

Between Exploitation and Administration

The Patent Office (*Patentní úřad*) of the Protectorate of Bohemia and Moravia, 1939–1945

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Abstract

The Patent Office (*Patentní úřad*) in Prague, the central Czechoslovak authority dealing with the protection of industrial property, experienced many changes and developments from its foundation as regards not only its mission and organisation but also with respect to the fates of its employees. The breakup of Czecho-Slovakia in March 1939 led both to the establishment of an independent Slovak State, which became a satellite of Hitler's Germany and founded its own central office for protection of industrial property, and to struggles of the Patent Office in Prague for its exclusive position in the Protectorate of Bohemia and Moravia. Daring defence of the Patent Office, its representatives, and the ministry under whose auspices the Office functioned, led to decisive measures on the part of the occupying power soon. As of 1940, the Patent Office was thus allowed to deal only with its backlog while new patents were to be submitted to the Reich Patent Office (*Reichspatentamt*) in Berlin. These applications, however, had to be presented in German, which naturally put Czech applicants at a disadvantage. The Nazi occupation had severely hindered the functioning of the Patent Office in Prague: It made free distribution of information impossible, resulted in unfavourable relocation of the Office, and led to persecution and death of many of its workers, especially those of Jewish origin. It took years for the Office to recuperate, although it faced many important and pressing tasks immediately after the war. In particular, it participated in efforts to rectify war damage in the area of industrial property and collaborated in the management of predatory German industrial rights. It was not until early 1960s that the agenda

related to German trademarks was solved. On the other hand, it seems that the employees were able to prevent the German occupants from gaining excessive profit from the patent applications lodged at their Office.

In mid-March 1939, the so called Second Czecho-Slovak Republic had disintegrated: Slovakia declared independence, the remainder of Subcarpathian Ruthenia was invaded, and the already curtailed Bohemia and Moravia were occupied, being turned into the Protectorate of Bohemia and Moravia (*Protektorat Böhmen und Mähren*; hereinafter Protectorate).

The events of late 1930s and the first half of 1940s led not only to staff restriction as well as working inhibition of the Patent Office (*Patentní úřad*; hereinafter PO) in Prague but also to its omitting on the part of international patent offices. For instance, the Patent Office in London stopped sending its patent documentation to Prague immediately after 15 March 1939. The PO in Prague kept sending its documents abroad, including London, endeavouring to restore the principle of reciprocity with the support of Reich German officials at the Protectorate Ministry of Industry, Trade, and Business (*Ministerstvo průmyslu, obchodu a živnosti*).⁷⁰⁷

The PO in Prague had to deal with issues stemming from fragmentation of the originally unified Czechoslovak patent territory in several parts, let it be either in the form of a direct integration into Germany and Hungary or of an independent state (Slovakia). This contribution will be limited exclusively to the activities of the PO in Prague, i.e. on the territory of the Protectorate, thus leaving aside issues related to industrial property in the so-called Sudetenland, the Slovak State, the parts of Slovakia occupied by Hungary, and the whole Subcarpathian Ruthenia as well as the activities of the Czechoslovak government in exile in London in the field of industrial ownership.

1 The mischievous officials of the Patent Office

In 1939–42, the PO was headed by the ministerial counsel Ing. František Buchnar (1883–1947).⁷⁰⁸ In the middle of the wartime, he was replaced by

707 Národní archiv [National Archives; hereinafter NA] Praha, coll. PMR 1918–45 [Presidium of the Ministerial Council, 1918–45], b. 3611, file 877/9, PO to the Presidium of the Ministerial Council, 11 May 1939.

708 *Patentní věstník* [Patent Bulletin] 29 (8), 1947: pp. 29–30.

Fig. 1 František Buchnar – personal photo, 1939 (NA Praha, f. PŘ 1941–51, c. 984, sig. B3475-1).



JUDr. Josef Fák (1888–1952),⁷⁰⁹ who retained his leading position in the PO even after the end of the WWII. Both of these men, however, found themselves supervised by the de facto head of the PO, its vice-president, Ing. Alfred Langer (born 1894), a Sudeten German, who had worked with the PO from 1922. The then president of the PO tried hard to recruit him not only because he needed people with a degree in engineering but also because A. Langer was only the third PO's employee of German nationality. The PO was eminently interested in him, being afraid at the same time that this war invalid could easily find a position in the private sector thanks to his technical education.⁷¹⁰ The PO eventually managed to secure his services but perhaps not his full loyalty. After the occupation of the so-called Sudetenland, i.e. during the period between 1 October 1938 and 14 March 1939, this long-term employee tried to get the PO integrated into the Reich Patent Office (*Reichspatentamt*; hereinafter RPA). Like others, he probably concluded that Adolf Hitler was right when he claimed at a Nazi Party conference in September 1939 that Nazism is 'the most valuable German patent'.⁷¹¹ Subsequently, he also did

709 NA Praha, coll. PŘ Praha II. – evidence obyvatel [Police HQ Prague II – the registry of citizens], registry card of J. Fák, n.d.

710 Ibid., coll. PÚ (unsorted), personal file of A. Langer, suggestion of the Ministry of Industry, Trade, and Business to employ A. Langer, August 1922.

711 Kovtun, Jiří. 2016. *Republika v obležení. První éra prezidenta Beneše 1935–1938* [Republic under Siege. The First Term of President Beneš, 1935–1938]. Praha: Torst: p. 193.



Fig. 2 Josef Fák – personal photo, 1925 (NA Praha, f. PŘ 1941–51, c. 1978, sig. F49-5ai41).

his utmost to introduce it into the PO in Prague.⁷¹² Although his wife was of Czech origin, he denounced several of his colleagues to the Gestapo during the occupation. This took place after the assassination of Reinhard Heydrich (1904–1942), so if it was not for the intervention of another German official of the PO, given the atmosphere of the time, these men would have been sentenced to death.⁷¹³ It is, therefore, unsurprising that some of the PO's staff participated in the Prague Uprising in May 1945 with heartfelt enthusiasm.

It does not, however, mean that the PO did not afford an occasional impertinence towards the German authorities within the confines of promised autonomy. In a letter from 16 June 1939, the Office of the Reich Protector (*Amt des Reichsprotectors*) asked the PO for its interpretation of the Patent Law on patents and trademarks with regard to patent territory. Although the central occupation authority asked the Presidium of the Ministerial Council (*Presidium ministerské rady*; hereinafter PMR) for a swift reply, it passed the issue on to the PO. Its Vice President Egon Málek (born 1881) replied on 12 July 1939 that the report would be presented the Minister of Industry and Trade himself. The representative of the PO, Vlastimil Šádek (1893–1961) sent a reply on 14 July but only in Czech. The Presidium of the Ministerial Council consequently asked him for a German version of his reply. The Presidium

712 NA Praha, coll. PŘ Praha II – evidence obyvatel, registry card of A. Langer.

713 Lášek, Emil. 1992. 'Počátky československého patentového úřadu' [The Early Days of Czechoslovak Patent Office]. In *Průmyslové vlastnictví* [Industrial Property] (3), 1992: pp. 96–99 [99].

Fig. 3 Alfred Langer –
personal photo, 1931
(NA Praha, f. PŘ 1941–51,
c. 8285, sig. L258-11ai31).



had naturally plenty of staff capable of translating the letter into German, especially given that its administration included the so-called Coordination Section, whose task it was to follow activities of the German occupation administration. The actual reason why the Presidium asked the Ministry of Industry and Trade to make the translation themselves was the content of the letter, which was resolutely defiant. The Ministry insisted on full autonomy of the Protectorate in the matters of patents and trademarks, stating in particular that Reich German patents are only valid in the Protectorate after a due examination and recognition by the Prague PO. In other words, it implied that the PO feels in no way bound by decisions of the RPA in Berlin.⁷¹⁴ This explains why the PO engaged directly the minister, for whom it prepared this self-confident and almost mutinous letter. After all, Josef Ježek (1884–1969), the Protectorate Minister of Interior at that time, was described by Minister Šádek after the war as “(...) *utterly unbending in national matters. It was for his intransigence in economic issues that he was relieved of his governmental post.*”⁷¹⁵

714 NA Praha, coll. PMR 1918–45, b. 2007, file 401/900, letter of the Minister of Industry, Trade, and Business to the Presidium of the Ministerial Council, 14 July 1939.

715 Archiv bezpečnostních složek (Archive of the Security Services; hereinafter ABS) Praha, 301-47-2, an interrogation report of J. Ježek, 21 June 1945.

The German version of the letter led to something of a clash between the Presidium of the Ministerial Council and the Ministry of Industry, Trade, and Business. The Presidium recommended that the competent clerk from the Ministry should personally intervene at the Office of the Reich Protector and try to achieve recognition of the position of Protectorate institutions. The relevant official from the Ministry of Industry, Trade, and Business on the other hand, preferred direct written communication with Berlin, stating that Berlin officials “*view our position more favourably and claim that such written communication on the subject would be beneficial.*”⁷¹⁶

Reaction of the local occupation authorities towards the PO was thorough and merciless but not unexpected since the existence of two independent ‘patent territories’ within one state unit, the German Reich, could not be tolerated for long. The Nazis decided to eliminate the PO rather than either to unite it with or subject it to the RPA in Berlin. Details of the discussions on this issue among the various Nazi authorities are unfortunately unknown. That is why we also do not know whether they considered the option of making the Prague PO merely a branch office of the Berlin office, thus securing its continued existence. Nevertheless, there are reasons to assume that this option had been discussed because the PO in Prague was liquidated only a year later. Given the usual decisiveness of the Nazis, the delay is telling and seems to indicate that some squabbles about the fate of the Prague PO did actually take place among the relevant central Nazi authorities.

The Office of the Reich Protector thus took interest, however indirect, in the PO once again only after March 1940, trying to promote participation of Protectorate institutions in international associations aimed at protection of intellectual property, and their relations with such institutions. What followed was administrative confusion, which may have been due to passive resistance of Protectorate institutions, namely the PMR, the Ministry of Education and National Enlightenment (*Ministerstvo školství a národní osvěty*; hereinafter MŠANO), which was drawn into this muddle quite needlessly, the Ministry of Industry and Trade, and the PO. Although these institutions started urging each other to reply, it was not before mid-May 1940 that the Reich Protector was informed of Czechoslovakia having been an active signatory of all international agreements (and their amendments) pertaining to the protection of industrial and intellectual property. The reply did not fail to emphasize that the contacts between the PO and the headquarters of the United International Bureau for Industrial Property Rights (*Bureaux*

716 NA Praha, coll. PMR 1918–45, b. 2007, file 401/900, note of the Presidium of the Ministerial Council, 24 July 1939.

Internationaux Réunis pour la Protection de la Propriété Intellectuelle) in Bern were based on international agreements.⁷¹⁷

It seems that the careful inquiries undertaken by the Office of the Reich Protector were probably preparations for a speedy liquidation of the Prague PO, whose activities were being progressively curtailed from summer 1940. As of 1 August 1940, the PO was not allowed to accept any more patent applications. It thus followed the fate of its Vienna counterpart after the so-called Anschluss of Austria in March 1938, which was also forbidden – by a directive of 28 April 1938 – to accept any further patent applications as of 14 May 1938.⁷¹⁸ Now, Prague PO's turn came. The only institution in the Reich that was authorized to accept applications was henceforth the RPA in Berlin. This development was based on the directive of Reich German Ministries of Interior (*Reichsministerium des Innern*; RMdI) and of Justice (*Reichsministerium der Justiz*; RMDJ) from 20 July 1940.⁷¹⁹ After 31 July 1940, patents could not thus be submitted in Prague, patents and utility models registered with the RPA enjoying, however, the same protection in the Protectorate as in the rest of the German Reich henceforth unless they should run counter to rights acquired previously. The same applied to patents registered in Berlin prior to 1 August 1940 if the applicant applied for an extension of patent protection to the territory of the Protectorate. The same rule also applied to secret patents, that is, applications of potentially military use (Sections 1–5). The Section 6 did not omit the issue of jurisdiction, transferring it from the Protectorate Supreme Administrative Court (actually its specialized senate, the Patent Court) to the German Provincial Court (*Landesgericht*) in Prague. And finally, according to Section 8, the RMDJ could, in coordination with the Reich Protector, “empower legal counsels, patent representatives, and civilian technicians commissioned to represent before the Patent Office in Prague to the act of representing in matters of patents before the Reich Patent Office.”⁷²⁰ In late summer 1940, practical considerations led to an extension of preferential rights and emendation of use of some inventions in airplanes and vehicles,⁷²¹ which were extended even later again.⁷²² Reich Germans and Protectorate citizens were required to register all their

717 Ibid., b. 3158, file 666/35/34, a letter of the Presidium of the Ministerial Council to the Office of the Reich Protector, 18 May 1940.

718 *Reichsgesetzblatt* (hereinafter RGBl.) I, 1938: p. 456.

719 Ibid. 1940: p. 1009.

720 Ibid.

721 ‘Verordnung zur Durchführung der Verordnung über das Patent- und Gebrauchsmusterrecht im Protektorat Böhmen und Mähren’. In *Verordnungsblatt des Reichsprotectors in Böhmen und Mähren* (hereinafter VBIRProt) 2 (37), 1940: pp. 428–429.

722 RGBl. I, 1940: p. 1589.

property, including patents located in enemy countries, by 30 September 1940.⁷²³

The PO in Prague naturally spoke out in its defence, nevertheless with a foresighted sigh that according to this directive, it was clear that the PO in Prague should liquidate. On the one hand, patents would have to be submitted in German; on the other hand, by dissolution of the PO, the Protectorate would be deprived of one of the attributes of its autonomy. Moreover, impecunious inventors could not even take advantage of the option of applying for a patent free of charge. Now, paradoxically enough, even the Czechoslovak law on the defence of state (No. 131/1936 Coll.) worked in favour of the Third Reich, which was also supervising secret patents through its representatives. The analysis ended somewhat provocatively with a quotation from an article in the German Journal called Industrial and Intellectual Property Law (*Gewerblicher Rechtsschutz und Urheberrecht*) where, in 1939, one Reich German author claimed with respect to the decree on the establishment of the Protectorate that existing Czechoslovak patents not only continued to be valid but the PO in Prague had also the right to accept new applications as was the case until summer 1940.

In a letter dated 23 October 1940, the Reich Protector asked the PO to continue accepting some applications (dependent and partial ones). The Office, in its reply, however, appealed to the directive of 20 July 1940 that allowed no exceptions and viewed all the applications as new patents. The PO admitted that some exceptions would be logical, for example in the case of partial applications and similar instances, such as continuation applications. Continuation applications had to be registered in Berlin presently as fully new patents, although the main patents had already been registered in Prague. The PO, therefore, asked for a permission to accept continuation applications to patents lodged prior to 1 August 1940, but for the moment being, it was not allowed to do anything.

The strange position of the dying PO in Prague was further highlighted by a treaty between the German Reich and Romania, the final protocol putting the Romanian and German patent offices on the same level and ranking them among the administrative and legal bodies whose stamp seals were valid on the territory of both the contracting parties without any further verification.⁷²⁴

The Office was only dealing with unfinished agenda. By the end of 1940, it had almost 19,000 still unprocessed applications, whereby in normal times, one clerk could process about one hundred patent applications a year. During the WWII, however, the number of clerks decreased, so that for instance

723 'Verordnung über die Anmeldung deutschen Vermögens im feindlichen Ausland'. In *VBIRProt* 2 (37), 1940: pp. 446–450.

724 *RGBl.* II, 1943: p. 380.

by the end of 1941, the PO had only 39 staff dedicated to this task. Even so, the occupation authorities pressed the PO to finish all the active files as soon as possible. It was viewed as a prerequisite for the final liquidation of the Office, which had even been forced to issue its bulletin bilingually from October 1939. The sad decline of the Office is attested by its contents: By mid-1942, it only included reports on patents granted or currently considered, and lists of printing errors.

2 Patents of potential military use

In early 1941, the PO in Prague was visited by representatives of the German Army, who demanded establishing of a separate ‘department of secret inventions beneficial to the military’. Subsequently, Ing. František Havlík (born 1890) was appointed its head, and Ing. Julius KroczeK (born 1902) became his secretary. The new department reported directly to the president of the PO, and he – together with the *Wehrmacht* – was the only person entitled to assign tasks to it. The staff commissioned with classified affairs signed a further unspecified ‘declaration’ (most likely on maintaining confidentiality as regards militarily exploitable patents). Moreover, either as a reward or to improve their motivation, each employee also received a copy of ‘Penal enactments on high treason, violation of duty etc.’,⁷²⁵ which did not by any means skimp on long-term prison or death penalties. For instance, the wording of the Section 143, Subsection 4 of the Reich Criminal Code (*Reichsstrafgesetzbuch*) alone can illustrate that it was not a joke: “*Whosoever by careless actions endangers the resoluteness of German military power, shall be punished by imprisonment.*”⁷²⁶

To get to possible treasures, hidden among the patent applications registered at the PO in Prague, the Nazis used the Czechoslovak Act no. 131/1936 Coll. on the defence of the State, especially its pursuant executive governmental directive no. 156/1936 on inventions and patents of importance for the defence of the State. To gain an even better access, they issued the ‘Second directive pursuant to law on the defence of the state of the former Czechoslovak Republic of 4 August 1942’.⁷²⁷ It substantially extended the intentions

725 Cf. the overview from 1941. *Im Protektorat Böhmen und Mähren auch für Personen, die nicht deutsche Staatsangehörige sind, gültige strafgesetzliche Bestimmungen über Landesverrat, Verletzung der Geheimpflichthaltung, Wehrmittelbeschädigung usw.* Prag: Böhmischo-mährische Verlags- und Druckerei-Gesellschaft.

726 *Ibid.*: p. 7.

727 See the regulation from 1942. ‘Zweite Verordnung über das Staatsverteidigungsgesetz der ehemaligen Tschecho-Slowakischen Republik vom 4. August 1942’. In *VBIRProt 4* (33): pp. 221–222.



Fig. 4 František Havlík – personal photo, 1923 (NA Praha, f. PŘ 1941–51, c. 6322, sig. H1164-20ai41).

of the original Czechoslovak legislation and actually comprised everything that could have any bearing on military production.

J. Kroczek, the secretary of the newly established department dealing with secret patents, was probably not a devoted Nazi since, as late as 25 February 1938, he had himself elected head of a society which the police headquarters in Prague considered a Masonic lodge. The information from November 1938 on this position of Kroczek's was available not only to the Prague police headquarters⁷²⁸ but also to the Provincial Administration Office (*Landesbehörde/Zemský úřad*) in Prague⁷²⁹ as well as to the Protectorate Ministry of Interior (*Ministerstvo vnitra*).⁷³⁰ That is, a number of institutions employing a large number of recently appointed German staff. It seems, however, that the old adage about freemasons having brothers everywhere worked, since there seems to be no evidence of Kroczek ever having problems on account of his Masonic involvement, although the Nazis deeply hated freemasonry.

J. Kroczek had already aroused interest of the Intelligence Branch of the Police Headquarters in Liberec in 1932 by meeting a man who was

728 NA Praha, coll. PŘ Praha II. – presidium, b. 1471, file 42/U-22/63, manipulation period 1931–40, the list of the Masonic lodges registered by the Police Directorate in Prague on 9 November 1938.

729 Ibid., coll. ZÚ Praha – presidium [Provincial Office Prague – the Presidium], file 207-1372-17, the list of the Masonic lodges registered by the Police Directorate in Prague on 9 November 1938.

730 Ibid., coll. MV I – presidium, file 225-1320-10, the list of the Masonic lodges registered by the Police Directorate in Prague on 9 November 1938.

Fig. 5 Julius Kroczek –
personal photo, 1931
(NA Praha, f. PŘ 1941–51,
c. 6092, sig. K6358-13ai41).



suspected of espionage (H. Bühler). Nevertheless, Kroczek did not stay in touch with him after that single meeting. During vetting for security clearance, Czechoslovak police did not find anything worrisome, or rather the police found absolutely nothing except for the fact that Kroczek may have been member of the German Christian-Social People's Party (*Deutsche Christlich-Soziale Volkspartei*).⁷³¹ Kroczek was employed by the PO in Prague in 1930, and in 1941, probably in the connection with his transfer to the military department, he was promoted to Departmental Counsel. He did not enjoy this rank for long, though, because as of 1 November 1941, he was recalled to the information service of the RPA in Berlin. In general, Kroczek was considered a diligent and well-educated clerk.⁷³² After the war, he returned to Czechoslovakia and in 1951, he re-acquired Czechoslovak citizenship based on Section 3 of the Decree No. 33/1945 Coll. and Section 1 of Directive No. 252/1995 Coll.⁷³³

F. Havlík was appointed chief section counsel in 1941. This promotion was likewise probably linked to the fact that he was 'head of a department

731 Ibid., PŘ Praha II – presidium, b. 895, file 42/K-85/28, manipulation period 1931–40, a report of the Police Directorate in Prague for the branch (counterintelligence) of the Police HQ in Liberec, 17 August 1932.

732 Ibid., coll. PMR 1918–45, b. 1090, an advancement suggestion of the Ministry of Industry, Trade, and Business sent to the Presidium of the Ministerial Council, 18 November 1941.

733 Ibid., coll. PŘ II. – všeobecná spisovna [Police Directory II – the General Registry], b. 6092, file K 6358/13, manipulation period 1941–50, a scope of the Central National Committee of the Capital City of Prague, 2 December 1950.

for secret applications and secret patents.’ Havlík served in the Austro-Hungarian army and later the Czechoslovak Army from 30 July 1914 until 2 December 1919. In 1920–21, he worked as an assistant lecturer at the Czech Technical University (*České vysoké učení technické*) in Prague. He joined the PO on 22 December 1921. He was described as ‘a most dedicated and conscientious clerk of exemplary diligence’.⁷³⁴ In January 1945, Prague Labour Office (*Arbeitsamt*) transferred him to Janka Company in Prague-Radošín. After the war, on 27 January 1948, he was as of 1 May 1945 appointed ministerial counsel. In the PO, he dealt among others with machines driven by pressurised gasses, ship building, and weapon sights.⁷³⁵

Although both F. Havlík and J. Kroczek were in charge of a department of high importance to the war effort, we found no evidence of them being charged after the end of the WWII with excessive collaboration with the occupying authorities. This might indicate that they in fact did not contribute much to the Nazi war effort and did not enable the occupying powers to exploit technical or other documentation included in applications registered at the PO in Prague.

3 Patent legislation during the Nazi occupation

Occupation had naturally also affected patent legislation. Governmental directive No. 246/1939 Coll. as amended on fees not paid in full, which was issued during the occupation, addressed the fact that especially annual but also other patent revenues were not coming ‘from areas outside the territory of Protectorate of Bohemia and Moravia’ in full, because financial institutions were charging various ‘manipulation fees’. According to the explanation which accompanied the directive, it was not “*possible to rectify this situation in an administrative manner, since one cannot exactly determine how much these administrative fees amount to in advance*”.⁷³⁶ This is why new legislation enabled recognition of these fees if they were upon a formal notice issued by the PO paid in full.

In terms of patents as such, it turned out necessary to amend (extend) priority rights and to implement some further extraordinary measures linked

734 Ibid., coll. PMR 1918–45, b. 1088, an advancement suggestions of the Ministry of Industry, Trade, and Business to the Presidium of the Ministerial Council, 9 September and 5 April 1941.

735 Ibid., coll. PÚ – unsorted, the personal file of F. Havlík, note of the PO, 16 January 1945 and *ibid.*, a decree, 27 January 1948.

736 Ibid., coll. MV I. – nová registratura [Ministry of the Interior – the New Registry], b. 445, file A 2725, an argumentative report to the order No 246/1939 Coll.