISTANCE

Article 12

The agencies of the Contracting States shall, on the basis of agreements, render one another assistance in carrying out all measures concerning co-operation in matters relating to inventions, patents, industrial designs and trade marks.

PROCEDURE FOR THE SETTLEMENT OF ACCOUNTS

Article 13

(1) The settlement of accounts in respect of remuneration payable in one State for the utilization of inventions in the other State shall be effected between the Czechoslovak Socialist Republic and the German Democratic Republic in accordance with the Agreement of 8 February 1963 concerning the settlement of accounts in respect of non-commercial payments. The sums in question shall be transferred.

(2) The sums referred to in paragraph (1) shall be remitted to the competent agencies of the Contracting States.

(3) Payment of the remuneration to the inventor shall be effected through the agency of the State of which he is a national.

Article 14

Where rights of utilization are granted to agencies of third States in respect of inventions and industrial designs in which both States have vested rights, the shares in the income and the sums intended for payment of the inventor's remuneration shall, between the Czechoslovak Socialist Republic and the German Democratic Republic, be remitted in the currency in which the income arose.

FINAL PROVISIONS

Article 15

(1) The Contracting Parties shall take all necessary measures to ensure the proper implementation of this Agreement.

(2) The agencies of the Contracting Parties having jurisdiction in matters of inventions shall conclude a special agreement regulating their co-operation in the implementation of this Agreement.

Article 16

The competent authorities of the Contracting States shall conclude a special agreement regulating co-operation in the matter of secret inventions.

Article 17

(1) The Contracting Parties shall establish a Joint Commission to deal with any questions arising in connexion with the implementation of this Agreement.

(2) The Commission referred to in paragraph (1) shall consist of three representatives of the competent authorities of each of the Contracting Parties and shall be constituted by the said authorities on the basis of equal representation. The heads of the two delegations representing the Contracting Parties in the Commission shall be appointed by the competent authorities of the Contracting Parties not later than two months after the entry into force of this Agreement.

(3) The Commission shall meet at the written request of the head of either of the two delegations.

Article 18

Any amendments or additions to this Agreement shall be agreed upon in writing by the Contracting Parties.

Article 19

(1) This Agreement shall enter into force on the date of signature.

(2) The Agreement shall remain in force for a term of five years reckoned from the date of its entry into force and shall be automatically extended for successive one-year terms unless one of the Contracting Parties denounces it in writing at least six months before the expiry of the current term.

(3) Save as otherwise agreed, the Agreement shall remain applicable until such time as the obligations incurred under it by the agencies of the Contracting States prior to the expiry of its term have been fulfilled.

DONE AND SIGNED at Berlin on 14 October 1971, in duplicate in the Czech and German languages, both texts being equally authentic.

For the Government
of the Czechoslovak Socialist
Republic :

BĚLOHLÁVEK

For the Government
of the German Democratic
Republic :

HEMMERLING