

PROTECTION OF INDUSTRIAL PROPERTY

Convention and final protocol signed at Paris March 20, 1883
Ratifications exchanged at Paris June 6, 1884
Senate advice and consent to adherence March 2, 1887
Adherence declared by the President of the United States March 29, 1887
Entered into force July 6, 1884; for the United States May 30, 1887
(as designated by the United States)
Proclaimed by the President of the United States June 11, 1887
Amended by protocol of April 15, 1891,¹ additional act of December 14, 1900,² and convention of June 2, 1911,³ as revised
Replaced May 1, 1913, by convention of June 2, 1911,³ as between contracting parties to the later convention; terminated definitively October 10, 1925⁴

25 Stat. 1372; Treaty Series 379

[TRANSLATION]

CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY

His Majesty the King of the Belgians; His Majesty the Emperor of Brazil; His Majesty the King of Spain; The President of the French Republic; the President of the Republic of Guatemala; His Majesty the King of Italy; His Majesty the King of the Netherlands; His Majesty the King of Portugal and the Algarves; the President of the Republic of Salvador; His Majesty the King of Serbia; the Federal Council of the Swiss Confederation;

Equally animated by the desire to assure, by common accord, a complete and efficacious protection to the industry and commerce of the subjects of their respective states, and to contribute to the safeguard of the rights of inventors, and to the loyalty of commercial transactions, have resolved to

¹ TS 385, *post*, p. 183.

² TS 411, *post*, p. 296.

³ TS 579, *post*, p. 791.

⁴ Date by which all parties to the 1883 convention had become parties to the 1911 convention.

conclude a Convention to that effect, and have named as their Plenipotentiaries the following:

His Majesty the King of the Belgians: Baron Beyens, Grand Officer of His Royal Order of Léopold, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the Emperor of Brazil: Mr. Jules Constant, Count de Villeneuve, Member of the Council of His Majesty, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians, Commander of the Order of Christ, Officer of His Order of the Rose, Knight of the Legion of Honor, etc.;

His Majesty the King of Spain: His Excellency the Duke de Fernan-Núñez de Montellano, and Del Arco, Count de Cervellon, Marquis of Almonacir, Grandee of Spain of the 1st Class, Knight of the distinguished Order of the Golden Fleece, Grand Cross of the Order of Charles III., Knight of Calatrava, Grand Cross of the Legion of Honor, etc., Senator of the Kingdom, His Ambassador Extraordinary and Plenipotentiary at Paris;

The President of the French Republic: Mr. Paul Chellemel-Lacour, Senator, Minister of Foreign Affairs; Mr. Hérisson, Deputy, Minister of Commerce; Mr. Charles Jagerschmidt, Minister Plenipotentiary of 1st Class, Officer of the National Order of the Legion of Honor;

The President of the Republic of Guatemala: Mr. Crisanto Medina, Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the King of Italy: Mr. Constantin Ressman, Commander of His Orders of St. Maurice and St. Lazarus, and of the Crown of Italy, Commander of the Legion of Honor, etc., Counsellor of the Embassy of Italy at Paris;

His Majesty the King of the Netherlands: Baron de Zuylen de Nyevelt, Commander of His Order of the Lion of the Netherlands, Grand Cross of His Grand Ducal Order of the Oaken Crown and of the Golden Lion of Nassau, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the King of Portugal and the Algarves: Mr. Jose da Silva Mendes Leal, Counsellor of State, Peer of the Kingdom, Minister and Honorary Secretary of State, Grand Cross of the Order of St. James, Knight of the Order of the Tower and of the Sword of Portugal, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Fernand de Azevedo, Officer of the Legion of Honor, etc., First Secretary of the Legation of Portugal at Paris;

The President of the Republic of Salvador: Mr. Torres Caicedo, Corresponding Member of the Institute of France, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the King of Servia: Mr. Sima M. Marinovitch, Chargé d'Affaires ad interim of Servia, Knight of the Royal Order of Takovo, etc.;

And the *Federal Council of the Swiss Confederation:* Mr. Charles Edward Lardy, its Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. J. Weibel, Engineer at Geneva, President of the Swiss Section of the permanent Commission for the protection of Industrial Property.

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

The Governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Servia and of Switzerland, have constituted themselves into a state of Union for the protection of Industrial Property.

ARTICLE II

The subjects or citizens of each of the contracting States shall enjoy, in all the other States of the Union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as these latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each State.

ARTICLE III

Are assimilated to the subjects or citizens of the contracting States, the subjects or citizens of States, not forming part of the Union, who are domiciled or have industrial or commercial establishments upon the territory of one of the States of the Union.

ARTICLE IV

Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter determined.

In consequence, the deposit subsequently made in one of the other States of the Union, before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working by a third party, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above-mentioned shall be six months for patents of invention and three months for designs or industrial models, as well as for trade or commercial marks. They shall be augmented by one month for countries beyond the seas.

ARTICLE V

The introduction by the patentee into countries where the patent has been granted, of articles manufactured in any other of the States of the Union, shall not entail forfeiture.

The patentee, however, shall be subject to the obligation of working his patent conformably to the laws of the country into which he has introduced the patented articles.

ARTICLE VI

Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the Union.

Shall be considered as country of origin, the country where the depositor has his principal establishment.

If this principal establishment is not situated in one of the countries of the Union, shall be considered as country of origin that to which the depositor belongs.

The deposit may be refused, if the object, for which it is asked, is considered contrary to morals and to public order.

ARTICLE VII

The nature of the production upon which the trade or commercial mark is to be affixed cannot in any case be an obstacle to the deposit of the mark.

ARTICLE VIII

The commercial name shall be protected in all the countries of the Union without obligation of deposit, whether it forms part or not, of a trade or commercial mark.

ARTICLE IX

Every production bearing, unlawfully, a trade or commercial mark, or a commercial name, may be seized upon importation into those of the States of the Union in which such mark or such commercial name has a right to legal protection.

The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each State.

ARTICLE X

The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality,

when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every manufacturer or trader engaged in the manufacture or sale of this production, when established in the locality falsely indicated as the place of export.

ARTICLE XI

The High Contracting parties engage between themselves to accord a temporary protection to patentable inventions, to industrial designs or models, as well as to trade or commercial marks for the productions, which may figure at official or officially recognized International Exhibitions.

ARTICLE XII

Each one of the High Contracting parties engages to establish a special service of Industrial Property and a central dépôt, for giving information to the public, concerning patents of invention, industrial design or models and trade or commercial marks.

ARTICLE XIII

An International Office shall be organized under the title of "*International Bureau of the Union for the Protection of Industrial Property.*"

This Bureau, the cost of which shall be supported by the governments of all the contracting States, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its supervision. Its powers shall be determined by common accord between the States of the Union.

ARTICLE XIV

The present Convention shall be submitted to periodical revisions for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object, conferences shall take place successively in one of the contracting States between the delegates of said States.

The next meeting shall take place in 1885 at Rome.

ARTICLE XV

It is understood that the High Contracting parties respectively reserve the right to make, separately, between themselves, special arrangements for the protection of industrial property, so far as these arrangements shall not interfere with the provisions of the present convention.

ARTICLE XVI

The States that have not taken part in the present Convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey, of full right, accession to all the clauses and admission to all the advantages stipulated by the present Convention.

ARTICLE XVII

The execution of the reciprocal engagements contained in the present Convention is subordinated so far as needful, to the accomplishment of the formalities and rules established by the constitutional laws of such of the High Contracting parties as are bound to ask the application thereof, which they agree to do within the shortest delay possible.

ARTICLE XVIII

The present Convention shall be put into execution within a month after exchange of ratifications, and shall remain in force during a period of time not determined, until the expiration of one year from the day upon which the denunciation shall be made.

This denunciation shall be addressed to the Government empowered to receive adhesions. It shall only produce its effect as regards the State making it, the Convention remaining executory for the other contracting parties.

ARTICLE XIX

The present Convention shall be ratified and the ratifications shall be exchanged at Paris, within the period of one year at the latest.

In witness whereof the respective Plenipotentiaries have signed it and affixed to it their seals.

Done at Paris the 20th of March, 1883.

[For Belgium:]		[For the Netherlands:]	
BEYENS	[SEAL]	BARON DE ZUYLEN	[SEAL]
[For Brazil:]		DE NYEVELT	
VILLENEUVE	[SEAL]	[For Portugal:]	
[For Spain:]		JOSÉ DA SILVA MENDES LEAL	[SEAL]
DUC DE FERNAN-NUÑEZ	[SEAL]	F. D'AZEVEDO	[SEAL]
[For France:]		[For El Salvador:]	
P. CHALLEMEL-LACOUR	[SEAL]	J. M. TORRES-CAÏCEDO	[SEAL]
CH. HÉRISSON	[SEAL]	[For Serbia:]	
CH. JAGERSCHMIDT	[SEAL]	SIMA M. MARINOVITCH	[SEAL]
[For Guatemala:]		[For the Swiss Confederation:]	
CRISANTO MEDINA	[SEAL]	LARDY	[SEAL]
[For Italy:]		J. WEIBEL	[SEAL]
RESSMAN	[SEAL]		

FINAL PROTOCOL

On proceeding to the signature of the Convention, concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala,

Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland, for the protection of industrial property, the undersigned plenipotentiaries have agreed on the following:

1. The words *Industrial Property* are to be understood in their widest acception, in the sense that they apply not only to the productions of industry properly so called, but equally to the productions of agriculture (wines, grains, fruits, cattle, etc.) and to mineral productions used in commerce (mineral waters, etc.).

2. Under the name *Patents of Invention* are included the various classes of industrial patents granted by the laws of the contracting States, such as patents of importation, patents of improvement, etc.

3. It is understood that the final provision of Article 2 of the convention shall in no respect infringe upon the laws of each of the contracting States, so far as concerns the procedure before the courts and the competence of the said courts.

4. Paragraph 1 of Article 6 is to be understood in the sense that no trade or commercial mark shall be excluded from protection, in one of the States of the Union, by the mere fact that it may not satisfy, in respect to the signs composing it, the conditions of the laws of this State, provided that it does satisfy, in this regard, the laws of the country of origin, and that it has been in this latter country, duly deposited. Saving this exception which concerns only the form of the mark, and under reservation of the provisions of the other articles of the Convention, the domestic legislation of each of the states shall receive its due application.

In order to avoid all misinterpretation, it is understood that the use of public armorial bearings and decorations may be considered contrary to public order, in the sense of the final paragraph of Article 6.

5. The organization of a special service of Industrial Property mentioned in Article 12 shall include, as far as is possible, the publication in each state of an official periodical.

6. The common expenses of the International Bureau, created by Article 13, shall in no case exceed yearly a sum-total representing a mean of 2,000 francs for each contracting State.

In order to determine the contributory share of each of the States this sum-total of expenses, the contracting States, and those who may hereafter adhere to the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:

<i>1st class</i>	25	units
<i>2d</i> "	20	"
<i>3d</i> "	15	"
<i>4th</i> "	10	"
<i>5th</i> "	5	"
<i>6th</i> "	3	"

Those coefficients shall be multiplied by the number of the States of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

The contracting States are classified as follows in respect to the division of the expenses:

- 1st class:* France, Italy.
- 2d* “ Spain.
- 3d* “ Belgium, Brazil, Portugal, Switzerland.
- 4th* “ Netherlands.
- 5th* “ Servia.
- 6th* “ Guatemala, Salvador.

The Swiss Government shall supervise the expenditure of the International Bureau, make the necessary advances, and state the annual account, which shall be communicated to all the other Governments.

The International Bureau shall collect information of every kind relating to the protection of Industrial Property, and shall compile from it general statistics, which shall be transmitted to all the Governments. It shall occupy itself with examinations of general utility which may be of interest to the Union, and shall publish, with the assistance of the documents put at its disposal by the various Governments, a periodical in the French language on questions which concern the object of the Union.

The numbers of this periodical and all the documents published by the International Bureau shall be partitioned among the Governments of the States of the Union in the proportion of the number of contributory units above mentioned.

The copies and supplementary documents which may be requested either by the said Governments, or by corporations or private persons, shall be paid for separately.

The International Bureau must always hold itself at the disposal of the members of the Union, in order to furnish them, on questions relating to the international service of Industrial Property, with such special information as they may need.

The Government of the country where the next Conference is to be held shall prepare, with the assistance of the International Bureau, the work of the said Conference.

The director of the International Bureau shall be present at the sessions of the Conferences, and shall take part in the discussions without voting.

He shall make an annual report on its management, which shall be communicated to all the members of the Union.

The official language of the International Bureau shall be the French language.

7. The present final protocol, which shall be ratified at the same time as the Convention concluded this day, shall be considered as forming an integral part of that Convention, and shall have the same force, value, and duration.

In faith whereof the undersigned plenipotentiaries have drawn up the present protocol.

BEYENS
VILLENEUVE
DUC DE FERNAN-NUÑEZ
P. CHALLEMEL-LACOUR
CH. HÉRISSE
CH. JAGERSCHMIDT
CRISANTO MEDINA
RESSMAN

BARON DE ZUYLEN DE NYEVELT
JOSÉ DA SILVA MENDES LEAL
F. D'AZEVEDO
J. M. TORRES-CAICEDO
SIMA M. MARINOVITCH
LARDY
J. WEIBEL