Report
on the
WIPO Mission to Sofia, Bulgaria
as Consultant to the
Intellectual Property Department of the
National and World Economy University
August 19-23, 1991

I. The Problems Encountered

1. The objective of this mission, as per WIPO "Terms of Reference," was to advise the Intellectual Property Department of the National and World Economy University (University) on the definition of teaching curricula and the identification of suitable teaching materials for the post-graduate teaching of intellectual property. In actuality, the consultancy included very much also the Institute of Inventions and Rationalizations (INRA) and additional subjects as e.g. procurement of teachers from elsewhere to get the post-graduate teaching program started and potential sources of requisite financial support.

2. This was a one-week mission, August 19-23, 1991. As regards activities during this period, the attached "Program" will serve as a starting point. This "Program" is overly general and sketchy and needs a lot of fleshing out. Discussions started over dinner at the Moskva Park Hotel shortly after arrival, Sunday, August 18 in the late afternoon. Present were Dr. Borislav Borisov, Director of the Intellectual Property Department and Mrs. Dreganova, Assistant Professor and Interpreter, both from the University and Mrs. Penka Petkova, Head of the International and Technical Cooperation Department of INRA. This trio was my steady company throughout the week from the moment I arrived to the moment I left Sofia. I couldn't have had better hosts.

3. Discussions were continued on Monday, August 19, not at the University but at INRA in the office of its Director General, Dr. Kristo Iliev. Also present from INRA were Mrs. Nentchewa, Head of the Appeals Section and Mr. T. Makedonsky, Head of the Examination Section and, of course, Mrs. Petkova. Dr. Borisov and Mrs. Dreganova represented the University. The INRA people and Dr. Iliev, in particular, first gave me a briefing about the past and present IP situation in Bulgaria and about INRA and its organization and challenges. For almost 50 years now Bulgaria has not had a real patent system; it didn't need one because inventions were state

monopolies. They now have a lot of catching up to do as in many other areas. They are establishing good relations with and are receiving good cooperation from IP offices in other countries, such as Austria, Czechoslovakia, Greece, Hungary, Poland, Rumania, Soviet Union, Turkey, Yugoslavia, and especially France and Germany (the German Patent Office's data base will be accessible to them on-line within one year). And for the past year, also with the EPO. In fact, an INRA official will spend one month at the EPO before 1991 is over. They are anxious for INRA to become an effective patent and trademark office within a new European-style IP system. To accomplish this they will need a lot of outside help and expertise, with respect to management of their operations as well as, in particular, training, teaching, education in IP law and practice. As regards the latter they look to the University to make a start and be the focus, in partnership with INRA and with INRA's fullest cooperation, financially and otherwise.

4. I know that this report "should be presented in analytic form and not in chronological order of events" but in this case a mixed presentation is appropriate for the reason that while I was a consultant to the University, the first day's discussions took place at INRA and at least one INRA official was present at all times when the venue was elsewhere. This is very significant for reasons which will become obvious shortly.

5. Discussions were continued in the late afternoon in Dr. Iliev's office (after a business lunch and a two-hour convocation of about 40 senior INRA staff whom I was asked to address on the subject of "Patents and Their Role in the Industrial Development of America".) According to Dr. Iliev, IP teaching before 1989, of course, took place in an entirely different and now largely irrelevant political and economic context. Immediate redirection and reorientation after 1989 was not possible because of a lack of background and experience. Now it must be intensified and moved up in priority. While the subject of IP has been on the University's curriculum for many years, it was at the bottom of a list of 26 subjects together with law, political science and theology. See attached List of Subjects.

6. Graduate IP teaching will be continued and intensified. And a post-graduate IP program needs to be added. (The terms "graduate" and "post-graduate", as used in Sofia, seem to equate "under-graduate" and "graduate" in American parlance and this was at first rather confusing to me.) Within the next three to five years they expect to enroll and train 250-300 students in IP, including 150 post-graduate students. After the post-graduate teaching program is in place at the University in Sofia, identical or similar programs will be implemented at the Technical University in Varna (on the Black Sea). Another project on the drawing board is to start holding three-day annual orientation conferences for businessmen to create or enhance awareness among them regarding the new IP system and the new opportunities for protection of IP.

7. Thus, assistance is needed for the implementation of the proposed

post-graduate IP program in terms of curriculum development and teaching material acquisitions as well as sourcing and procurement of teachers from abroad in order to prepare a nucleus of Bulgarian IP professors ("train the trainers") as well as teach some IP courses at least in the start-up phase. Alternatively or additionally, selected University IP teaching staff should be sent abroad for IP training. For all of these projects, and especially for the training-the-trainers project whether it involves bringing in foreign teachers or sending Bulgarian teachers abroad, financial assistance is indispensable. INRA has helped and is helping the University financially but given INRA's budget limitations and its difficulties to fund its own operations and given the serious economic situation and radical currency devaluation ($1 = 18 Leva now; before $1 = 1 Lev), financial support for the University is very limited. The costs of a trip by Dr. Iliev to the U.S. would equal the salaries he receives over four years and the honorarium that would have to be paid a German professor for one day (DM 1000?) equals Dr. Borisov's annual salary. Consequently, they are forced to look to the ECC, WIPO, other international agencies for funding.

8. On Tuesday and Wednesday August 20-21, 1991, the discussions were continued at the University after a press and/or radio interview with a journalist, Mrs. Chopova and a tour of the University all on Tuesday morning. Following a general review of the history of the University and its organization and degree program, Dr. Borisov described the IP Department's present situation. After awarding only diplomas for years, the University started in 1989 a full-degree program including bachelor, master and doctor degrees. The IP Department will be able to follow suit in time and, in addition, plans to start a separate "post graduate" institute with one or two-month courses (like IPSI — Franklin Pierce Law Center's IP Summer Institute) or one or two-week courses for businessmen.

9. Since there is no tuition system and the government funds the University, the government approves all programs. That is, the University can't start new programs without government authorization and funding. So far funds for the IP Department have not yet been included in the government's funding authorizations. INRA has been pushing for such funding but has not been successful yet. Therefore, INRA supports the IP Department to some limited degree in this start-up phase out of a special fund set aside for educational purposes from general fee receipts . Unfortunately, this fund is being reduced and will be completely eliminated due to budget cutbacks. This will make matters worse absent private funding or government funding. But many other University departments are standing in line for government funding, so it is uncertain when funding and how much of it will become available for the IP Department. This past year they had 15 IP students taught with INRA money. This is barely a start and much more training will have to be done once the new Bulgarian Patent Law goes into effect and licensing practices — virtually nil under the prior regime — spread and take hold.

10. According to discussions with CEIPI and the EPO, these organizations would be willing to furnish staff to lecture on the European Patent System and pay them the requisite honoraria but the University would have difficulty raising enough money for their hotel and travel expenses (because a round-trip Munich/Sofia ticket plus hotel in Sofia would amount to as much as his (Dr. Borisov's) annual salary). Inviting and paying for an American professor is, a fortiori, out of the question.

11. Not only is there a serious shortage of trained teachers but also of teaching materials, textbooks, publications and periodicals. Without a meaningful IP library, the best IP course program or IP curriculum could not get off the ground or be sustained for very long. WIPO has donated three sets of their recent publications and that's a good start and they are most grateful to WIPO. But this is not enough and they can't afford to subscribe to WIPO periodical literature, nor can they afford to acquire foreign books and publications due to the high prices. Yet every book and publication connects them with the outside world from which they were separated for so long and so it is doubly imperative to develop an IP library.

12. Naturally, in view of the novelty of it all, they have questions on how to structure the curriculum, on how to fit in IP courses in the bachelor curricula and studies. Also, should IP courses be compulsory rather than elective and to what extent? Should courses be held back for the last one or two semesters until after the obligatory disciplines have been completed? Should there be subspecialties in, e.g. Licensing/Technology Transfer, IP Marketing, Corporate Patent Politics? Shouldn't students, other than IP students, be exposed to a goodly dose of IP orientation? Specific courses now being contemplated are Patent Law (Bulgarian and Foreign), Copyright Law, Trademark Law, Industrial Design Law, Patent Politics, Licensing/Technology Transfer, Patent Information, Patent Searches, International Cooperation, Innovation Management, Innovation Sociology and Inventor Psychology. — Another concern of theirs has to do with communication and language. Very few Bulgarians know English for understandable reasons. Therefore, heavy emphasis on English instruction would also be necessary.

13. Dr. Borisov seemed to be familiar with the Diploma and MIP Programs of FPLC and showed great interest in them as being closer to their objectives than other schools' IP programs. These Programs would fit into the scheme of things in his IP Department, especially since engineers and others, i.e., non-lawyers could enroll and become specialists or at least very knowledgeable about IP law and practice and since it has a practice orientation rather than being solely academic. They would want to adapt them to their local conditions but that wouldn't entail much change.

14. Additional visits and discussions took place as follows:

a. There was a television interview in the Moskva Park Hotel lobby on Wednesday, August 21 at noon in which I was asked general questions about IP and its importance and the purpose of my visit to Sofia.

b. I was taken on a trip to Varna — with Dr. Iliev coming along also — where on Thursday, August 22, we visited the Varna Technical University and had discussions with its Vice Director, Professor Alexander Kirov about IP teaching at his university, after I had given a short version of my talk at INRA on the first day.

c. While in Varna we also paid a visit to the Varna Industrial Association (Chamber of Commerce) for discussions with Mr. Georgy Paspalev, its Director (who is a former Mayor of Varna and presently the President of a new industrial enterprise) and Peter Petrov, its Deputy Director. Mr. Paspalev is a most impressive go-getter of an industrialist; very positive, forward looking and patent-conscious. Incidentally, Varna appears to be a hotbed for economic reorientation, industrialization, innovation and IP interests and concerns. In fact, INRA has a satellite operation, an "Industrial Property Centre," in Varna which is headed by Mr. Sergey Borissov, who accompanied us on all visits in Varna.

II. Recommendations for Solutions or Remedial Action

15. The foregoing described the problems I encountered which are problems that defy instant or easy solutions. It behooves me now to list my recommendations and proposals, for the future, some of which I related to and discussed with the INRA and University officials and representatives and some of which came to me as I continued to reflect on the depressing situation extant in Bulgaria. Obviously, after a one-week consultancy, especially in Bulgaria in light of the serious problems encountered, it is impossible to identify progress made in the realization of the objectives of the consultancy.

16. As regards the definition of teaching and curriculum development, I relied heavily on and discussed with them in detail the IP curriculum and the IP programs in place or being implemented at FPLC. FPLC brochures and materials and the paper I delivered in the WIPO Daeduk, Korea Forum last May on "Teaching of Intellectual Property Law in Universities" (WIPO/HR/DDK/91/-), all of which I brought along and left with them. To discuss and recommend FPLC curricula was particularly practical and relevant because of their expressed interest in them and, especially, in the Diploma and MIP degree programs as particularly suited for their purposes and objectives . Also perhaps because Professor Stanislaw Soltysinski, Mickiewicz University, Poland recognized the FPLC MIP Program as "unique" and recommended its "transplantation" elsewhere in a WIPO/ATRIP Symposium in San Jose, Costa Rica, September 1990. Furthermore, such "transplantation" is coming about in Indonesia where a new IP Institute at the Law School of the Tarumanagara University is indeed implementing the FPLC MIP Program as per understanding with and the cooperation of FPLC (including the delegation next year of a FPLC professor — the undersigned — to Jakarta to lend assistance in the

implementation and to teach patent law in the process. Similar adoption in Sofia with adaptation to local conditions may indeed be "what the doctor ordered." FPLC and the undersigned stand ready and, in fact, would be very happy to lend a hand in Sofia, also. Indeed, there is no need to reinvent the wheel as FPLC has a track record by now and its programs are acclaimed nationally and internationally. (All relevant information found in the FPLC brochures and my Daeduk paper — all publicly available — are incorporated herein by reference so as to obviate the need to borrow material and passages from them for this report.) I also recommend strongly that students at the University, other than those who major or specialize in IP, be exposed to significant IP orientation, given the novelty of the subject and the political and economic situation in Bulgaria.

17. In the matter of an IP library, there is no question that one is requisite and that a start has to be made. I encountered the same situation in Jakarta where I supplied to Mr. Harsono Adisumarto, the Director of the new IP Institute at Tarumanagara, a listing of about 40 IP textbooks and other publications, at his request, to be acquired to start a library. Mr. Harsono had succeeded in obtaining a grant from the Asia Foundation to pay for these books. A copy of this listing of IP publications was left with Dr. Borisov for their information and possible use in contemplating a similar approach. Mrs. Dreganova, the interpreter, for instance, will be teaching a copyright course but lacks textbooks and materials and is most anxious to obtain any shred of paper that could help her. On behalf of FPLC I left copies of an LES "Licensing" book and Sherwood's "IP and Economic Development" as well as miscellaneous other materials and articles for both INRA and the University and promised to send both a complete set of FPLC's IDEA journal and other textbooks, which is being done these days. I'll also see to it that they get a subscription to the JPOS as well as back copies. As American law firms and corporate departments weed out their libraries from time to time and discard unnecessary materials, I shall solicit such materials for Sofia. As the new Bulgarian patent law and practice will follow the European model, European books and publications will also be needed and should be acquired, to the extent possible, in a similar fashion.

18. As regards communication and language, heavy emphasis on English instruction should be placed at all levels and especially at the graduate level. IP affairs are being internationalized more and more and English has become the international language in the IP world. Many books and materials they'll use will be in English, guest lecturers and visiting professors will lecture in English, Bulgarians going abroad for training will need to master English. Speaking of going abroad for training, FPLC should definitely be a destination for University and INRA staff members. Our MIP and Diploma Programs as well as the Summer Institute are tailor-made and, in fact, designed for representatives of countries such as Bulgaria in this regard.

19. Orientation programs for businessmen were also mentioned as a worthwhile project or objective. Indeed, they are and in this connection it

seems to me that the Roving Workshops, so successful in Indonesia under WIPO auspices, should be looked at as possible models. WIPO knows all about them and would be in a better position to counsel and assist the Bulgarian.

20. As is manifestly clear from the first part of this report, neither INRA nor the University has the necessary funds to finance any of these proposals and projects, certainly not in the near term. Funding is the big question and the crux of it all. Dr. Borisov was wondering whether WIPO knows of any international agencies or other potential sources that could be tapped. And WIPO may indeed know of some and assist the Bulgarians in soliciting them. While the Asia Foundation is a logical source for funding for Indonesia but not Bulgaria, US-AID should be a distinct possibility. For instance, the transplantation of our IP Program to Indonesia will be funded by US-AID. This could be used by Bulgaria as a helpful precedent and US-AID could be prevailed upon to assist in the start-up of a library also as part of the overall project. So it seems to me from my vantage point.

21. I also recommend approaching the International Executive Service Corps (IESC) (8 Stamford Forum, Stamford, Connecticut 06904) for an assist in funding. The reason I suggest IESC is that I was an IESC consultant in Jakarta last year, advising the Directorate of Copyrights Patents and Trademarks in the matter of the implementation of their new patent law. Bulgaria is in a similar boat and setting up and implementing orientation and training/teaching programs is extremely worthwhile. (In case this becomes more than just a "pipedream" I would not mind volunteering for any such assistance if found qualified.)

22. The Bulgarians are very realistic and serious about their plight and their challenges but they are committed and enthusiastic about their future and their opportunities. They truly deserve to be assisted and supported. Being with them, listening to them and having the opportunity to advise them was a genuinely gratifying experience.

I won't be able to forget this experience ever and I'll have an abiding interest in how the IP situation plays out in Bulgaria and if able to assist and contribute I'd be more than happy to do so. My best wishes for success go with them.

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KFJ/Ruh/11.12.91