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90TH ANNIVERSARY OF THE PATENT OFFICE AND THE PROFESSION OF A PATENT ATTORNEY IN POLAND

In 1918 Poland regained independence from subjection to three partitioning Empires: Austro-Hungary, Prussia and Russia. This year we are not only celebrating the 90th anniversary of the recovery of independence, but also the establishment of the Polish Patent Office and the patent attorney's profession. The anniversary is a good moment to recall the beginnings of the Polish Patent Office as well as the first activities of patent attorneys in Poland.

The Polish Patent Office was established with the Decree of the Commander of the State, Jozef Pilsudski, as of 13th December 1918. The Decree, which came into effect on 28th December 1918, set forth the basis and principles for the activities of the Patent Office in Poland. Article 11 of the Decree provided that "the parties may act before the Patent Office personally or via an official representative. The competence to act as representatives shall be granted to individuals residing in Poland, with university educational background, especially in technical field, who were entered on the list of the Patent Office." First names appeared on the list of representatives on 17th April 1919.

On 4th February 1919 the new Polish State Authorities issued three decrees regarding IP protection:

- on patents for inventions;
- on the protection of designs and models;
- on trademark protection.

The decrees abolished patent and trademark laws which had been effective in Poland under the three partitions before the recovery of independence.

Subsequently, by virtue of the law of 2nd August 1919, the name of the Patent Office was officially changed to the Patent Office of the Republic of Poland (*Urząd Patentowy Rzeczypospolitej Polskiej*) and as such has been used until today.

Another important event took place on 10th November 1919, when Poland joined the Paris Convention.

The first legal Act on the protection of inventions, designs and trademarks was issued on 5th February 1924 and came into effect on 10th April 1924.

In 1924 the Patent Office started issuing the Official Gazette (*Wiadomości Urzędu Patentowego*) which has been published until now. The Official Gazette is used by the Patent Office to publish laws, decrees and information about granted protection rights for patents, designs, utility models and trademarks.

It was also in 1924 that the first patent was granted and the first trademark, utility model and design were registered. Under the said Act the name of a patent attorney for a representative was first officially approved.

Patent attorneys were nominated by the Minister of Trade and Industry upon the request of the President of the Patent Office. After nomination patent attorneys were sworn at the Patent Office and entered on the official list of representatives, which resulted in obtaining full professional rights. Patent attorney was then a free profession. Candidates for patent attorneys should have Polish citizenship and residence in Poland, a degree of a technical university, at least two years' training in patent and trademark matters, and pass an exam in law at the Patent Office, which covered Polish national legislation in the field of IP protection and international IP treaties, to which Poland was a party. Additionally, the exam covered the principles of civil and commercial law.

Next important Act was a regulation of the President of the Republic of Poland as of 22nd March 1928 on the protection of inventions, designs and trademarks, which adapted the legal Act issued in 1924 to the Hague text of the Paris Convention.

Article 241 of the President's regulation on patent attorneys specified that also a person having a university degree in law had the right to act as a patent attorney after being entered on the list of the Patent Office. However, an additional requirement for those lawyers was six years' work practice at the Patent Office. The requirement was difficult to fulfill. Under the said President's regulation, until August 1939 only one lawyer was entered on the list, while comparatively the number of attorneys with technical background reached 19.

As soon as patent attorney's profession was established, Polish patent attorneys became involved in the works of international organizations, such as the International Federation of Patent Attorneys (1929) and AIPPI (1932), and subsequently could benefit from exchanging experience with colleagues and IP experts from different countries, and had the opportunity to make their own contribution to IP matters worldwide. The aforesaid cooperation has successfully continued till the present, in token whereof Polish patent attorneys have received much approval and recognition for their works in international IP circles.

The most recent law regulating IP matters in Poland is the Law on Industrial Property of 30th June 2000, which came into effect on 22nd August 2001 (published in Journal of Laws 2001, No. 49, item 508, with later amendments). In addition, the activities of patent attorneys are regulated by the Law on Patent Attorneys of 11th April 2001 (published in Journal of Laws 2001, No. 49, item 509, with later amendments). It is crucial to note that the patent attorney profession is a profession of public confidence and that it is privileged under the Polish law. There is a list, as in the past, which is kept by the Polish Patent Office and only individuals with a university degree, especially legal or technical, who completed a three-year post-graduate training and passed a qualifying examination may be entered on it. It should be noted that Polish patent attorneys specialize in both patent and trademark matters, there is no division within the profession into patent attorneys and trademark attorneys.

The accession of Poland to the EU has had significant impact upon the status of our patent attorneys. On March 1, 2004 they were entered on the list of European Patent Attorneys and acquired the competence to represent clients before EPO. Additionally, on May 1, 2004 our patent attorneys were also entered on the list of representatives before OHIM and are able to handle the proceedings related to the CTM applications and registrations.