

# THE EVOLUTION OF HUNGARIAN PATENT RIGHT REGULATIONS IN THE PERIOD BETWEEN THE FIRST AND THE SECOND WORLD WAR

## VÝVOJ PRÁVNEJ ÚPRAVY MAĎARSKÉHO PATENTOVÉHO PRÁVA V OBDOBÍ MEDZI PRVOU A DRUHOU SVETOVOU VOJNOU

*Ibolya Katalin Koncz*<sup>1</sup>

<https://doi.org/10.33542/SIC2022-2-05>

### ABSTRACT

*In Hungary, the regulation of patent laws on legislative level took place at the end of the 19<sup>th</sup> century. After the adoption of the respective law, the legal scholars and experts of that time already started pointing out the deficiencies of the law. Although this law remained in effect for nearly seventy years, proposals for its amendment and modification were submitted from the start of the 20<sup>th</sup> century. Within this study, I wish to examine the modernisation of the law by means of legislations in the first half of the 20<sup>th</sup> century as well as its modifications in terms of structure, procedural law and organisation, primarily based on the consulted Hungarian special literature sources, which can serve as a sufficient basis for the international comparison of the historical development of patent laws.<sup>2</sup>*

### ABSTRAKT

*V Maďarsku sa úprava patentového práva na legislatívnej úrovni uskutočnila koncom 19. storočia. Po prijatí príslušného zákona už vtedajší právni vedci a odborníci začali poukazovať na nedostatky zákona. Hoci tento zákon zostal v platnosti takmer sedemdesiat rokov, návrhy na jeho novelizáciu a úpravu sa predkladali od začiatku 20. storočia. V rámci tejto štúdie mám za cieľ preskúmať modernizáciu zákona prostredníctvom právnych predpisov v prvej polovici 20. storočia, ako aj jeho úpravy z hľadiska štruktúry, procesného práva a organizácie, a to predovšetkým na základe osobitných maďarských odborných literárnych prameňov, ktoré môžu slúžiť ako dostatočný základ pre medzinárodné porovnanie historického vývoja patentového práva.*

### I. INTRODUCTION

As a Hungarian legal historian, I had two particular and closely connected objectives regarding the preparation of this study. On the one hand, I aimed to present the evolution of patent right regulations, their organisational and procedural law regulations and the respective changes compared to the former Dual Monarchy Era<sup>3</sup>, primarily by processing and using authentic, Hungarian special literature. On the other hand, I wished to promote the thesis – which, I believe is particularly significant – that the basis for international comparative researches in legal history is always the thorough and relevant knowledge of the given national regulations to be compared. Accordingly, the structure and methodical aspects of this study follow the Hungarian methodology applied in the selected period.

<sup>1</sup> Associate Professor, Dr., PhD., University of Miskolc, Faculty of Law, Miskolc, Hungary  
Univerzita v Miskolci, Právnická fakulta, Miskolc, Maďarsko.

<sup>2</sup> This work was supported by the Slovak Research and Development Agency under the Contract no. APVV-19-0419.

<sup>3</sup> The Austro-Hungarian Monarchy existing between 1867 and 1918.

Prior to this study, I presented the legal regulations, as well as the organisational and procedural law perspectives of the first relevant legal historical period of Hungarian patent rights<sup>4</sup> to the academic world.<sup>5</sup> That is why I intentionally chose the era specified in the title, as the second development unit in the legal history of Hungarian patent laws. In the future, I plan to present in the framework of further studies the history of changes taking place in Hungarian patent rights starting from the second half of the 20<sup>th</sup> century.

According to my standpoint, this study provides a sufficient basis for international comparative academic research in legal history through the presentation of the evolution, structure and procedures of Hungarian patent laws between the two World Wars.

## II. SOCIAL AND ECONOMIC CHANGES, MODERNISATION PROCESSES AT THE TURN OF THE 20<sup>TH</sup> CENTURY

This chapter is particularly important, as there were such social, economic, and modernisation processes taking place in Central Eastern Europe starting at the beginning of the 20<sup>th</sup> century, which fundamentally changed the regulations and practical application of the patent right regulations of the region, including Hungary (examined by me in this study). The evolution that had taken place centuries earlier in Western European countries actually peaked<sup>6</sup> at the beginning of the 20<sup>th</sup> century in Hungary.

In the decades preceding the First World War, Hungarian economic policies were characterised by a liberal economic philosophy. One of the basic principles of liberalism is that it has no formulated economic policy, therefore it allows free market to operate without restrictions. Accordingly, the only responsibility of the state was considered to be the ensuring of the freedom of enterprise, competition and trade. The government and the legislators established the legal and institutional conditions for economic operations. This also demonstrates that the state did not let go of the economy and was not merely a passive onlooker, but it rather took part in controlling the economy in a certain framework, using the opportunities of being capable of making legislations and seeking other forms of activities. At the beginning of the 20<sup>th</sup> century, the state-owned fixed capital stock of land property, forests, mines, industrial and transport companies, etc. took up one quarter of the complete fixed capital stock. At the beginning of the war, each country believed that the fight would be won by the country with the strongest army. It was rather difficult to get away from the usual strategy and to envision the secret of victory in a computer-controlled system. Such accurate and fast counting devices were needed which would enable the preparation of bombing and artillery tables requiring high precision, and the nuclear bomb could be developed further. The disintegration of the Austro-Hungarian Monarchy and the Peace Treaty of Trianon deprived Hungary of its traditional markets and a significant part of its economic resources. As being reduced both in population and in area, the country needed a new base for its economy.<sup>7</sup>

The period between the First and the Second World War was largely characterised by industrial prosperity, the increase in physical researches, with massively improving computer science and mathematics, and together with high quality educational and cultural policies. Naturally, the private law means of establishing modern economy appeared in Hungary as early

---

<sup>4</sup> A research exclusively based on Hungarian legislations regarding the Austro-Hungarian Monarchy.

<sup>5</sup> IBOLYA KATALIN KONCZ: The Development of Patent Law in 19th Century Hungary in: Hurdik, Jan: Lavycki Petr; Valdhans, Jiri (szerk.) Dny Práva 2014 – Days of Law 2014 Cast I. Soukromé právo a civilní proces v dynamice vyvoje Brno, Csehország: Masarykova Univerzita (2015) 492.. pp.121-134. p.14.

<sup>6</sup> MARSHALL A. LEAFFER: Inventing the Industrial Revolution: The English Patent System 1660–1800 in: American Journal of Legal History, Volume 34, Issue 4, October 1990, pp. 422–423, p. 422.

<sup>7</sup> JÁNOS ESTÓK: Úton a modern Magyarország felé (~on the way to a modern Hungary) in: Estók János: Úton a modern Magyarország felé in: Egy hivatás 120 éve – A Magyar Királyi Szabadalmi Hivataltól a szellemi tulajdon Nemzeti Hivataláig (~120 years of a profession – From the Hungarian Royal Patent Office to the National Office of Intellectual Property) (edited by: Zsuzsanna Tószegi) Typotex Elektronikus Kiadó Kft Budapest, 2016. pp. 9 to 11.

as in the 1920's. Although a unified code of private law was only to be released decades later, legislations regulating certain fields were adopted and effected by the legislator bodies. An example for such legislation in Hungary was the adoption of the legislation on unfair competition in 1923<sup>8</sup> in which the legislator stipulated the expected conduct of business competition,<sup>9</sup> defined the different criteria for the terms 'reprehensible commendation' (advertising fraud)<sup>10</sup>, 'infringement' and 'counterfeit'<sup>11</sup>, the 'damaging of reputation and credibility'<sup>12</sup>, the so-called "snowball-type" contract<sup>13</sup>, and for the disclosure or unauthorised use of business or production secrets<sup>14</sup>. In line with the intensions of the legislator, both private and criminal law measures were used against violators of such regulators. These issues altogether greatly contributed to the fact that several renown scholars published works in Hungary in the 1920's and in the 1930's, who were also of international fame.<sup>15</sup> As a result of the partially successful restructuring of the industry as well as of scientific industrial researches, several Hungarian companies were able to remain in leading positions regarding the current state-of-the-art technology of the worlds in the period between the two world wars.<sup>16</sup>

### III. THE PATENT LAW AND THE CHANGES OF ITS CONTENTS

Over the years, numerous bills were submitted for the modernisation of the 1895 Patent Law; however, none of such bills could succeed to be adopted, and therefore the first individual Hungarian law of such kind – with many modifications and amendments – was actually in effect for 75 years.

Almost immediately upon the adoption of the first Hungarian patent law, there were several comments stating that patent laws need to be often modified, in order that such laws would be able to follow up on the development of science and technology. Naturally, this does not mean that the complete regulation would be replaced after shorter periods, but rather that the range and scope of patentable inventions would be reshaped and extended.<sup>17</sup>

Hungary's accession to the Paris Convention in 1908 resulted in significant changes. As an effect of the accession, the amendment of the Law was planned on a government level in 1909, as Ferenc Kossuth, the Minister of Trade at that time commissioned the development of a new draft. Nevertheless, the new draft was rejected by all of the affected professional forums, therefore it could not be presented to the Parliament as a bill.<sup>18</sup> Subsequently, in 1911, it was Károly Hieronymi, and after his death, János Harkány, who prepared the bill on Patent Law.

<sup>8</sup> Act V of 1923 on Unfair Competition.

<sup>9</sup> Section 1 of Act V of 1923 – No business competition shall be carried out in a way that it would be against fairness or general good ethics.

<sup>10</sup> Sections 2 to 6 of Act V of 1923.

<sup>11</sup> Sections 7 to 12 of Act V of 1923.

<sup>12</sup> Section 13 of Act V of 1923.

<sup>13</sup> Section 14 of Act V of 1923 - hydra-, entitlement docket- and avalanche contract.

<sup>14</sup> Section 15 of Act V of 1923.

<sup>15</sup> [https://mnl.gov.hu/mnl/ol/hirek/szilard\\_leo\\_es\\_albert\\_einstein\\_hutoszekreneyek\\_a\\_ket\\_vilaghaboru\\_kozott](https://mnl.gov.hu/mnl/ol/hirek/szilard_leo_es_albert_einstein_hutoszekreneyek_a_ket_vilaghaboru_kozott) (downloaded on: 14 February 2020).

<sup>16</sup> For example ...the company called Telefunken manufactured its tubes in line with the barium cathode patent of Egyesült Izzó ("United Lightbulb") for 8 years, and that is why Egyesült Izzó did not get crushed in the course of the patent battle, but it rather got entitlements, in exchange for the reduction barium-cathode patent to such essential key patents such as the Schottky Patent ... Up until 1933, electron tube manufacturing received no help or assistance from any party, and the participants of the research could only rely upon their own knowledge, inventions and ingenuity, and they still were able to resolve essential problems in such circumstances at the same time as other large laboratories abroad, often surpassing and preceding them." [http://www.holux.hu/publikaciok/A\\_Tungstram\\_marka\\_tortenete.pdf](http://www.holux.hu/publikaciok/A_Tungstram_marka_tortenete.pdf) (downloaded on: 20 February 2020).

<sup>17</sup> For example, medicines and chemically produced substances could not be patented, according to Section 2 Subsection 4 of the 1895 patent law. Section 6 Subsection (3) a) of Act II of 1969 more or less took over this practice. <https://arsboni.hu/munkaviszony-es-szabadalom-az-egyik-leggyakrabban-megreformalni-kivant-terulet/> (downloaded on: 15 February 2020).

<sup>18</sup> ZSIGMOND BERNAUER: A magyar szabadalmi jog reformjához (On the Reform of Hungarian Patent Law) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of Hungarian Engineers and Architects) 1916. Vol. 50. No. 12, pp. 64-65, p. 64.

Although the intensions for modernisation gained more and more weight, the authorisation system did not change even in the drafts, meaning that the application of a clean opposition procedure was considered to be applicable. Hungarian proposals were brought in line with the provisions of the Austrian Patent Law, which characteristically means the determination of the starting date of the patent<sup>19</sup>, as well as the consideration of patent infringement from private law aspects as well as from criminal aspects.

In 1914, urging the reform of the Patent Law, Henrik Fenyő found the biggest deficiency of the legislation in the following: “although the majority of patent cases is of technical characteristics, technical know-how only has a secondary role regarding the patent institutions, and this adverse state should be urgently remedied for the sake of the people falling under legal protection by means of the revision of the law.”<sup>20</sup> As no revision took place that would actually appear in the Law, interpreting and modifying measures were tried to be implemented through the form of ministry decrees. In line with Ministry Decree No. 34.549/1915. K.M. (i.e. of the Ministry of Trade), the rules stipulated in the Code of Civil Procedure applicable to standard court proceedings became widely applied throughout proceedings of the patent office.<sup>21</sup>

Nearly two years later, in 1916, Rudolf Schuster<sup>22</sup>, the Chairman of the Royal Patent High Court submitted a proposal in a draft form upon the request of the Hungarian Royal Minister of Trade that would have allowed the proper containment of the situations of the given patents.<sup>23</sup> Rudolf Schuster had long been emphasizing the need for amending the Patent Law, stating that: “Patent laws should be the ones that change the most frequently in the world.”<sup>24</sup> Schuster’s modifying proposals were also welcomed by Zsidmond Bernauer, who made his sensational own proposals for modernisation in the Journal of Hungarian Engineers and Architects.<sup>25</sup> Regarding a decision made in 1920 by the Patent Court, Rudolf Schuster made the following remark on the decision in the Collection of Credit Laws: “Many words can be said about this issue – or rather problem – de lege ferenda. This issue, which is unsolved in our current Patent Law, is proof that this Law needs to be reformed.”<sup>26</sup>

<sup>19</sup> Section 17 of Act XXXVII of 1895 – on patents of inventions – stated that “Patents shall be granted for a period of 25 years as of the announcement of the given invention.” Magyar Törvénytár Millenniumi Kiadás (Collection of Hungarian Laws, Millennium Edition), Edited by: Dezső Márkus, Grill Károly Nyomdája, Budapest, 1896. However, the draft bill considered the starting point of the publication of the announcement of inventions, in line with the relevant Austrian and German practices. A magyar szabadalmi jog reformjához (On the Reform of Hungarian Patent Law) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of Hungarian Engineers and Architects) 1916. Vol. 50. No. 12, pp. 64-65, p. 64.

<sup>20</sup> HENRIK FENYŐ: Szabadalmi intézményeink mai állapota (~The Current Status of Our Patent Institutions) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of Hungarian Engineers and Architects) 1914. Vol. 48. No. 8 pp. 138-142; p. 138.

<sup>21</sup> Pursuant to Section 202 of Ministry Decree No. 34.549/1915. K.M., the provisions of the current Code of Civil Procedure were stipulated as applicable supplementary regulations.

<sup>22</sup> Rudolf Schuster was born in 1860 in Medgyes, Transylvania, he first worked as a lawyer and later as a public administration judge. From 1914, he was appointed the chairman of the Patent Court, and from 1915, the Chairman of the Royal Patent High Court. His excellent professional achievements include the editing of the summarising work titled “Hiteljeg Tára” (A Register of Credit Law). He eventually received a nobleman title as a recognition of his merits. (István Gödölle: A Magyar Iparjogvédelmi és Szerzői Jogi Egyesület 100 éve: történeti és archontológiai vázlat – 100 Years of History of the Hungarian Industrial Rights and Intellectual Rights Protection Association: a Historical and Archontologian Study).

<sup>23</sup> ISTVÁN GÖDÖLLE: A Magyar Iparjogvédelmi és Szerzői Jogi Egyesület 100 éve: történeti és archontológiai vázlat (100 Years of History of the Hungarian Industrial Rights and Intellectual Rights Protection Association: a Historical and Archontologian Study), p. 20.

<sup>24</sup> ERNŐ SZARKA: Iparjogvédelem Magyarországon – 100 éves a magyar Szabadalmi Hivatal (The Protection of Industrial Rights in Hungary – the Hungarian Patent Office celebrates its 100 years of operation) <http://www.bibl.u-szeged.hu/porta/szint/tarsad/jog/iparjog.hun> (downloaded on: 24 January 2020) This standpoint was also represented by Henrik Fenyő in 1914. See Henrik Fenyő: Szabadalmi intézményeink mai állapota (~The Current Status of Our Patent Institutions) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of Hungarian Engineers and Architects) 1914. Vol. 48. No. 8 pp. 138-142; p. 138.

<sup>25</sup> ZSIGMOND BERNAUER: A magyar szabadalmi jog reformjához (On the Reform of Hungarian Patent Law) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of Hungarian Engineers and Architects) 1916. Vol. 50. No. 12, pp. 64-65, p. 64.

<sup>26</sup> Zsigmond Bernauer also came to this conclusion in 1916. See: ZSIGMOND BERNAUER: A magyar szabadalmi jog reformjához (On the Reform of Hungarian Patent Law) in: Magyar Mérnök és Építész Egylet Közlönye (Journal of

Subsequently, in 1920, an Amendment was issued<sup>27</sup>, only in a total of 11 Sections. The current professional circles did not focus on the contents of this Amendment, but rather on the significance of its adoption. Several circumstances made the amendment of the Patent Law unavoidably essential. One such circumstance was that the First World War resulted in such social and political changes, which required the introduction of new provisions. Several patents could not be made use of properly, and their protection periods were intended to be extended.<sup>28</sup> The other reason is related to monetary erosion, as consequently, fees specified in the Law could be considered to be of very small value.<sup>29</sup> The third problem was how to set up the council of the judicial department operating within the framework of the Patent Office. According to the 1895 Law, two legal and two technical experts were included in the council further to its chairman, and this council of five had to make the decisions.<sup>30</sup> In practice, however, the council judge positions of legal expertise could not be filled. Consequently, it was also impossible to comply with the provision according to which the judge taking part in the decision-making of the given appealed decision could not be part of the legal remedy forum.<sup>31</sup> As a result of all the above issues, continuous work became difficult, or even almost impossible in certain cases. These conditions were resolved by means of the provisions of the Amendment, according to which judges of standard courts were assigned to deal with patent law disputes and decisions.

#### IV. THE STRUCTURE AND OPERATIONS OF THE PATENT COURT FROM 1920 TO 1949

For 24 years after its establishment, the Patent Office operated “by appearance, as a public administration authority”, but actually as a court. Despite the fact that the permanent technical expert members of the Office were appointed to be judges, they were still not equal to the “legal expert judges”, although the decisions on basic professional issues were usually made by the engineers. Based on the changes adopted in the form of Act XXXV of 1920 after lengthy debates and preparations, the characteristics of the Patent Office changed: “it has become a real judicial court with all the accessories of independent judicial decision-making”.<sup>32</sup> This was all resolved at the beginning of the 20<sup>th</sup> century by means of the reinterpretation of the relations between the application and the court departments and by eliminating the function of an external member in the process, as well as by reregulating disciplinary liability. In the range of the individual courts in the Dual Monarchy Era, patent offices are outstanding because they had the only dual level court offices out of all such individual courts. The new titles of these two levels, namely the Hungarian Royal Patent Court, and the Hungarian Royal Patent High Court also

---

Hungarian Engineers and Architects) 1916. Vol. 50. No. 12, pp. 64-65, p. 64.; Rudolf Schuster: *Hiteljog Tára*, (Collection of Credit Laws), Vol. II. (1921, Budapest).

<sup>27</sup> Act XXXV of 1920 – on the amendment and supplementation of certain Provisions of Act XXXVII of 1895 on Patents for Inventions.

<sup>28</sup> Section 2 of Act XXXV of 1920 – The Patent Court is entitled to extend the time period of patents (as regulated in Section 17 of Act XXXVII of 1895) submitted or already approved as of 31 July 1914 or in the period thereafter until the date of this Act coming into effect for a period of up to six years (Section 3), even if a given patent would otherwise have expired at the time of this Act coming into effect due to the expiration of the period of protection.

The term of a patent can only be extended if the given invention could not at all or very slightly become used or applied due to the war or to the economic circumstances and if such an extension does not have adverse effects on the economy.

<sup>29</sup> Section 8 of Act XXXV of 1920 – Upon being in agreement with the Minister of the Royal Hungarian Treasury, the Minister of Hungarian Trade shall be entitled to increase or decrease the fees stipulated in Sections 45 and 46 of Act XXXVII of 1895 until further legislative regulations.

<sup>30</sup> Section 25 of Act XXXVII of 1895 – “The Court Department shall make decisions in the form of a council of five, under the chairmanship of the Chairman of the Patent Office or his Deputy, with the other four members being two certified judges and two technical experts of the Patent Office.”

<sup>31</sup> Section 25 of Act XXXVII of 1895 – “No persons shall be allowed to take part in the sessions of the Court Department who were contributing members in the decision-making process of the given appealed order.”

<sup>32</sup> FERENC MARSCHALL: A negyvenéves Szabadalmi Bíróság (~The forty-year-old Hungarian Patent Court) *A Magyar Mérnök- és Építész-Egylet Közlönye* (Journal of Hungarian Engineers and Architects) 1936. Vol. 70. No. 21-22, 1936, pp. 193-195.

reflected this characteristic of being individual courts. The independent dual level court system was eliminated in 1927 in such way that the jurisdiction for making secondary decisions was taken over by the Hungarian Royal Curia from the Hungarian Royal Patent High Court, which, as a consequence of losing such jurisdiction, ceased to operate as an organisation.<sup>33</sup> The Patent Court did not operate as a public administration authority, but as a special, separate court, and had its own judicial organisation of judges, in possession of safeguards of judicial independence. The Court of Competence classified it to be a special court and evaded making a decision on the prevailing force of either the Patent Court or the Budapest Royal District Court, referencing that the Act on the Court of Competence<sup>34</sup> did not order the decision-making on the conflicts of competence between standard and special courts as the responsibility to be undertaken by the Court of Competence.<sup>35</sup> Any appeals against the decisions made by the Patent Court were sent to the Royal Curia out of the standard courts. In consideration of the above, it can be stated that after the year of 1927, any conflicts of competence occurring between the Patent Court and other standard courts had to be decided by the mutual higher court, i.e. by the Royal Curia. In order to retain professional competence, the legislation ordered patent jurors to be appointed for a period of five years out of the professors of the Hungarian Royal Joseph Technical University.<sup>36</sup> This measure created serious aversions in the circles of contemporary experts, as they feared, just as László Papp stated, that “the loosening of the closed individual court system that was the safeguard for a highly renown patent law services throughout Europe shall result in lower quality.” However, referring to the need for maintaining the balances of the general government, legislators approved the elimination of the Patent High Court.<sup>37</sup> Based on the posterior case law analysis, it was revealed that this change – despite the former concerns – did not cause problems in legal services. The High Patent Council of the Curia consisted of the Chairman, two judges and two jurors; may times such judges or jurors were selected from the officials of the Patent Court. In 1936, the court staff of the Patent Court had 17 members, out of which 12 were engineers and five were lawyers. In the patent granting proceeding, the Office was the proceeding body on both levels “in ... ad hoc selection not separated in terms of organisational structure”.<sup>38</sup>

## V. THE APPLICATION OF HUNGARIAN PATENT LAW AND THE RELEVANT PRACTICAL ACHIEVEMENTS

The Hungarian Patent Institution celebrated its fortieth anniversary in 1936. I would like to summarise the outcome of my research quoting speeches during the celebratory assembly held on 25 June 1936 in the lecture hall of the Hungarian Academy of Sciences: Géza Bornemisza, Minister of Industrial Affairs spoke about the significance of patent law and the achievements of the Patent Office. “Today, the number of patent applications submitted in Hungary has by far exceeded one hundred thousand, and there are currently more than 16 thousand patents in effect. We enlist 2,500 patents annually, nearly half of which is of domestic origin. The extent how patent owners find it important to register a patent in Hungary is clearly shown by the fact that since 1932, when the patent protection period was increased from 15 to 20 years, the number of extensions shows a growing tendency.” Regarding trademarks, the Minister of Industrial Affairs highlighted the following: “The high industrial significance of the protection of trademarks is demonstrated by the fact that companies keep extending their popular

---

<sup>33</sup> Section 1 of Act XX of 1927 on the Cessation of the Hungarian Royal Patent High Court and the relevant provisions.

<sup>34</sup> Act LXI of 1907.

<sup>35</sup> Court Decision No. Hb 62.1922 – Hatásköri jogszabályok és hatásköri határozatok tára (Collection of Legal Competence and Jurisdiction Regulations)(edited by Gyula Térfi) Vol. XI, 1918-1923. Magyar Királyi Igazságügyminisztérium Budapest, 1924. pp. 257-260.

<sup>36</sup> Section 2 of Act XX of 1927.

<sup>37</sup> PAPP: op. cit. (85), pp. 91-96.

<sup>38</sup> MARSCHALL: op. cit. (93).

trademarks every 10 years, again and again, with some companies having their trademarks for even 50 or 60 years.” Finally, Géza Bornemisza also discussed issues yet to be regulated, just to mention a few, among others: increasing the legal safety of patent owners, settling the issue of patents submitted by employees, regulating sample protection, as well as the clarification of the poverty law.<sup>39</sup> In 1936, i.e. four decades after the establishment of the Patent Office, the patent inventory was a huge collection of 5 million units on the domestic and foreign descriptions of patents, carefully stored in a system. The other main speaker of the celebratory assembly was Zoltán Schilling, the Office Chairman, who started his speech with these words: “The life of inventors has always been very difficult. Very few of them have lived to enjoy the fruits of their inventions. Nevertheless, if the situation of an inventor is difficult today, it was even harder in the old times, when there were no laws and legislations protecting the rights of inventors and when the granting of privileges depended on the graces of emperors, and practically the only way of protection against counterfeiting and circumventions was to keep inventions in secret.”<sup>40</sup>

Schilling considered the most significant achievement of the first independent Hungarian Patent Law as follows: “... we placed the fate of patent law as intellectual property in the hands of an independent court of justice, and this is an enormous step in the field of legal services, because further to ensuring complete independence and impartiality on an institutional level regarding the granting of patents, it is now the prevailing of the law practices that dominate this field and the success of inventors no longer depend on the graces of emperors, or on the more or less controllable measures of public administration, and therefore we have become pioneers in this regard among the developed countries.”<sup>41</sup> Regarding the number of patent applications, Zoltán Schilling considered Hungary’s joining of the Paris Convention in 1908 to be of great significance, which “caused a very sharp increase in the number of patent applications”. In 1897, the number of submitted applications was 3,678, while in 1909 this number was 4,870, and in 1913 it was 5,686. “And by these means, we then came to the peak number of these 40 years’ achievement, as the Great War ended the greatly improving patent situation in 1914.” Certain further pieces of data were also presented: The number of patent applications submitted in 1924 was 2,669, and it was 4,202 in 1929, and 4,447 in 1935; however, more than half of such applications have been submitted “with the application of the poverty law”, and, moreover, “a majority of such applications is rather crude in notion, or an already outdated standing point, which cannot be approved to become a patent.” While in the “better times” 70 or 80% of the applications indeed became patents, in the current “hard times”, the rate of applications actually becoming patents was as low as 50 to 60%.<sup>42</sup> The participants of the 40<sup>th</sup> anniversary celebration could not foresee then how the other world war would not allow the 50<sup>th</sup> anniversary celebration to be held ...

## VI. SUMMARY

The realisation of lawyers practicing between the two World Wars stating that the patent law regulations effective in the Dual Monarchy Era would require changes proved to be correct. They noted with appropriate sensitivity that after the First World War, such drastic social, economic and modernisation changes occurred in the Central Eastern European region, which

---

<sup>39</sup> GYÖRGY BIRÓ: A M. Kir. Szabadalmi Bíróság jubileuma (~The Anniversary of the Hungarian Royal Patent Court). A Magyar Mérnök- és Építész-Egylet Közlönye. (Journal of Hungarian Engineers and Architects) 1936. Vol. 70. No. 31-36, 1936, pp. 238-239.

<sup>40</sup> ZOLTÁN SCHILLING: A M. Kir. Szabadalmi Bíróság elnökének előadása negyven éves szabadalmi intézményünkről (~The Lecture of the Hungarian Royal Patent Court on the forty years of our patent institution). Szabadalmi Közölny (Patent Journal), Vol. 41, No. 13, 1936, p. 160.

<sup>41</sup> SCHILLING: op. cit. (98), p. 161.

<sup>42</sup> SCHILLING: op. cit. (98), pp. 162-163. (In this text, Schilling Zoltán referred to the convention later on referenced as the Paris Convention in the relevant literature as the “International Union for Industrial Right Protection”).

had to be followed up by means of the re-regulation of patent laws. Regarding organisational structure, the system of individual court was favoured to be applied, and although the naming of the courts changed, the individual court type remained. The established, closed, individual court system, which was an essential prerequisite for independent patent right procedures across Europe, was, strictly in terms of structure, broken in Hungary, when in 1927 the Hungarian Royal Curia was appointed as the appeal court instead of the Hungarian Patent Appeal Court. However, the established practices demonstrate, as a Hungarian particularity, an interim solution, because an individual high patent court was formed within the framework of the Hungarian Royal Curia. Even upon this restructuring, the most important criterion could be complied with, i.e. that the vindication of patent rights had to remain in the hands of individual courts.<sup>43</sup>

### KEY WORDS

patent laws, patent right regulations, Hungarian Patent Appeal Court,

### KEÚČOVÉ SLOVÁ

patentové zákony, právná úprava patentového práva, maďarský patentový odvolací súd,

### BIBLIOGRAPHY

1. A.W. B. SIMPSON: T. H. O'Dell, *Inventions and Official Secrecy: A History of Secret Patents in the United Kingdom*, Oxford: Clarendon Press, 1994. Pp. xi + 149. in: *Law and History Review / Volume 15 / Issue 2/ Fall 1997* Published online by Cambridge University Press:28 October 2011, pp. 378-380
2. ADAM MOSSOFF: B. Zorina Khan, *The Democratization of Invention: Patents and Copyrights in American Economic Development, 1790–1920*, in : *Law and History Review Volume 15 /Issue 2/ Fall 1997* Cambridge: Cambridge University Press, 2005. Pp. xvii + 322.
3. BERNAUER ZSIGMOND: A magyar szabadalmi jog reformjához in: *Magyar Mérnök és Építész Egylet Közlönye* 1916. 50.évf. 12. szám pp. 64- 65
4. BIRÓ GYÖRGY: A M. Kir. Szabadalmi Bíróság jubileuma. A Magyar Mérnök- és Építész-Egylet Közlönye. 70. köt. 31–36. sz., 1936, pp. 238–239.
5. ESTÓK JÁNOS: Úton a modern Magyarország felé in: *Egy hivatás 120 éve – A Magyar Királyi Szabadalmi Hivataltól a szellemi tulajdon Nemzeti Hivataláig* (szerk: Tószegi Zsuzsanna) Typotex Elektronikus Kiadó Kft Budapest, 2016. pp. 9- 11.o.
6. FENYŐ HENRIK: Szabadalmi intézményeink mai állapota in: *Magyar Mérnök és Építész Egylet Közlönye* 1914. 48. évf. 8. szám pp. 138-142.o
7. FICSOR MIHÁLY: Tízéves szabadalmi törvényünkről. 1. rész (On Our Patent Law of ten years, Part 1). *Iparjogvédelmi és Szerzői Jogi Szemle, (Observer of Industrial Right Protection and Intellectual Right Affairs)* Vol. 1. (111.) No. 1, 2006, pp. 21-40.
8. GÖDÖLLE ISTVÁN: A Magyar Iparjogvédelmi és Szerzői Jogi Egyesület 100 éve: történeti és archontológiai vázlat
9. Hatásköri jogszabályok és hatásköri határozatok tára (szerk. Térfi Gyula) XI. kötet 1918-1923. Magyar Királyi Igazságügyminisztérium Budapest, 1924.
10. Magyar Törvénytár Millenniumi Kiadás, Szerk: Márkus Dezső, Grill Károly Nyomdája, Budapest, 1896-1949. kötetek

---

<sup>43</sup> I wish to express my gratitude herewith to Ms Ágota Tomorszkiné Mátyásföldi, who contributed her altruistic and diligent work to be able to put this study in an academically sufficiently professional foreign language form.



11. MARIUS BUNING: The Making of a Patent System in the Dutch Republic Series: Knowledge Infrastructure and Knowledge Economy, Volume: 7 2022 ISBN: 978-90-04-32042-0
12. MARSCHALL FERENC: A negyvenéves Szabadalmi Bíróság. A Magyar Mérnök- és Építész-Egylet Közlönye. 70. köt. 21–22. sz., 1936, pp. 193–195.
13. MARSHALL A. LEAFFER: Inventing the Industrial Revolution: The English Patent System 1660–1800 in American Journal of Legal History, Volume 34, Issue 4, October 1990, pp. 422–423, <https://doi.org/10.2307/845835>
14. Melléklet a Szabadalmi Közlöny 1915. évi 1-ső számához (Annex to the Patent Journal, Year 1915, No. 1). Pallas Nyomda, Budapest, 1915
15. MICHAEL ABRAMOWICZ: The Uneasy Case for Patent Races over Auctions in: Stanford Law Review 2007. Volume 59 Issue 1 pp. 803-862.
16. PAPP LÁSZLÓ: A szabadalmi hatósági funkciók alakváltozásai és eljárásrendje 1896-1949 (The Formal Changes and Procedural Rules of Patent Authority Functions) in: Egy hivatás 120 éve – A Magyar Királyi Szabadalmi Hivatalról a Szellemi Tulajdon Nemzeti Hivataláig (szerk: Tószegi Zsuzsanna) Typotex Elektronikus Kiadó Kft Budapest, 2016. pp. 67-104
17. SCHILLING ZOLTÁN: A M. Kir. Szabadalmi Bíróság elnökének előadása negyven éves szabadalmi intézményünkről. Szabadalmi Közlöny, 41. évf. 13. sz., 1936.
18. Schuster Rudolf: Hiteljog Tára, II. kötet (1921, Budapest)
19. SECKELMANN, MARGRIT: Industrialisierung, Internationalisierung und Patentrecht im Deutschen Reich 2006. XII, p. 528 ISBN 978-3-465-03488-9
20. Szabadalmi Közlöny és Központi Védjegy-értésítő (Patent Journal and Central Trademark Bulletin), Vol. 54. No. 12 and 13, pp. 117–118.
21. SZARKA ERNŐ: Iparjogvédelem Magyarországon – 100 éves a magyar Szabadalmi Hivatal <http://www.bibl.u-szeged.hu/porta/szint/tarsad/jog/iparjog.hun> (downloaded on: 24 January 2020)
22. [http://www.holux.hu/publikaciok/A\\_Tungstram\\_marka\\_tortenete.pdf](http://www.holux.hu/publikaciok/A_Tungstram_marka_tortenete.pdf) (downloaded on: 20 February 2020)
23. <https://arsboni.hu/munkaviszony-es-szabadalom-az-egyik-leggyakrabban-megreformalni-kivant-terulet/> (downloaded on: 15 February 2020)
24. [https://mnl.gov.hu/mnl/ol/hirek/szilard\\_leo\\_es\\_albert\\_einstein\\_hutoszekrenyek\\_a\\_ket\\_vilaghaboru\\_kozott](https://mnl.gov.hu/mnl/ol/hirek/szilard_leo_es_albert_einstein_hutoszekrenyek_a_ket_vilaghaboru_kozott) (downloaded on: 14 February 2020)
25. <https://www.origo.hu/jog/20150423-szellemi-tulajdon-vilagnapja-1-resz-120-eves-a-magyar-szabadalmi-jogalkotas.html> (downloaded on: 16 January 2020).

## CONTACT DETAILS OF THE AUTHOR

**Dr. Ibolya Katalin Koncz, PhD.**

Associate Professor

University of Miskolc, Faculty of Law,

A/6, Főépület, 3515 Miskolc-Egyetemváros, Hungary

Phone number: +36 46 565 1112339

Email: [konczibolya.k@gmail.com](mailto:konczibolya.k@gmail.com)