

21 "Mexico to Change Drug Law to Spur U.S. Trade Pact", Wall Street Journal, April 4, 1985. "EEC allows patent drug import ban" Times (London) Dec. 19, 1985.

22 These issues are explored in Blair, *op. cit.* at page 611; he notes the recommendations of the Patent Congress of 1873, in favour of compulsory licensing, and quotes Fritz Machlup's testimony to the U.S. Senate Committee on the Judiciary in 1962, which was considering legislation to amend the anti-trust laws with respect to drugs.

23 "Dupont Loses Round to Akzo in Patent Battle", Wall Street Journal, Jan. 2, 1986; Laura Ran: "Netherlands dispute with U.S. looms over fibre trade" Financial Times (London), Jan. 10, 1986.

24 A subordinate issue, or an issue of a different kind, is raised by the practice of the United States in handling private complaints of patent infringement (and trademark infringement) by importation by a procedure different from the disposition of such issues in domestic commerce. The domestic courts (District Courts) handle cases of patent infringement in domestic commerce; however, complaints in regard to imports are handled by the International Trade Commission, where hearings are held by administrative law judges, under Section 337 and 337a of the Tariff Act. While the ITC applies the same tests as would a domestic court in regard to determining the validity of a U.S. patent, the framework of law regarding infringement, and the procedures, is more favourable to the plaintiff under the ITC. The question of whether it is appropriate, given the "national treatment" obligations of Article III of the GATT, to maintain such different rules and procedures, was the subject of a Canadian complaint under the GATT conciliation procedures (Article XXIII): the Wallbank case. The panel report, which rejected the Canadian complaint, is GATT L/5333 of June 11, 1982; the Canadian statement setting out the disagreement with this report is C/W 1396, 14 Oct. 1982; the U.S. reply is C/W/400 2 Nov. 1982. We shall, in the final chapter, note that Section 337 uses some language, which, if given its full connotation, would make import competition policy considerations, in some measure, into trade policy. For Section 337 cases (which are largely alleged patent infringements) see USITC, Office of the Administrative Law Judges: Compendium of Section 337 Decisions and the extensive discussion in Kaye, Plaia and Hertzberg, *op. cit.*, Part II.

25 See Financial Times (London), FT Commercial Law Reports. July 3, 1984 British Leyland vs Armstrong, Court of Appeal.

26 U.K., Office of Fair Trading, Report by the Director General, 21 March 1984.

27 U.K. Monopolies and Mergers Commission: Ford Motor Company Limited Cmnd. 9437, February 1985.

28 Kenneth Gooding: "EEC may compel Ford to grant body panel licenses" Financial Times (London), Nov. 21, 1985; John Griffiths: "Brussels halt action as Ford agrees to body panel licenses", Financial Times, Dec. 18, 1985.

29 See Iain C. Baillie: "Design Copyright in the U.K."; Les Nouvelles, March 1982, for a general discussion of these U.K. provisions.