Sec. 157. Trademarks. Word marks.

Invented words or words used in an arbitrary or fanciful meaning only are in most countries recognized as lawful trademarks. Many of the best known and most valuable trademarks in the United States and in many of the foreign countries consist of some one or more words which are so distinctive in character that they appeal forcibly to the eye and the ear. In certain countries, however, words cannot, under the law, be recognized as lawful trademarks. Such countries are Austria, Finland and Norway, but in each of these countries, except Finland, trademarks which are the property of citizens or subjects of certain foreign countries and are registered in the country of origin, may under the provisions of international agreements be registered and protected, even though they consist of a word or words only. The reason for the refusal to recognize words as lawful trademarks does not clearly appear.

Sec. 158. Trademarks. Word marks. Descriptive words.

Words which are descriptive of the nature or quality, origin or destination of the goods to which they are applied are not under the laws of any country lawful trademarks, though there is a marked difference in different countries in the meaning given to the word "descriptive." In Great Britain, and in the British Colonies and dependencies which have trademark laws, all of which follow the principles of the law of Great Britain very closely, a word is considered to be descriptive if it relates to or is suggestive of the nature or quality, destination or origin of the goods to which it is applied. The same practice is followed in the United States though the law is silent as regards descriptive words. In

1 In Great Britain words were not registrable as trademarks, unless "old marks," prior to the Patents &c., Act of 1883.


3 A word or words having no reference to the character or quality of the goods, and not being a geographical name. Patents &c., Act of 1883 of Great Britain as amended 1888, article 64.
France, on the contrary, it is generally held that when an expression is other than the necessary designation of a product it cannot be considered descriptive. The French practice in this regard is generally followed in the European countries which permit the registration of word marks.

Sec. 159. Trademarks. Word marks. Geographical names.

The name of the locality of origin of goods is not in most countries registrable as a trademark under the law as being descriptive, as well as being a mark which might rightfully be used by others. In a few countries, exception is made in case of the name of an estate which is owned by the producer or trader who seeks registration. This exception is not inconsistent with the general principle that a mark in order to be registrable as a trademark must be other than such a mark as would naturally be used by others to indicate the origin of their goods.

The marking of goods with the names of localities other than that of the origin of the goods, particularly if with names of localities in which goods of the same class are produced, is necessarily deceptive and such marks are not in any country registrable as trademarks, though words which in their ordinary sense are geographical if used in an arbitrary sense and not in their ordinary geographical sense, as indicating locality of origin, may be registered and protected as trademarks. Geographical names so used have been protected as trademarks in the courts of the United States, and in case of "old marks" in the courts of Great Britain. Under the present law of Great Britain, how-

1 Marafy, Dictionnaire. Article, Mots descriptive.
2 See § 139. Note 1.
3 See §§ 138, 139.
4 Law of 1896 of Portugal, Article 60.
5 Law of 1891 of Brazil, Article 8.
6 Ex parte Little & Co., 85 O. G., 1221, and cases there cited.
ever, geographical names are expressly excluded from registration.¹

Sec. 160. Trademarks. Letter and numeral marks.

Marks which consist solely of letters or numerals are not considered lawful trademarks under the laws of Austria, Bulgaria, Denmark, Finland, Germany, Norway, Sweden and Great Britain, and the British Colonies and dependencies generally, though in Austria, Denmark, Norway and Sweden, trademarks which are the property of citizens or subjects of certain foreign countries, and are registered in the country of origin, may under the provisions of international agreements be registered,² even though they consist solely of letters or numerals, and under the law of Great Britain and the British Colonies and dependencies generally such marks if "old marks," that is, marks in use before the date of the first registration law of the country, may be registered.³ In Great Britain, such marks have been in numerous cases sustained by the courts as lawful trademarks.

Sec. 161. Trademarks. Letter and numeral marks.

The reason for not considering marks which consist of letters or numerals solely, lawful trademarks, is more readily seen than the reason for excluding marks which consist of words. The right of any producer to place the initials of his name on his products is everywhere recognized as a natural right which should not be interfered with, provided it is not done to imitate the known mark of another with fraudulent intent; and, as it is hardly possible to conceive of any combination of letters which may not be the initials of the name of some other than the person who may use them as a trademark, it is evident that such person cannot at the moment of adopting such a mark be certain of an ex-

¹ Patents &c., Act of 1883 of Great Britain as amended 1888, Article 64.
³ Such use must, so far as Great Britain is concerned, be use in the United Kingdom. The same is no doubt true of all other countries.
clusive right to its use. So too with numerals which may be used by any producer as catalogue marks to distinguish articles of the same class of his own production. Marks of this character, whether consisting of letters solely or numerals, may no doubt become by long use the known marks of certain producers, and as such be entitled to protection against others who make use of them for the purpose of unfair competition.

Sec. 162. Trademarks. Color and form.

The color or form given to articles on the envelopes or wrappers in which goods are put upon the market cannot in most countries be considered as a lawful trademark. The countries which specifically exclude color or form are Argentine Republic, Paraguay, Peru and Uruguay. Great Britain and the British Colonies and dependencies generally, and Portugal, also exclude marks consisting solely of color or form, and it may be regarded as doubtful whether, even in the countries which permit the registration broadly of any distinctive mark, a mark which consists solely of color or form would be considered as a lawful trademark.

Sec. 163. Trademarks. Other marks excluded from registration.

Marks which include the portrait or name of a person other than the user of the mark are under the laws of Brazil, Denmark, Finland, Norway and Sweden, expressly excluded from registration, unless the written consent of such person is filed with the application for registry of the mark. Marks which include representations which are contrary to good morals or to public order, are not in any country considered lawful trademarks, for obvious reasons. So, too, marks which include representations of public arms, the flag of the country, or of other countries, portraits of the sovereign or members of the royal family, insignia of certain orders, the symbol of the Red Cross society and marks of like nature cannot, for obvious reasons, be considered lawful trademarks, and are very generally refused registration, though certain of such marks may be registered provided the applicant for registration can show that he is properly authorized to use them.
CHAPTER V.

OF THE PERSONS ENTITLED TO REGISTER A TRADEMARK.

Sec. 164. The user of a trademark alone entitled to registration.

Only the actual user, or, in certain countries, the intended user¹ of the mark, is in any country of the world entitled to register the mark. The laws of many of the countries provide specifically that only persons who are engaged in the production of articles of commerce or who trade in such articles are entitled to register trademarks, and though the laws of other countries provide for registration by the owner or the proprietor of the mark, this is not to be understood as permitting the registration of or acknowledging a property right in any mark, however distinctive, which is not actually used on goods actually placed on the market. The user of the mark must under the laws of all countries be the user within the country, except as otherwise provided by conventions or agreements with foreign nations. The user entitled to registration may be an individual, a firm, a company or a corporation. In many countries² and in a number of the several states of the United States,³ an association of individuals may register a trademark used by the individual members of the association. Such marks are generally known as collective trademarks. The application for registration must in all countries be made by the actual, or in certain countries, the intended user of the mark, either personally or through a duly appointed repre-

¹ A trademark may be registered in Great Britain before it is used (In re Hudson, 32 Ch. D., 311), provided there is a bona fide intent to use it on the goods for which it is registered. In countries in which registration is attributable of the right to the mark, use of the mark prior to registration is not necessary.

² See, for instance, law of 1890 of Switzerland, Article 7, and law of 1896 of Portugal, Article 66.

³ See § 141.
sentative, and cannot be made by an assignee as such, as may be done in case of applications for patent, since the right to a trademark is not, under the laws of any country, assignable before registration, and, except in a very few countries, is not assignable even after registration except in connection with a transfer of the business in which it is used.¹

Sec. 165. Trademarks owned by foreigners registered only under international agreements. Requirements for registration.

Nearly all countries provide for the registration and protection of trademarks owned by subjects or citizens of such other countries as have by treaty, convention or law agreed to reciprocity in the matter of protection of trademarks. Under such agreements only can a trademark owned by a foreigner and used only on articles produced in a foreign country, be registered in most countries. The foreigner who desires to register his mark in any country other than that in which he is located, is required, under the laws of nearly all countries, to appoint a representative resident in the country through whom the application for registration must be made, and must continue to be represented by some person resident in the country so long as he desires the protection of the law for his trademark. The purpose of this requirement is to bring the owner of the trademark at least constructively within the jurisdiction of the courts of the country in case of any proceedings to which it is necessary to make him a party. Actual use of the mark within the country is not required as a prerequisite to registration under international agreement by foreign owners of trademarks, though there must undoubtedly be a bona fide intent to use the mark within the country.

Sec. 166. Foreign applicant for registration must establish ownership of the mark.

In practically all countries it is required that the foreigner who seeks to register a trademark, either under international agreements or the provisions of the law, must establish his

¹ See § 177.
right to ownership of the mark in the country of which he is a resident. The proof of ownership generally required is the certificate of registration or a certified copy of such certificate. The fact that the mark has been used by the applicant without registration in the country of which he is a resident, even though such use has been long continued and the mark has been generally recognized as his, is not easily established in a foreign country, and even if satisfactorily established, would not, under the laws of most countries, be sufficient to establish the right of registration.

Sec. 167. Registration of a foreign trademark in the name of a representative.

While the trademark of a foreigner located in a country with which no agreement as to the registration of trademarks exists, cannot generally be registered in any country in the name of and as the property of such foreigner, there is nothing in the laws of the foreign countries in which registration is attributive of the right to the mark to prevent the registration of such mark through some person residing in the country under an agreement with the owner of the mark, in his own name. But such agreement is not recognized by the law and cannot be enforced. Such representative must register the mark as his own and holds the legal title, and can enforce his right at any time against the foreign owner. He must also make such use of the mark as will be sufficient to maintain his title thereto in force.

Sec. 168. Priority. Under attributive laws determined by date of application.

In countries in which registration is attributive of property in the mark, right to the mark as between rival claimants is determined absolutely by priority of application for

1 Under the terms of the International Convention (Part III, § 215, Article 4) it is sufficient if the applicant has regularly filed in his own country an application for registration, and a certified copy of such application as filed would seem to be sufficient in the countries which are parties to that Convention.
registration. Such countries are Argentine Republic, Bolivia, Brazil, Chili, Costa Rica, Denmark, Finland, Germany, Guatemala, Japan, Norway, Paraguay, Peru, Serbia, Spain, Sweden, Uruguay and Venezuela. In these countries, it is not necessary that the mark be actually used prior to or at the date of filing the application, the intention to use being sufficient. It should, however, be noted that in none of these countries is a mark which is in common use in the trade—a free mark as it is termed in the law of Germany¹—registrable as a trademark.

Sec. 169. Priority. Under declaratory laws determined by date of first use.

In the countries in which registration is merely declaratory of the property in the mark and in those in which registration is only so far attributive of property in the mark that a mark which has remained on the register for a certain length of time becomes incontestably the property of the registrant, the prior user is alone entitled to registration, and may, on proof of prior use, secure the ownership of the mark, even though another may have been the first to register. There is, however, always a presumption in favor of the registrant, registration being even under the United States law prima facie evidence of ownership.

The countries in which registration is merely declaratory and a person claiming to be a prior user is entitled to contest the right of a registrant at any time are: Belgium, France, Hawaii, Italy, Luxemburg, Mexico, Netherlands and the United States.

In Great Britain, registration is, after five years, conclusive of the right to the mark,² and the same is true of many of the British Colonies and dependencies, but up to the expiration

¹ What is meant by the “free marks” of the German law is not clear, but the term seems to include marks in common use which serve merely for ornament or decoration of products and have no special signification. See Marafy, Dictionnaire, Article Allemagne.

² Patents, etc., Act of 1883 of Great Britain, Article 76.
of the five years the right of the registrant may be contested. The same is true in Russia, the term within which contest is permitted being, however, but three years. The law of Greece permits the registration of such marks only as have been used by the applicant one year without interruption. It does not, however, appear that after registration the right of the registrant may be contested by a prior user. Under the law of Portugal, the prior user is entitled to contest the right of the registrant only within six months from the date of application by the first applicant.

Sec. 170. Priority. Use within the country alone considered in determining priority.

In determining priority of use, use within the country is alone considered. Prior use in a foreign country or even registration in a foreign country has no weight in determining priority. This cannot be considered unreasonable even from the standpoint of the United States manufacturer, who relying on the protection of his right to the mark of which he was the first user afforded by the common law, does not find it necessary to register his mark in this country. He cannot expect that in a foreign country a manufacturer who has adopted the same mark and made it valuable in that country will be deprived of his right to such mark by reason of a prior use in this country, of which he has had no notice.


The International Convention provides that the owner of a trademark regularly filed for registration in one of the countries of the Union shall be entitled to priority from the date of filing in all the other countries of the Union, provided he files an application for registration of the same mark within three months

1 Law of 1896 of Russia, Article 15.
2 Law of 1893 of Greece, Article 2.
3 Law of 1896 of Portugal, Article 90.
4 See § 15.1.
(four months for countries over seas) from such first filing.\textsuperscript{1} This period of priority seems short and is undoubtedly of little value to those who fail to register their marks promptly upon their first adoption. Such promptness is not found necessary in the United States, and few applications are here filed for registration of trademarks which have not been in use for many months or even many years. To the producer or trader who applies for registration of his trademark promptly upon its adoption and first use, this provision of the Convention, which is in all of the countries of the Union except the United States,\textsuperscript{2} given full force and effect, gives a reasonable time within which to secure registration in foreign countries.

This provision of the Convention is not to be understood as in any way restricting the right of the owner of a mark to register his mark in foreign countries at any time subsequent to registration in his own country, but unless he files his application in the foreign countries which belong to the Union within the period provided for, he cannot claim priority as against another applicant for registration for the same mark whose application is earlier in date.

\textsuperscript{1} Part III, § 215, Article 4 of the Convention.

\textsuperscript{2} See § 155, note 3, and Part III, § 215, notes under Article 4 of the Convention.
CHAPTER VI.

OF THE DURATION OF THE RIGHT TO THE TRADEMARK.

Sec. 172. The term for which registration is granted. Trademarks and patents.

Whether the right to the exclusive use of a trademark be acquired by use or by registration, the mark may continue to be the property of its owner or his successors in business so long as its use is continued. In this respect there is a radical difference between trademarks and patents. Patents are granted only for inventions believed to be useful to the public. The inventor gives his invention to the public on condition that, before the public acquires the right to it, he shall for a term of years enjoy an exclusive right of property in it. On the theory that it is of advantage to the public to secure the right to use a useful invention at as early a date as possible, the forfeiture of the patent is encouraged in many countries. A trademark has no utility or value in and of itself. The right to use a particular trademark is not of advantage to the public, for so soon as it ceases to be the distinctive mark of the goods of its owner, it ceases to have any meaning. Forfeiture of the exclusive right to a trademark so long as it is used for its legitimate purpose and so long as the public is kept informed of its ownership, is not encouraged in any country. An invention may be of value in and of itself. A trademark has no value other than that acquired from its continued use by a particular manufacturer or trader. The longer it is used the more valuable it may become, and there is absolutely no limit to its possible continuance in use. In but six countries, however, is the term for which registration is granted unlimited.

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These countries are Belgium, Canada, Congo Free State, Italy, Mexico, and Spain. In all other countries the term for which registration is effected is limited. In most countries the term is fifteen years or less, in many it is but ten years. In all countries in which the term is limited provision is made for renewal of registration for a second term, and so on indefinitely as often as the term expires. In all such countries, however, except the United States and France, failure to renew registration terminates the right of property in the mark.

Sec. 173. The reason for requiring renewal of registration.

The requirement that the owner of the mark renew the registration at reasonable intervals of time is nothing more than a requirement that he give reasonable notice to the public that he continues to claim the right to its exclusive use. Marks which are not renewed are, in practically all countries except the United States, taken off the register and the register is thus cleared of those which have been abandoned and no longer appear on the market, or have been allowed to become marks commonly used in the trade. If the mark is no longer used, there appears to be no reason why another producer or dealer should not adopt and use it as his own and acquire the right to its exclusive use. If the mark has become a common mark, there is no reason why there should continue to appear to be an exclusive right to it after it has ceased to be actually used as the mark of a particular producer or dealer. It is obviously a distinct advantage to the public, particularly the producing and trading public, to be able to determine from inspection of the register precisely what marks are actually in

1 The term of registration of the general mark only is perpetual. The term of registration of the specific mark is limited. Law of 1879 of Canada, Article 14.

2 But failure to use the mark for a year by law forfeits the right to the mark. Law of 1889 of Mexico, Article 12.

3 See § 145 and notes thereunder.

4 By failure to renew, the owner of the mark ceases to have the rights of a registrant, and has recourse only against those who use his mark for the purpose of unfair competition. See § 145 and notes thereunder.
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use and the subject of a property right. There is not entire agreement between the laws of different countries as to what becomes of a mark the right to which expires by failure to renew registration. Under the law of Portugal, such a mark falls into the public domain and cannot be thereafter the subject of an exclusive right. In most other countries such a mark can be registered and become the exclusive property of another only after the expiration of a specified period—in Germany, two years; in Great Britain, one year; and in Switzerland, five years.

Sec. 174. Termination of the right to the trademark. Cancellation and forfeiture.

As has been stated, the exclusive right to a trademark, in nearly all countries, terminates, unless registration is renewed, with the expiration of the term for which it was registered. The right terminates prior to the expiration of the term if for any reason the mark is removed from the register. In nearly all countries provision is made in the law for the cancellation of marks from the register on the application of the registrant or if it is made to appear that the mark was not registrable under the law or that the business in which the mark was used has been abandoned, it being provided in nearly all trademark laws that the right to the mark expires with the abandonment of the enterprise in connection with which it was used. In many countries it is also provided by law that the right to the mark expires in case of transfer of the business if the new proprietor fails to record the transfer within a speci-

1 Law of 1896 of Portugal, Article 92.
2 Law of 1894, Article 4.
3 Patents, etc., Act of 1883 of Great Britain as amended 1888, Article 79.
4 Law of 1890 of Switzerland, Article 10.
5 See § 172.
6 No provision for the cancellation of registration is found in the laws of Belgium, France, Italy, or the United States.
7 See, for example, Patents, etc., Act of 1883 of Great Britain, Article 70; Law of 1890 of Austria, Article 9; Law of 1894 of Germany, Article 9.
fied time.¹ Failure to use the mark for an extended period, in certain countries, forfeits the right to its exclusive use.² In a number of countries the right of a foreign registrant to the mark terminates with the expiration of his right thereto in the country of which he is a resident, whether such right expires by failure to renew or by cancellation for other causes.³

¹Law of 1890 of Austria, Article 9; Law of 1892 of Bulgaria, Article 2; Law of 1879 of Roumania, Article 2.
²See § 147 and notes thereunder.
³Law of 1890 of Denmark, Article 14; Law of 1889 of Finland, Article 9; Law of 1893 of Greece, Article 13; Law of 1883 of Luxemburg, Article 9; Law of 1884 of Norway, Article 15; Law of 1884 of Sweden, Article 16.
CHAPTER VII.

OF THE PROCEDURE IN REGISTERING A TRADEMARK.

Sec. 175. The general requirements and procedure for registration of trademarks.

The requirements necessary to be complied with in making application for registration of a trademark are in most countries comparatively simple. In many countries it is not even necessary to make a formal written application for registration, it being sufficient if the applicant appear in person before the proper officer and deposit with him the prescribed number of copies of the mark, making such statement as shall serve to properly identify himself and indicate the class of goods on which the mark is used. The applicant is everywhere required to be fully identified by name, business, residence, and place of business. Names are generally required to be written in full, all given names being written out. From two to a dozen or more copies of the mark are required and an electrotype or a stereotype or wood block (cliché) of the mark which can be used in printing fac-similes of the mark in the journal in which trademarks have been registered, or for which application for registry has been filed, are required to be published is in most countries also required. Description of the mark or statement of essential features is not in most countries required, particularly if the mark be a simple one. A statement of the class of goods on which the mark is used, or is intended to be used, is always required, and the class must conform to the official class in those countries in which an official classification has been established. In most countries a trademark if used for goods comprised in more

1 In Great Britain there are fifty classes.
than one official class must be separately registered for each class. The declaration by the applicant under oath that he is the owner of the mark required in the United States, Great Britain, and the British Colonies and dependencies, is not generally required in other countries.

Sec. 176. Fees for registration of trademarks.

The right to the exclusive use of a particular trademark, since it in no way interferes with the production by others of goods of the same kind as those to which it is applied, cannot be the foundation of a monopoly.¹ The protection of a right to a trademark which has been legitimately acquired, is recognized throughout the world as advantageous as well to the public as to the producer. It being generally recognized that registration is a necessity, not so much for the protection of the user of the mark as by fair notice to the public to prevent other producers and dealers from innocently adopting a mark which had become the property of another,² it follows that not only should the formalities necessary to be complied with in registering a mark be made as simple as possible,³ but the registrant should not be burdened with any considerable expense in securing registration. This is fully recognized in foreign countries, in nearly all of which the fees for registration are much less than in the United States, in many countries being less than $5, or merely sufficient to pay the actual expense of recording, and in few countries more than $15. The fees for renewal of registration are generally less than or but little over $5. A comparison between the fees required in foreign countries for the grant of patents⁴ and for the registration of trademarks is significant of the recognized difference in the nature of the thing protected. In but three countries, Bolivia, Russia and Serbia, are annual taxes required for keeping registration of trademarks in force.

¹ See § 139.
² See §§ 134 and 135.
³ See § 175.
⁴ See § 85.
CHAPTER VIII.

OF THE TRANSFER AND ENFORCEMENT OF THE RIGHT TO THE TRADEMARK.

Sec. 177. Trademarks transferable only with the business in which they are used.

The generally accepted principles regarding the transfer or assignment of trademarks are thus stated by the United States Supreme Court in the case of Kidd v. Johnson:

"It is true, the primary object of a trademark is to indicate by its meaning or association, the origin of the article to which it is affixed. As distinct property, separate from the article created by the original producer or manufacturer, it may not be the subject of sale. But when the trademark is affixed to articles manufactured at a particular establishment and acquires a special reputation in connection with the place of manufacture, and that establishment is transferred either by contract or operation of law to others, the right to the use of the trademark may be lawfully transferred with it."

In most foreign countries it is provided by law that the right to a trademark is transferable only with the transfer of the business in which it is used, but in the laws of Canada, Chili, Costa Rica, France, Guatemala, Italy, Roumania, Spain, Turkey and Venezuela, there is either no restriction on the trans-

1 100 U. S. Rep., 617.

2 See, for example, Patents, etc., Act of 1883 of Great Britain, Article 70; Law of 1894 of Germany, Article 71; Law of 1890 of Austria, Article 9; Law of 1879 of Belgium, Article 7; Law of 1887 of Brazil, Article 13; Law of 1893 of Bulgaria, Article 3; Law of 1890 of Denmark, Article 8; Law of 1889 of Finland, Article 5; Law of 1893 of Greece, Article 5; Law of 1899 of Japan, Article 6; Law of 1883 of Luxembourg, Article 10, Law of 1889 of Mexico, Article 11; Law of 1885 of Norway, Article 8; Law of 1893 of Netherlands, Article 20; Law of 1856 of Portugal, Article 86; Law of 1896 of Russia, Article 16; Law of 1884 of Serbia, Article 7; Law of 1884 of Sweden, Article 8; Law of 1890 of Switzerland, Article 11.

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fer of marks or a provision, without restriction, that trademarks may be transferred.

Sec. 178. Enforcement of the rights of the owner of a trademark. In all countries in which registration is attributive of the exclusive right to the mark the owners of registered marks only are recognized as entitled to sue infringers. In most of the countries in which registration is declaratory of the right to the mark, the owners of marks are entitled to bring action against infringers only after they have registered their marks, or at least regularly deposited their marks for registration. This provision, which is in effect a requirement that all trademarks in which an exclusive right is claimed shall be registered, is not to be understood as preventing the bringing of suits on the ground of unfair competition against those who with fraudulent intent use a commercial name or a name of a locality of origin which they have no right to use, or in other ways give to their goods, with deceptive intent, an appearance of being the goods of another producer or trader without making use of a trademark owned by another. In the United States registration is not required, and suit may be brought for infringement of a trademark to which the right has been acquired by use and which has not been registered.\(^1\) In France the owner of a trademark which has not been registered may, it seems, bring suit against those who make use of it for the purpose of unfair competition, but it does not appear that the owner of a trademark has any remedy, unless he has registered the mark, against others who have adopted and use the same mark in good faith.\(^2\)

In foreign countries generally the right of the owner of a registered trademark is enforced by the courts to the full extent of the law, wilful infringers on such rights being very generally punished not only by the assessment of heavy damages, but by fine and imprisonment.\(^3\)

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\(^1\) See § 145 and notes thereunder.

\(^2\) See § 145 and notes thereunder.

\(^3\) See Propriété Industrielle, 1898, page 109.
Sec. 179. Penalties for wilful counterfeiting of a registered trademark.

In practically all countries which have laws providing for the registration of trademarks\(^1\) and in many countries in which registration is not provided for,\(^2\) the wilful counterfeiting of a trademark is under the law an offense punishable by fine or imprisonment. The owner of a trademark may under such laws not only recover damages for the injury done to his business by the unlawful use of his trademark, but has the further protection of a penal statute against deliberate and wilful infringement of his rights. In many of the several states of the United States\(^3\) wilful infringement of a trademark is made an offense punishable by fine or imprisonment, but under the present United States law the only remedies are the common law remedies of damages and injunction.

\(^1\)See Tabular Statement, § § 182-214.

\(^2\)See § 142.

\(^3\)See § 141.
CHAPTER IX.

COMPARATIVE TABULAR STATEMENT OF THE ESSENTIAL FEATURES
OF THE TRADEMARK LAWS OF THE PRINCIPAL COUNTRIES.

Sec. 180. The statement of essential features. Explanatory
note. Laws not included.

The statement of the essential features of the trademark
registration laws of the principal countries of the world which
follows, has been prepared from a study of the text of the laws
and official rules of each of the countries included in it, together
with such other information bearing on the construction placed
on such laws and rules as could be obtained from reliable
sources, such as Marafy's Dictionnaire International de la
propriété industrielle, the Propriété Industrielle and Sebastian's Law of Trademarks.1 While it includes but thirty-three
countries, it covers practically all countries of commercial
importance by reason of the fact that the laws of many of the
countries not included are substantially identical in essential
features with the laws of some one of the countries included.

The trademark laws of the following countries are substan-
tially identical with the trademark law of Great Britain: British
New Guinea, New Zealand, Queensland, South Australia,
Tasmania, Victoria, and Western Australia.

The laws of the following countries in their definition of a
trademark and in other essential features follow closely the
trademark laws of Great Britain: British South Africa, Cape
Colony, Ceylon, Fiji Islands, Hong Kong, Jamaica, Leeward
Islands, Natal, Orange Free State, and Trinidad and Tobago.

The trademark laws of the Dutch East Indies and the
Dutch West Indies are substantially identical with the trade-

1 See § 140, note page 140.
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mark law of the Netherlands; those of Paraguay and Uruguay are substantially identical with that of the Argentine Republic; that of Newfoundland is substantially identical with the trademark law of Canada; that of Congo Free State is substantially the same as that of Belgium and that of Tunis is substantially identical with that of France.

Sec. 181. The statement of essential features. The purpose of the tabular statement.

While the preparation of an application for the registration of a trademark in the various foreign countries is much less difficult than the preparation of an application for patent, no elaborate description or precisely drawn claims being required and in many countries little being required so far at least as resident applicants are concerned beyond a clear statement of who the applicant is, a copy of the mark and a statement of the class of goods it is used on, it will be found a matter of no little difficulty for one unacquainted with the practice in the several countries to so prepare his application even if he knows foreign languages sufficiently to prepare the necessary papers as to satisfy fully the requirements, even if the laws of the various countries permitted a non-resident to file an application for registration other than through a resident agent or representative. The tabular statement is, like the tabular statement of the patent laws, intended not to enable owners of trademarks themselves to file applications for trademarks, but rather to furnish such information as may enable them to determine whether their marks are registrable in foreign countries and under what general conditions.

1 Part I, §§ 107 to 130.
COMPARATIVE TABLE OF TRADE-MARK LAWS. (1.)

ARGENTINE REPUBLIC. AUSTRIA. BELGIUM.

COUNTRY. WHO MAY REGISTER.

ARGENTINE REPUBLIC.

*Law of August 14, 1876.*

Any one who desires to secure the owner- ship of a manufacturing or commercial trade- mark must apply for registration therefor. The absolute ownership of the trade-mark shall belong to the registrant. Foreign trade-marks may be registered only by their owners or their duly authorized agents. Priority is determined by date of application for registration.

AUSTRIA.

*Law of January 6, 1890.*

Any person who wishes to secure the exclusive right to a mark must obtain registration therefor. Registration of trade-marks of foreigners is granted in accordance with the treaties and conventions concluded with the countries in question. Priority is determined by date of application for registration.

BELGIUM.

*Law of April 1, 1879.*

The first user of the mark is alone entitled to registration. No one can claim the right to the exclusive use of a mark if it has not been filed for registration. Foreigners who have industrial or commercial establishments in Belgium may register marks for use on the products of such establishments. It is the same with foreigners or Belgians who are engaged in industry or commerce abroad, if in the country where their establishments are located reciprocity for Belgian marks has been established by international convention.

SUBJECT-MATTER OF REGISTRATION.

The name of the article or of persons under any special form, design, monogram, registration or print, mark, sign, signature or any other expression of property, which is to be protected or transferred, shall be registered.

The name of any individual or firm in the distinctive form given to it by the interested party is registrable as a trade-mark.

Every mark serving to distinguish the products of an industry or articles of trade is considered a trade-mark.

REQUIREMENTS FOR REGISTRATION.

The application must be accompanied by:

1. Two copies of the mark as printed or inscribed on the mark, or as to which the mark is distinguished.
2. A description in duplicate of the mark, and a statement of the character of articles which it is to be used upon, whether they are articles of manufacture or of commerce.
3. A receipt for the fee.
4. A power of attorney, unless applicant appears in person.

TRADE-MARKS.

Term. Ten years, renewable.

Fees. For registration, forty dollars in coin.

EXAMINATION, FORFEITURE, TRANSFER.

Trade-marks are registered only after preliminary examination. From refusal of registration by the Patent Office, appeal may be taken to the Minister of the Interior.

Ownership of a trade-mark passes to heirs, and may be transferred by contract or by devise. Transfer or sale of the establishment transfers the trade-mark unless stipulated to the contrary. Transfers of trade-marks must be registered.

PENAL PROVISIONS.

Counterfeiting or unlawful use of a registered trade-mark is punishable by fine of from $20 to $500 in coin, or by imprisonment of from 15 days to 1 year.

Counterfeiting or other unauthorized use of a registered trade-mark is punishable by fine ($500 to $4,500 florins) or imprisonment (3 months to 1 year).

Registration may be canceled if the Minister of Commerce decides that the mark was not lawfully registered. Registration will be canceled if within three months the mark is not registered in Hungary (at Budapest).

The right to the mark goes with, expires with, and is transferred with the business for which it is intended. Transfer must be registered within three months or the right to the mark expires.

Trade-marks are registered without preliminary examination. The registration of a mark by one who has no right to it may be declared null and void on application of any interested party.

A trade-mark cannot be excepted except with the transfer of the establishment the goods of which it is used to distinguish. A transfer is without effect as regards third parties unless recorded.

Counterfeiting and fraudulent use, application or sale are punishable by imprisonment (8 days to 6 months) or fine ($50 to $200 florins), or both.

Those who aid in effecting fraud may also be punished, and repeated offenses are punished more heavily.

Confiscation of goods and destruction of counterfeit marks may also be made.
COMPARATIVE TABLE OF TRADE-MARK LAWS. (3)

COUNTRY.

WHO MAY REGISTER.

Any one engaged in manufacturing, commerce or agriculture.

The exclusive right to the mark belongs to the first applicant for registration.

SUBJECT-MATTER OF REGISTRATION.

Names of manufacturers and merchants, seals, stamps, dies, vignettes, monograms, devices, legends, and all other distinctive marks which serve to characterize the products of a particular manufacturer or the goods of a particular trader.

NOT REGISTRABLE.

Pictures, engravings or vignettes contrary to good morals.

The arms of the Republic or the national flag may not be used.

REQUIREMENTS FOR REGISTRATION.

The application should state the name of the proprietor of the mark, his business, his domicile, the location of his factory or establishment and the kind of industry or trade in which the mark is used, and should include a facsimile of the mark.

NOT REGISTRABLE.

A verbal declaration before the chief of the bureau of registration by the applicant or his attorney, giving the name of the proprietor and his attorney, if any, his domicile, profession, business and nationality, and the manufacture or commerce in which the mark is used. Two specimens of the mark drawn, engraved or printed of a size not greater than 12 centimeters by 12 centimeters placed in the centre of a sheet of paper 20 centimeters square.

NOT REGISTRABLE.

Any person who carries on within the Kingdom manufactures, agriculture, mining, commerce or industry. Any such person located in a foreign country, provided the country in which he is located accords reciprocal rights to Danish citizens, may register his mark previously registered in the country of origin.

If, under conditions of reciprocity, a foreign applicant files an application for registration in Denmark within four months from the date of filing an application therefor abroad, such application will be considered as filed simultaneously with the foreign application.

Any special mark serving to distinguish retailer's goods on the market from those of others.

Statement of name and residence and class of merchandise and description of the mark.

Three specimens of the mark on stout paper not more than 10 cm. in breadth.

Two blocks of the same size.

The registration fee.

The application of a foreigner must be accompanied by proof that the applicant has fulfilled all requisite conditions for obtaining a trade-mark in his own country.

A foreign applicant must appoint a representative in Denmark.

TERM, FEES.

Term.

Ten years, renewable.

Fees.

For registering a manufacturer's mark, 12 pesos ($4.35).

For registering a trader's mark, 3 pesos ($1.10).

Peso = $0.306.

EXAMINATION, FORFEITURE, TRANSFER.

Marks are registered without preliminary examination.

The registrant may transfer his mark or license others to use it, but such transfer or license must be registered.

Penal provisions.

Counterfeiting or fraudulent use of a registered mark is punishable under the penal code.

INFRINGEMENTS ARE PUNISHABLE UNDER THE PENAL CODE.

CHILI.

Law of November 12, 1874.

Sections 188.

Any person who carries on within the Kingdom manufactures, agriculture, mining, commerce or industry. Any such person located in a foreign country, provided the country in which he is located accords reciprocal rights to Danish citizens, may register his mark previously registered in the country of origin.

If, under conditions of reciprocity, a foreign applicant files an application for registration in Denmark within four months from the date of filing an application therefor abroad, such application will be considered as filed simultaneously with the foreign application.

Any special mark serving to distinguish retailer's goods on the market from those of others.

Statement of name and residence and class of merchandise and description of the mark.

Three specimens of the mark on stout paper not more than 10 cm. in breadth.

Two blocks of the same size.

The registration fee.

The application of a foreigner must be accompanied by proof that the applicant has fulfilled all requisite conditions for obtaining a trade-mark in his own country.

A foreign applicant must appoint a representative in Denmark.

Term.

Ten years, renewable.

Fees.

For registering a manufacturer's mark, 12 pesos ($4.35).

For registering a trader's mark, 3 pesos ($1.10).

Peso = $0.306.

MARKS ARE REGISTERED WITHOUT PRELIMINARY EXAMINATION.

The registrant may transfer his mark or license others to use it, but such transfer or license must be registered.

Penal provisions.

Counterfeiting or fraudulent use of a registered mark is punishable under the penal code.

INFRINGEMENTS ARE PUNISHABLE UNDER THE PENAL CODE.

COSTA RICA.

Law of May 22, 1896.

Sections 189.

Any person who carries on within the Kingdom manufactures, agriculture, mining, commerce or industry. Any such person located in a foreign country, provided the country in which he is located accords reciprocal rights to Danish citizens, may register his mark previously registered in the country of origin.

If, under conditions of reciprocity, a foreign applicant files an application for registration in Denmark within four months from the date of filing an application therefor abroad, such application will be considered as filed simultaneously with the foreign application.

Any special mark serving to distinguish retailer's goods on the market from those of others.

Statement of name and residence and class of merchandise and description of the mark.

Three specimens of the mark on stout paper not more than 10 cm. in breadth.

Two blocks of the same size.

The registration fee.

The application of a foreigner must be accompanied by proof that the applicant has fulfilled all requisite conditions for obtaining a trade-mark in his own country.

A foreign applicant must appoint a representative in Denmark.

Term.

Ten years, renewable.

Fees.

For registering a manufacturer's mark, 12 pesos ($4.35).

For registering a trader's mark, 3 pesos ($1.10).

Peso = $0.306.

MARKS ARE REGISTERED WITHOUT PRELIMINARY EXAMINATION.

Registration cannot be canceled or amended except by request of the registrant, or his representative, or by order of court.

The right to the mark may be transferred, but such transfer must be registered.

Penal provisions.

Counterfeiting or other intentionally improper use may be punished by fine ($200 to 2,000 crowns), and in case of repetition by imprisonment (or by fine).

INFRINGEMENTS ARE PUNISHABLE UNDER THE PENAL CODE.

DENMARK.

Law of April 11, 1890.

Law of December 19, 1898.

Regulation of April 11, 1890.

Order of September 28, 1894.

Trade-mark law of 1892.

Treaty of June 12, 1892.

International Convention.

Any person who carries on within the Kingdom manufactures, agriculture, mining, commerce or industry. Any such person located in a foreign country, provided the country in which he is located accords reciprocal rights to Danish citizens, may register his mark previously registered in the country of origin.

If, under conditions of reciprocity, a foreign applicant files an application for registration in Denmark within four months from the date of filing an application therefor abroad, such application will be considered as filed simultaneously with the foreign application.

Any special mark serving to distinguish retailer's goods on the market from those of others.

Statement of name and residence and class of merchandise and description of the mark.

Three specimens of the mark on stout paper not more than 10 cm. in breadth.

Two blocks of the same size.

The registration fee.

The application of a foreigner must be accompanied by proof that the applicant has fulfilled all requisite conditions for obtaining a trade-mark in his own country.

A foreign applicant must appoint a representative in Denmark.

Term.

Ten years, renewable.

But the term of trade-marks registered by foreigners shall not exceed the term (or which they were registered in the country of origin).

Fees.

For registration, 40 crowns ($10.72).

For renewal, 10 crowns ($2.68).

Crown = $0.268.

The application is subject to preliminary examination.

From the refusal to register appeal may be taken.

A trade-mark shown to have been improperly registered may be removed from the register.

If within six months from the registration, a person other than the registrant proves to the court that the mark had been originally used by him and had been merely appropriated by the registrant, such person may secure registration of trade-mark to himself and exclusive right to its use.

The right to a registered trade-mark can only be transferred in connection with the business for which it is used; should any person transfer his business to another, the right to the registered marks falls to the buyer, unless special arrangement in reference thereto is made.

Penal provisions.

Counterfeiting or other intentionally improper use may be punished by fine ($200 to 2,000 crowns), and in case of repetition by imprisonment (or by fine).

INFRINGEMENTS ARE PUNISHABLE UNDER THE PENAL CODE.
COMPARATIVE TABLE OF TRADE-MARK LAWS. (2.)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>WHO MAY REGISTER</th>
<th>SUBJECT-MATTER OF REGISTRATION</th>
<th>REQUIREMENTS FOR REGISTRATION</th>
<th>TERM</th>
<th>FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>BRAZIL</td>
<td>The Brazilian producer or merchant. A foreigner between whose nation and Brazil there exists a treaty or convention securing reciprocity in regard to the protection of trade-marks. If registry in the country of origin has been effected, and certificate of registry deposited in the Justiça Comercial of Rio de Janeiro and published in the Diário Oficial. Priority is determined by date of application. But the application of a foreigner who is a citizen of a country belonging to the International Union for registration of a mark already registered in such foreign country is entitled to priority from the date of such registration, if application is made within six months. In order to secure the exclusive use of trade-marks, registration and publication in accordance with the law are indispensable.</td>
<td>Anything not prohibited by law which may distinguish articles from identical or similar articles of different origin. Any name, special or common device, line, color, or cipher only, are all serve for this purpose if in distinct form.</td>
<td></td>
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</tr>
</tbody>
</table>

| - | NOT REGISTRABLE. | - | - |
| - | Exceptions: Costs of arms or other insignia, either public or private; domestic or foreign, unless expressly permitted; costume or insignia of which the applicant cannot legally use; the indication of a fixed locality or establishment other than that where the goods are produced; words, designs or representations offensive to individuals or to public decorum; reproductions of, or imitations of, marks already registered. | - |

|  | - By the word "mark" is included any sign that merchants or manufacturers place upon articles which they sell in order to distinguish them from similar articles sold by others. The following may serve as marks: The name of the firm or the manufacturer or merchant in distinctive form; the monogram of the merchant or vendor; the representation of a human, animal, picture of a building, allegorical figures, etc. | - |
|  | Not registrable. | - |
|  | The portrait of the sovereign or of any of his family, the arms of the State or simple letters or numerals. | - |

|  | - Any person who uses a trade-mark in his business. Right to exclusive use is conditional on, and determined by, registration. | - |

|  | - Marks, names, brands, labels, packages, or other business devices adopted for use by any person in his trade, business, occupation or calling for the purpose of distinguishing his goods. Trade-mark may be general or specific, according as it is used (1) in connection with the sale of various articles dealt in, or (2) in connection with the sale of a particular class of merchandise. | - |
|  | Not registrable. | - |
|  | Marks identical with or resembling a trade-mark already registered; which are immoral or scandalous; and those which do not contain the essentials of a trade-mark. | - |

|  | A petition by the party interested or his special attorney accompanied by (1) three specimens of the mark; (2) a representation by means of drawing, engraving or printing of the mark with all its accessories, including the colors with which it may be used; (3) its explanation or description; (4) a statement of the article for which the mark is intended, and the occupation of the petitioner and his residence. | Fifteen years, renewable. |
|  | Fee. | - |
|  | The fees are those paid in the several localities for registry of contracts and 20 per cent. additional. Amount to be about $3.50. | - |

|  | Any person who uses a trade-mark in his business. Right to exclusive use is conditional on, and determined by, registration. | - |
|  | - Marks, names, brands, labels, packages, or other business devices adopted for use by any person in his trade, business, occupation or calling for the purpose of distinguishing his goods. Trade-mark may be general or specific, according as it is used (1) in connection with the sale of various articles dealt in, or (2) in connection with the sale of a particular class of merchandise. | - |
|  | Not registrable. | - |
|  | Marks identical with or resembling a trade-mark already registered; which are immoral or scandalous; and those which do not contain the essentials of a trade-mark. | - |

|  | A petition by the party interested or his special attorney accompanied by (1) three specimens of the mark; (2) a representation by means of drawing, engraving or printing of the mark with all its accessories, including the colors with which it may be used; (3) its explanation or description; (4) a statement of the article for which the mark is intended, and the occupation of the petitioner and his residence. | Ten years, renewable. |
|  | Fee. | - |
|  | A stamp of the value of 4 francs ($0.77) is required on each of the three specimens. | - |

|  | Any person who uses a trade-mark in his business. Right to exclusive use is conditional on, and determined by, registration. | - |
|  | - Marks, names, brands, labels, packages, or other business devices adopted for use by any person in his trade, business, occupation or calling for the purpose of distinguishing his goods. Trade-mark may be general or specific, according as it is used (1) in connection with the sale of various articles dealt in, or (2) in connection with the sale of a particular class of merchandise. | - |
|  | Not registrable. | - |
|  | Marks identical with or resembling a trade-mark already registered; which are immoral or scandalous; and those which do not contain the essentials of a trade-mark. | - |

|  | A petition by the party interested or his special attorney accompanied by (1) three specimens of the mark; (2) a representation by means of drawing, engraving or printing of the mark with all its accessories, including the colors with which it may be used; (3) its explanation or description; (4) a statement of the article for which the mark is intended, and the occupation of the petitioner and his residence. | Twenty-five years, renewable. |
|  | Fee. | - |
|  | Fee for registration of a general trade-mark, $25. Specific, $15. Fee for registration of a renewal, $20. | - |

|  | The party interested is required to publish a description of the mark in the official journal within 30 days after the date of registration. The decision granting or refusing registry may be appealed from within five days from the publication of the decision, or if the party interested does not respond within 30 days from the decision. The registration is null and void if the owner of the registered mark does not make use of it within three years. The registration may be nullified by an action brought by any one who can prove prior commercial or industrial use of the mark, but such action can be brought only before the expiration of six months from the date of registration. The trade-mark can be transferred only with the business in which it is used and after the transfer has been registered. | - |

|  | - Preliminary examination is made in order to prevent registry of marks previously registered for the same goods. If the registration is not renewed at the end of the term the mark is considered abandoned, and may be adopted by another manufacturer or trader. The right to use the mark goes with the business for which it is registered. Suspension of the business terminates the right to the mark. Transfer of the business involves transfer of the mark, but such transfer must be recorded within three months or the mark will be considered to be annulled. | - |

|  | - The application for registration is subject to preliminary examination. In case the mark is found to have been registered, all parties interested may be notified that the question is one for decision by the Exchequer Court of Canada, and no further proceedings will be taken until the question is decided by that court. Every registered trade-mark is assignable in law. | - |

|  | - Infringement is punished by a fine of from $20 to $100, which is to be paid to the proprietor of the mark. Unauthorized reproduction or use is punishable by fine ($500 to $5000) or imprisonment (4 to 10 years). | - |
### COMPARATIVE TABLE OF TRADE-MARK LAWS. (4.)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>WHO MAY REGISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>FINLAND</td>
<td>Whomever, in Finland, makes or sells products has the right to acquire by registration the exclusive right to make use of a special mark in order to distinguish his products in general commerce from those of others. Every trader of a foreign country in which Finnish citizens enjoy similar advantages may, upon complying with the regulations in force with respect to trade-marks in the Grand-Duchy, register a mark which he has formally deposited in his own country and obtain protection therefor in Finland.</td>
</tr>
</tbody>
</table>

| FRANCE        | Any one carrying on business in France, whether a French citizen or a foreigner. Foreigners and French citizens whose establishments are located outside of France enjoy likewise the benefits of the law for the products of their establishments, if in the countries where they are located, by diplomatic conventions or by law, reciprocity for French marks has been provided for. No one can claim exclusive property in a mark unless he has filed it for registration. |

<table>
<thead>
<tr>
<th>REQUIREMENTS FOR REGISTRATION</th>
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<tbody>
<tr>
<td>The right shall apply to all kinds of products, unless it has been at the time of registration restricted to certain classes. No mark shall be registered—(1) If the same or a similar one has been registered by a third person; (2) If the mark is composed entirely or substantially of figures, characters, letters or words, unless by their particular form or by certain arrangements or additions those signs constitute a figure mark, or also unless the words indicate the name or the firm of the depositor or his ownership. (3) If the mark is composed substantially or entirely of signs or emblems generally employed in a particular trade. (4) If the mark contains unlawfully the name of a third person, or words which may be confounded therewith. (5) If the mark contains representations contrary to good morals, to public order, or it is of a scandalous or manifestly degrading character. (6) If the mark contains public arms or the insignia of chivalric orders.</td>
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<tr>
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<td>The following are considered proper trade-marks: Names under a distinctive form, denominations, emblems, inscriptions, words, marks, figures, wrapping, and all other indications serving to distinguish the products of a manufacture or the wares of a trade. All the provisions of the present law are applicable to wines, spirits, and other beverages, animals, grains, meals, and generally to all the products of agriculture. Designs contrary to good morals and the cross of the Legion of Honor are prohibited.</td>
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<td>A full statement of the name, address and calling of the petitioner. If the depositor claims the mark only for certain products, a statement of what such products are. The petition must be accompanied by—Two specimens of the mark printed upon strong paper, 15 cm. long and 10 cm. wide. Two blocks (clichés) of the same size suitable for the reproduction of the mark. Receipt for the tax. If more than one mark is applied for, the complete documents for each mark must be sent. When a mark from abroad is offered, it must be accompanied by a certified showing of registry in the country of origin. Foreign applicant for registration must appoint a representative domiciled in the Grand-Duchy.</td>
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<td>A preliminary examination is made to determine registrability. Whoever claims to be injured by the registration of a mark may apply to the courts to have it canceled. Transfer of the business in which the mark is used carries with it the transfer of the mark, unless otherwise expressly stipulated.</td>
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<td>Wilful and fraudulent use of a mark or of a substantial imitation thereof, or sale of goods bearing such mark, is punishable by fine (50 to 1,000 marks), or imprisonment (for not more than one year). The marks thus used may be destroyed even if this involves the destruction of the goods.</td>
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<tr>
<td>Trade-marks are registered without preliminary examination. Exclusive right to a trade-mark cannot be transferred unless it is registered.</td>
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<th>TERM.</th>
<th>FEES.</th>
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<tbody>
<tr>
<td>Term</td>
<td></td>
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<td>Ten years, renewable.</td>
<td>But trade-marks registered by foreigners are protected only so long as they are protected in the country of origin.</td>
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<td>For registration, 25 marks ($4.83). For renewal, 10 marks ($1.93).</td>
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<td>The entire charges connected with the registration of a mark are 93.8 francs ($1.80). Franc = $0.193.</td>
</tr>
</tbody>
</table>
### Comparative Table of Trade-Mark Laws. (§)

<table>
<thead>
<tr>
<th>COUNTRY</th>
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<th>SUBJECT-MATTER OF REGISTRATION</th>
<th>REQUIREMENTS FOR REGISTRATION</th>
<th>TERM</th>
<th>FEES</th>
<th>EXAMINATION, FORFEITURE, TRANSFER</th>
<th>FORMAL PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>GERMANY</td>
<td>Any person who desires to employ in his business a merchandise mark to distinguish his merchandise from that of others may declare it for registry.</td>
<td>Any distinguishing mark may be registered. Not registrable—(1) Free marks; (2) marks which consist exclusively of letters or numerals, or (3) words containing indications of the mode, time or place of production, or (4) of the quality, nature, price, price or weight of the merchandise; (5) which contain the arms of German or foreign states, or those of a locality, parish or union of towns situated in the country; (6) which contain scandalous representations or indications evidently at variance with the facts and liable to cause deception. Canceled marks cannot be registered until after two years from the date of cancellation.</td>
<td>Written request for registration signed by the applicant or his representative and containing—(1) Statement of name, profession, domicile and establishment of applicant. (2) Request for registration of the mark. (3) Statement of use of the mark. (4) Statement of class of goods on which the mark is to be used. (5) Statement of the papers, etc., accompanying the request. Request must be accompanied by a representation of the mark and, if necessary, by description and by models or specimens of merchandise bearing the mark. If the trade-mark is found to be registrable, the applicant before registration will be required to furnish a block from which the mark may be printed. Foreign applicant must appoint a representative in Germany.</td>
<td>Ten years, renewable.</td>
<td>Preliminary examination is made to determine registrability. A registered trade-mark may be canceled if it shows that the mark has been previously registered in the name of the complainant, or that the business with which it was used has ceased to exist, or that it is misleading. If a request for the cancellation of a registration is made by any one other than the registrant, the latter is notified. If he fails to reply within one month, the registration will be canceled. If he replies, the question is decided by the Patent Office. If the Patent Office finds that the mark for which registration is sought interferes with the mark registered by another, the latter is notified. If he fails to oppose such registration within one month, the mark is registered. If he replies, the matter is decided by the Patent Office. The rights resulting from the registry of a mark pass by inheritance, and can be transmitted by bequest. They cannot, however, pass to others except with the consent of the business to which the mark is appertained. The transfer must be recorded.</td>
<td>False assertion of registry is punishable by a fine of five pounds. Unauthorized use of the royal arms is punishable by a fine of twenty pounds. Counterfeiting or unauthorized use of a trade-mark is punishable by fine or imprisonment, varying according to the circumstances.</td>
<td></td>
</tr>
<tr>
<td>GREAT BRITAIN</td>
<td>Any person claiming to be the proprietor of a trade-mark. Registration is deemed the equivalent of public use of the trade-mark registered. After five years from registration, the right of exclusive use is conclusively determined to belong to the registrant. Priority is accorded to applications for registration filed under the International Convention.</td>
<td>A trade-mark must consist of or contain at least one of the following particulars: (a) A name of an individual or corporation, impressed, or wove in some particular and distinctive manner; or, (b) a written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade-mark; or, (c) a distinctive device, mark, brand, heading, label, or ticket; or, (d) an invented word or invented words; or, (e) a word or words having no reference to the character or quality of the goods, and not being a geographical name. Registry must be for goods of a particular class. There are fifty recognized classes. Registry in one class does not preclude the use of the mark by another in other classes. Words in general use and scandalous designs are not registrable.</td>
<td>A separate application for each class. This application should bear the impress of the mark, and must contain an exact statement of the essential features claimed and an exclusive right to the remainder. The exact list of goods must also be stated, and if any foreign language appears on the mark a translation (and, if necessary, a phonetic rendering also) must be given. From two to six additional copies of the mark are also required. The number varies, some classes requiring more than others. A wood block or electrolyte is also required. Foreigners not entitled to the benefits of the International Convention must furnish an address within the United Kingdom for service.</td>
<td>Fourteen years, renewable.</td>
<td>The comptroller may refuse, subject to appeal, to entertain an application for registration. Applications accepted by the comptroller are advertised for such period as he may direct, and opportunities to the registration may be made by any person interested. If opposition is made the parties are allowed to present evidence and the comptroller determines from the evidence, subject to appeal, whether the trade-mark shall be registered or not. Trade- marks shown to have been improperly registered may be removed from the register.</td>
<td>Withal counterfeiting or improper use of registered mark is punishable by fine ($50 to $5,000 marks) or imprisonment (not exceeding six months). Indemnity must also be furnished. Foreign goods unlawfully marked with a German mark are subject to seizure.</td>
<td></td>
</tr>
<tr>
<td>COUNTRY</td>
<td>WHO MAY REGISTER</td>
<td>REQUIREMENTS FOR REGISTRATION</td>
<td>TERM</td>
<td>FEES</td>
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<tr>
<td>JAPAN</td>
<td>Any person who desires to have the exclusive use of a trade-mark to designate his own goods.</td>
<td>Any distinguishing mark except the following: Words, representations or marks (1) identical with or similar to the imperial arms (chrysanthemum); (2) identical with, or similar to the national flag, medals of honor of the Emperor, or the national flag of foreign countries; (3) which are offensive to public order or good morals, or are calculated to deceive; (4) identical with or similar to a trade-mark registered by another for the same class of goods, unless a year has elapsed since the expiration of such registration; (5) identical with or similar to a trade-mark used by others prior to July 1, 1895; (6) which merely indicate the common quality of the merchandise or the place of its production or its kind, quality, or shape by words, representations or marks commonly used in trade, or descriptions in ordinary writing, a photograph, or trademark or firm name not in distinctive form; (7) one mark not possessing a distinctive character.</td>
<td>Twenty years, renewable. But the term of the exclusive use of a foreign registered mark shall not exceed the term for which it is registered in the country of origin.</td>
<td>For registration, 30 yen ($1.1). For renewal, 30 yen ($1.1). Yes = $0.498.</td>
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</tr>
<tr>
<td>LUXEMBURG</td>
<td>The first user of the mark is alone entitled to registration. No one can claim an exclusive right to a mark until he has deposited it for registration. No one can claim an exclusive right to a mark until he has deposited it for registration. Foreigners who have industrial or commercial establishments in Luxembourg are entitled to the benefit of the law. Any person engaged in industry or commerce in any other country with which international convention accords reciprocally to Luxembourg marks, may have the benefit of the law so long as his mark is protected in his own country.</td>
<td>Any mark serving to distinguish the products of an industry or article of trade is considered a trade-mark. The name of a person or of a firm in the distinctive form given by the patent interested may serve as mark.</td>
<td>Ten years, renewable. But foreign trade-marks are protected only so long as they are protected in the country of origin.</td>
<td>For registration, 10 francs ($0.91). France = $0.103.</td>
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</tr>
<tr>
<td>MEXICO</td>
<td>Any proprietor of a trade-mark, whether a citizen of Mexico or a foreigner, whether residing in Mexico or abroad. The trade-mark of a foreigner not residing in Mexico can be registered only where previously registered in the country of origin. The trade-mark belongs to the first to use it.</td>
<td>Any mark used in commerce to designate the origin of an industrial product. Form, color, words and designs which do not consistute marks determining the origin of the product and mark by words to good marks are not registrable.</td>
<td>Perpetual. But a trade-mark is considered abandoned it the establishment, residence of the proprietor, and the kind of business or industry with which the mark is to be used. With the application should be filed a power of attorney, if necessary, and two copies of the mark.</td>
<td>The application is published for opposition, but no preliminary examination is made. A trade-mark shown to have been unlawfully registered may be canceled by order of court. Trade-marks may be transferred only with the establishment of the goods of which they serve to distinguish. The transfer is not subject to any special formality.</td>
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</tbody>
</table>
## Comparative Table of Trade-Mark Laws (6)

<table>
<thead>
<tr>
<th>Country</th>
<th>Requirements for Registration</th>
<th>Application Must Be Made By</th>
<th>Term</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>Any distinctive mark for the products of manufactures, of agriculture, of stock breeding, or of commerce in general. The name of the manufacturer or merchant or a firm is considered a trade-mark.</td>
<td>Any device must be made by the applicant or by his agent, and must include a description of the principal establishment, a receipt for the fee, three copies of the mark upon paper or cloth of 8 cm. by 10 cm., the design in typographic block of the same dimensions, and a brief description of the mark, the products it is applied to, and whether used in retail or wholesale. The application must be made by the person who is the owner of the mark.</td>
<td>Ten years, renewable.</td>
<td>10 years, renewable.</td>
</tr>
<tr>
<td>Guatemala</td>
<td>Any person who wishes to secure the exclusive right to a trade-mark must obtain registration.</td>
<td>The application should be accompanied by— Two specimens of the mark. A description in duplicate and a statement of the class of goods to which the mark is to be applied. A receipt for the fee.</td>
<td>Ten years, renewable.</td>
<td>Free.</td>
</tr>
<tr>
<td>Hungary</td>
<td>Any person who adopts a mark or other sign to distinguish the products of his industry, merchandising in which he trades, or a brand belonging to him. Individuals, corporations and associations may register their marks. Collective marks may also be registered.</td>
<td>Power of attorney if the application is not presented in person.</td>
<td>Free.</td>
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</tr>
<tr>
<td>Italy</td>
<td>Any foreigner may register his lawful trade-marks. Citizens of countries with which Italy has concluded treaties or conventions on the subject are entitled to priority, provided they make application for registration within a specified time after the application for registration in the country of origin.</td>
<td>Two specimens of the mark upon metal, parchment, or thick card-board not more than 5 cm. wide and of the same name of a person, the firm name of an association, or the title of the principal establishment from which originates the products or articles of merchandise. If it relates to animals or small objects, a special abbreviation or some other equivalent sign shall be adopted.</td>
<td>Free.</td>
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<td></td>
<td>The signature of the producers, merchant or proprietor engraved upon the article, or reproduced by means of a stamp in a durable plate, or written in black, may be a trade-mark.</td>
<td>Detailed description of the mark. Statement whether the mark is used by a foreigner, or for what class of goods.</td>
<td>Free.</td>
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</tr>
</tbody>
</table>

**Examination, Forfeiture, Transfer.**

Trade-marks are registered without preliminary examination. The registry of a mark of goods improperly registered may be declared void on the demand of an interested party.

The title to a trade-mark cannot pass to another except with the right to deal in the product. The transfer shall have no effect with respect to third parties until after the deposit and publication of an extract from the instrument of transfer.

**Penal Provisions.**

Counterfeiting, fraudulent use in sale or export of goods fraudulently marked, is punished by imprisonment (6 months or more) or by fine (not more than 1,000 drachmas), or by both. The sale of goods fraudulently marked with a name of another country shall also be punished with indemnity. Destruction of fraudulent marks may also be made.

In case of a repetition of the same offense within five years, the penalty may be doubled.
## COMPARATIVE TABLE OF TRADE-MARK LAWS. (8.)

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>WHO MAY REGISTER.</th>
<th>SUBJECT-MATTER OF REGISTRATION.</th>
<th>REQUIREMENTS FOR REGISTRATION.</th>
<th>TERM. FEES.</th>
<th>EXAMINATION, FORFEITURE, TRANSFER.</th>
<th>PENAL PROVISIONS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NETHERLANDS,</td>
<td>The right to the exclusive use of a trade-mark is acquired by the person who first used it in the Kingdom in Europe, or in the colonies. Any one who has regularly deposited his mark in one of the countries of the International Union will be considered to have used it in the Kingdom.</td>
<td>Any distinguishing mark.</td>
<td>The applicant must send to the Bureau for Industrial Property a satisfactory block (cliché) of the mark, together with two signed drawings of the mark and a description thereof. The description must state the class of goods for which the mark is intended and the address of the applicant. An applicant not domiciled in the Kingdom must elect domicile within the Kingdom.</td>
<td><strong>Term.</strong> Twenty years, renewable. Registration of the mark of a foreigner becomes null and void on its ceasing to be in force in the country of origin. For registration, 10 florins (4). Florin = 0.40.</td>
<td>Trade-marks are registered without preliminary examination and within three days of the filing of the application. If a mark is registered which is identical with one to which another person has a right, on the application of the latter, which must be made within six months from the publication of the registration, such registration may be declared null and void. Trade-marks may be transferred only with the business with which they are used.</td>
<td>Willful and unlawful use or imitation of a registered mark is punishable by imprisonment or by a fine (2,000 crowns), with indemnity in each case.</td>
</tr>
<tr>
<td>NORWAY,</td>
<td>Any person who carries on within the Kingdom manufacturing, agriculture, metalurgy, commerce or industry may, by registration in accordance with the law, acquire the right to use special marks to distinguish his products from those of others. Any person engaged in any such industry in another country, provided the country in which he is located accords reciprocal rights to Norwegian subjects, may register his mark previously registered in his own country. If, under conditions of reciprocity, a foreign applicant files an application for registration in Norway within four months from the date of filing an application thereof abroad, such application will be considered as filed abroad, even though consisting solely of numerals, letters or words.</td>
<td>Any special mark serving to distinguish registrant's goods on the market from those of others.</td>
<td>A written petition addressed to the register, containing a clear and precise description of the mark, with a complete showing of the personal or commercial name, the calling and address of the depositor, and, when the mark is to be applied to only certain kinds of merchandise, the designation of such kinds. There must be annexed to the petition: 1. An imprint of the mark upon strong paper in triplicate or 10 more cm. high and 15 cm. or more wide. 2. Two blocks (clichés) of similar dimensions. 3. Forty crowns.</td>
<td><strong>Term.</strong> Ten years, renewable. But marks registered by foreigners are protected only so long as they are in force in the country of origin. For registration, 40 crowns (10.72). For renewal, 10 crowns (2.68). Crown = 0.268.</td>
<td>Trade-marks are registered only after preliminary examination. From refusal of registration appeal may be taken within two months. Registration may be canceled at the request of the registrant, by order of court, by order of the Crown, or by the Patent Office, when it appears that the registration was an error or contrary to law. The right to a registered trade-mark cannot be transferred except with the business with which it is used.</td>
<td>Usurpation of the right of property in a new mark is punishable by a fine of from 25 to 500 soles or imprisonment of from forty to six months.</td>
</tr>
<tr>
<td>PERU,</td>
<td>Any individual or company engaged in commerce or manufacture. Priority is determined by the date of application for registration. Right to exclusive use is conditional on, and determined by, registration.</td>
<td>Names of objects or persons written in a distinctive form, emblems, monograms, and in general any mark serving to distinguish products of manufacture or articles of commerce from others of the same kind.</td>
<td>Application to the Minister of Finances and Commerce. Two specimens of the mark. Description and drawing in duplicate. Statement of the class of goods for which the mark is to be used. Receipt for the registration fee. Power of attorney when the application is not made in person.</td>
<td><strong>Term.</strong> Ten years, renewable. For registering the trade-mark of a foreigner, 25 soles silver (8.14). For registering the trade-mark of a resident, one fourth of this fee. Sole silver = 0.412.</td>
<td>Trade-marks are registered only after preliminary examination. In case of refusal of registration, the applicant has twenty days within which to ask revision of the decision regarding registration. Any protest by an interested party must be made within one year. Trade-marks are transferable only with the business with which they are used.</td>
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</tr>
<tr>
<td>Country</td>
<td>WHO MAY REGISTER.</td>
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<tr>
<td>Portugal</td>
<td>Any manufacturer, agriculturist or trader located in Portugal. Marks may be registered in favor of an individual, firm, association, corporation or collection of individuals. The industrial and commercial marks of Portuguese residing abroad are registered on the same conditions as those of residents. The marks of foreigners residing abroad are also registered on the same conditions provided in the country in which they are located. Reciprocal rights in favor of subjects of Portugal are secured by convention or law. In order that the exclusive right to a mark be secured, it is essential that it be registered. Priority is determined by date of filing. The first user may secure the right to a mark against a prior applicant, provided he makes application within six months from the date of the first application and has not himself used the mark without registration more than six months ago.</td>
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<tr>
<td>Romania</td>
<td>Manufacturers, merchants or agriculturists. Foreigners owning in Romanian industrial or commercial establishments. Romanians and foreigners whose industrial or commercial establishments are located out of Romania, in the countries in which such establishments are located reciprocity for Romanian trade-marks is established by diplomatic convention. Priority is determined by date of use.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>REQUIREMENTS FOR REGISTRATION.</th>
<th>EXPENSES.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any mark serving to distinguish the products of a particular industry or the goods of a particular trader. Trade-marks may be used as (1) industrial and commercial names and firm names; (2) full or abbreviated names of manufacturers or traders and features of their signatures; (3) fancy or invented words; (4) emblems, seals, stamps, devices, dies, inscriptions, seals, letters, figures, pictures and reliefs; (5) letters and numerals combined in a distinctive form; (6) the name of an estate belonging to the manufacturer or trader.</td>
<td>Port. examination, $250 in all. For renewal, 2,000 lei ($1.16)</td>
</tr>
<tr>
<td>Any mark serving to distinguish the products of a particular industry or the goods of a particular trader. Trade-marks may be used as (1) industrial and commercial names and firm names; (2) full or abbreviated names of manufacturers or traders and features of their signatures; (3) fancy or invented words; (4) emblems, seals, stamps, devices, dies, inscriptions, seals, letters, figures, pictures and reliefs; (5) letters and numerals combined in a distinctive form; (6) the name of an estate belonging to the manufacturer or trader.</td>
<td>For registration, 2,500 lei ($2.70). For renewal, 2,000 lei ($1.16). Mil. reis = $1.08.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Examination, forbearance, transfer.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade-marks are registered only after preliminary examination. Registration of a mark may be annulled at the request of a third party, claiming to be injured, if within one year from the date of registration the interested party shows that it is an imitation or identical with a previously registered mark. A trade-mark may be transferred to others with the establishment whose products it is used to distinguish.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>PENAL PROVISIONS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counterfeiting and improper or fraudulent use is punishable by a fine ($10,000 to $100,000) reis, or by fine and imprisonment (one to three months). Simulation or the use of a simulated mark is punishable by a fine ($5,000 to $50,000) reis, or by fine and imprisonment (one to three months).</td>
</tr>
</tbody>
</table>

The different signs which serve to distinguish the products of a manufacturer, such as a name or trade mark, is a mark formed, denominations, imprints, stamps, seals, seals, relief, vignettes, numerals, wraps and other like marks. |
### Comparative Table of Trade-Mark Laws (11)

<table>
<thead>
<tr>
<th>Country</th>
<th>Rights and Obligations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>Register mark for 10 years, renewable after 10 years.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Register mark for 20 years, renewable after 20 years.</td>
</tr>
<tr>
<td>Turkey</td>
<td>Register mark for 15 years, renewable after 15 years.</td>
</tr>
</tbody>
</table>

#### Sweden

- **Application**: For registration of a trade-mark must be made in the Patent Office in Stockholm.
- **Examination**: If the mark is not opposed, it will be registered.
- **Duration**: Registration is valid for 10 years, renewable after 10 years.

#### Switzerland

- **Application**: For registration of a trade-mark must be made in the Patent Office in Bern.
- **Examination**: If the mark is not opposed, it will be registered.
- **Duration**: Registration is valid for 20 years, renewable after 20 years.

#### Turkey

- **Application**: Trade-marks are registered without preliminary examination.

#### Examination, Forfeiture, Transfer

<table>
<thead>
<tr>
<th>Country</th>
<th>Examination, Forfeiture, Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>Mark is examined for intrinsic characteristics and for likelihood of confusion with existing marks.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Mark is examined for distinctive character and likelihood of confusion with existing marks.</td>
</tr>
<tr>
<td>Turkey</td>
<td>No examination is required.</td>
</tr>
</tbody>
</table>

#### Trade-Marks

- **Protection**: Trade-marks are protected for as long as they are in use. They may also be protected for as long as they remain distinctively identifiable.

#### Fines

- **Sweden**: Fines for infringement of trade-mark rights are specified in the Trade-Mark Law.
- **Switzerland**: Fines for infringement of trade-mark rights are specified in the Trade-Mark Law.
- **Turkey**: Fines for infringement of trade-mark rights are specified in the Trade-Mark Law.

#### Unlawful Application

- **Sweden**: Artificial marks are registered only after preliminary examination by the Patent Office.
- **Switzerland**: Artificial marks are registered only after preliminary examination by the Patent Office.
- **Turkey**: Artificial marks are registered without preliminary examination.

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**Note**: This table provides a simplified overview of trade-mark laws in Sweden, Switzerland, and Turkey. Each country has specific regulations that must be considered for detailed legal advice. The table does not cover all aspects or all details of the trade-mark laws in these countries.

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*Source: Adapted from Legal Information Institute and International Trademark Association.*
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>WHO MAY REGISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>RUSSIA</td>
<td>Any manufacturer or trader who desires to protect the right to the exclusive use of a merchandise mark. Forcigners cannot register their marks in Russia unless their country, by treaty or convention, accords reciprocal rights to the marks of Russian subjects. Registration gives the registrant for a specified term the exclusive right to use the mark, but the right of the registrant may be contested at any time within three years from the date of registration.</td>
</tr>
<tr>
<td>SERBIA</td>
<td>Any one who wishes to obtain the exclusive use of a trade-mark, right to exclusive use is conditional on, and determined by, registration.</td>
</tr>
<tr>
<td>SPAIN</td>
<td>Apparently there is a register for Spaniards and residents of the Peninsula, another for Spanish subjects of the colonies and a third for the marks of foreigners not residing upon Spanish territory. By a decree of the Republic, August 14, 1873, reciprocity in the matter of marks appears to have been established. Right to exclusive use is conditional on, and determined by, registration.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SUBJECT-MATTER OF REGISTRATION</th>
<th>REQUIREMENTS FOR REGISTRATION</th>
<th>TERM</th>
<th>FEES</th>
<th>EXAMINATION, FORFEITURE, TRANSFER</th>
<th>PENAL PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any mark used by manufacturers and traders to distinguish their goods from others.</td>
<td>A petition accompanied by a description and a copy in triplicate of the mark executed in India ink or other durable color and an indication of the class of merchandise.</td>
<td>Term: One to ten years, renewable.</td>
<td>Fee: On each sheet of the application a stamp of the value of 50 copeks (R.60) for the first year and a double (R.75) for each year thereafter.</td>
<td>For the certificate of registration, 3 rubles ($4.33) for the first year and a double (R.75) for each year thereafter.</td>
<td>Unlawful imitation, use or sale is punishable by imprisonment (four to eight months), or by fine (one to two hundred rubles).</td>
</tr>
<tr>
<td>Representatives to public order, good morals and civic decorum, including images of saints or warriors with an aureole about the head, portraits of members of the Imperial family, portraits of persons notorious by their deeds against the government, criminals, the standard of the Imperial Russian Marine, the words &quot;Caza&quot; and &quot;Livadia.&quot;</td>
<td>APPLICATION. The marks designated should in Russian contain a statement of the name of the applicant and the location of the establishment. These statements are not admitted when in a foreign tongue, save as a complimentary act. (French, German and English seem to be admissible. If in any other language the statement must be accompanied by a Russian translation.) Ten copies of the mark, if registration is accorded, are later required.</td>
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<tr>
<td>Marks not different from other marks used for articles of the same sort. Marks in general use. Marks composed entirely of figures, words and separate letters.</td>
<td>Every mark serving to distinguish products of industry, or articles of commerce from similar products or articles is considered a trade-mark. No person can enjoy the exclusive right to a mark which is in general use in commerce, or which consists of a single letter, figure or word. The reproduction of the national arms as a trade-mark is, as a rule, interdicted. Marks which have an immoral character, or might be prejudicial to public order, cannot be admitted to registration.</td>
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<tr>
<td>Application must be made to the tribunal of the locality where the applicant is established. Foreign owners must apply to the tribunal of Commerce of Belgrade. Three specimens of the mark must be furnished, together with a list of the goods on which the mark is to be used. If the mark is intended for articles of metal, glass or the like, specimens bearing the mark must be furnished. The name of the applicant must be given and the registration fee in stamps must be furnished.</td>
<td>Ten years, renewable. Fee: Twenty dinners in stamps must accompany the application and 10 dinars must be paid for each year the registration continues in force.</td>
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<tr>
<td>In the decree of August 18, 1847, and October 26, 1888, is the following: There may be considered as marks of manufacture of commerce of agriculture, or of any other industry, the signs of the makers, merchants, farmers, manufacturers of every class, as well as of companies formed by them, emblems, and other signs, whatever be their form, which merchants, farmers, manufacturers and companies formed by them may make use of to mark their products and articles in order to enable the public to know and to distinguish them without confounding them with other signs.</td>
<td>Application to the governor of the respective province, comprising: A statement describing the mark and its use.</td>
<td>Two specimens of the mark. The registration may be kept secret upon request until a suit occurs.</td>
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</tr>
<tr>
<td>Application for registration may be subjected to preliminary examination, and may be rejected if the mark is considered to interfere with a mark already registered.</td>
<td>Application for registration may be subjected to preliminary examination, and may be rejected if the mark is considered to interfere with a mark already registered.</td>
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</tbody>
</table>

Trade-marks are subject to preliminary examination. Registration may be opposed by a third party, or the administration may refuse registration on the ground that the mark is not registrable under the law. Registration may be cancelled as not contrary to the law, or by judicial decision, or for its failure to renew. The exclusive right to the use of a mark attaches to the business for which it has been secured. The right expires with the termination of the business and may be transferred with the business. In case of transfer the new owner must register the mark in his own name within three months or he loses his right to it. |

Counterfeiting and fraudulent use or sale or importation of goods fraudulently marked is punished by a fine (50 to 200 dinars) for the benefit of the party injured. The latter may demand damages in place of fine. In a few cases the fine is doubled, and for a third imprisonment may be added. |

Counterfeiting or improper use or sale of goods bearing the mark is punished by a fine (15 to 45 pesos), or, if the offender will not pay, a day of detention for each peso of the fine.
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>WHO MAY REGISTER</th>
<th>SUBJECT-MATTER OF REGISTRATION</th>
<th>REQUIREMENTS FOR REGISTRATION</th>
<th>TERM.</th>
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<th>EXAMINATION, FORFEITURE, TRANSFER.</th>
<th>PENAL PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UNITED STATES</strong></td>
<td>Any owner of a trade-mark used in commerce with foreign nations or with Indian tribes, who is domiciled in the United States or located in any foreign country or tribes, which by treaty, convention or law affords similar privileges to citizens of the United States. Any citizen or resident of the United States wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent may register his mark. The first user of the mark is entitled to registration and is the owner of the mark, even if it has been registered by another. The registration of a trade-mark is prima facie evidence of ownership.</td>
<td>Any distinguishing mark which is used in foreign commerce or commerce with the Indian tribes or which is within the provision of a treaty, convention or declaration with a foreign power.</td>
<td>Application must be made to the Commissioner of Patents and must be signed by the owner of the trade-mark. It must comprise: (1) A brief letter of advice, requesting registration, signed by the applicant. (2) A statement or specification which in addition to setting forth the name, status, and domicile of the applicant, must also discriminate between the essential and non-essential features of the trade-mark, and if the applicant be a corporation, it must set forth under the laws of what State or nation incorporated. (3) A declaration or oath that the applicant is a just the user of the trade-mark sought to be registered and that no other has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive that such trade-mark is used in commerce with foreign nations or Indian tribes, and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered. (4) A fac-simile or drawing of the mark on bristol board, 10 by 15 inches, with a marginal line one inch from the edges, made with the pen only, in absolutely black India ink, signed at the lower right-hand corner by the proprietor of the mark or his attorney, and at the lower left-hand corner by two witnesses. (5) The fee of $25. All papers must be in English and written on one side of the paper only.</td>
<td>Thirty years, renewable. But when the trade-mark is claimed for and applied to articles not manufactured in the United States, the registration shall cease to have any effect at the time the trade-mark ceases to be protected elsewhere.</td>
<td>For registration: $25 for renewal, $25.</td>
<td>Applications for registration are subject to preliminary examination. If the application is rejected, re-examination may be had. Transfers of the right to use trade-marks may be recorded in the Patent Office. Nothing in the law is to be construed as unfavorably affecting a claim to a trade-mark after the term of registration has expired.</td>
<td>The Act of August 14, 1876, which provided for the punishment of the counterfeiting of trade-marks, is not now in force.</td>
</tr>
<tr>
<td><strong>VENEZUELA</strong></td>
<td>Any person or association domiciled in the Republic or any corporation created by national authority using or intending to use a trade-mark. Also any person, association or corporation located in any foreign country which by treaty or convention accords similar privileges to citizens of Venezuela. Persons, associations, or corporations located in any other foreign country may register marks registered abroad if their products or merchandise are sold to the Republic.</td>
<td>The law contains no definition of a trade-mark. The mere name of a person, association, or corporation accompanied by a distinguishing mark is not registrable.</td>
<td>Application on stamped paper containing name and residence of applicant, location of his establishment, statement of the class of good for which the mark has been or is to be applied, a description of the mark and a fac-simile indicating the manner in which it is used and a statement of the date since which the mark has been used. The application must be signed.</td>
<td>Thirty years, renewable. But marks applied to articles manufactured abroad and protected only so long as they are protected in the country of origin. Fee for registration is not stated.</td>
<td>Trade-marks are registered without preliminary examination. False registration is punishable under the Penal Code. The trade-mark may be transferred independently of the business with which it is used.</td>
<td>Any one who reproduces, falsifies, copies or imitates a registered mark or makes unlawful use of such mark is liable for damages, and in case of fraud is punishable under the Penal Code by a fine of 50 to 200 bolivars and imprisonment from one to two months.</td>
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PART III.

CONVENTIONS AND TREATIES

RELATING TO PATENTS AND TRADEMARKS TO WHICH THE UNITED STATES IS A PARTY.


ARTICLE I.

The Governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Serbia and of Switzerland,¹ have constituted them-

¹Adhesions and Withdrawals.

Great Britain adhered to the Convention, March 17, 1884,
Tunis adhered to the Convention, March 20, 1884.
The Dominican Republic adhered to the Convention, October 20, 1884, withdrew March 15, 1888, again adhered July 11, 1890.
Sweden adhered to the Convention, July 1, 1885.
Norway adhered to the Convention, July 1, 1885.
The United States adhered to the Convention, May 30, 1887.
The Dutch East Indies adhered to the Convention, October 1, 1888.
Surinam and Curacao adhered to the Convention, July 1, 1890.
New Zealand and Queensland adhered to the Convention, September 7, 1891.
Denmark adhered to the Convention, October 1, 1894.
Japan adhered to the Convention, July 15, 1899.
Austria-Hungary gave notice, in 1897, of adherence to the Convention under reserve of ratification by the parliaments of the respective countries.
Salvador withdrew from the Convention, August 17, 1886.
Guatemala withdrew from the Convention, November 8, 1894.
Ecuador adhered to the Convention, December 21, 1883, and withdrew December 26, 1885.

The following countries are now members of the Union:

(205)
FOREIGN PATENT AND TRADEMARK LAWS.

eyselves into a state of Union for the Protection of Industrial Property.¹

ARTICLE 2.

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,² trade or commercial marks, and

Belgium,
Brazil,
Denmark, with the Faroe Islands,
Dominican Republic,
France, with Algeria and the French Colonies,
Great Britain, with New Zealand and Queensland,
Italy,
Japan,
Netherlands, with the Dutch East Indies, Surinam and Curaçao,
Norway,
Portugal,
Serbia,
Spain,
Sweden,
Switzerland,
Tunis,
United States.

The following countries not now members of the Union may be said to be at the present time seriously considering the question of becoming members, from the fact that they each sent one or more delegates to the Conference of the Union held at Brussels in 1897, some of these delegates taking quite an active part in the deliberations of the conference:

Austria-Hungary, (see above, under Adhesions and Withdrawals),
Chili,
Ecuador, (see above, under Adhesions and Withdrawals),
Germany. The German delegates submitted a proposition stating the conditions under which Germany would join the Union. Germany has already conventions with Austria-Hungary, with Italy, and with Switzerland, similar to the International Convention and even more liberal in their provisions respecting the right of priority.

Mexico,
Turkey.

¹ "Industrial property," under this Convention, applies not only to the production of manufacturing industries, but also to the productions of agriculture and to mineral products which are traded in. (See paragraph 1 of Final Protocol.)

² Under "patents for inventions" are included not only patents for inventions such as are granted in the United States, but patents for industrial models, design patents, patents for improvements sometimes termed "patents of addition," caveat, provisional patents, patents of importation, patents for the introduction of new
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 the 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.¹

ARTICLE 3.

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 bona fide industrial or commercial establishments upon the territory of one of the States of the Union.³

ARTICLE 4.

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; industries, in short, all kinds of patents by which an exclusive right to industrial property is granted by any of the countries of the Union. (See paragraph 2 of the Final Protocol.)

¹ The last sentence of this article is to be read with paragraph 3 of the Final Protocol.

This article is given full force and effect in all the countries which belong to the Union, except that in the United States so far as the filing of caveats by foreigners is concerned, being in conflict with the statute (Revised Statutes, Sec. 4902), it is not at present considered to have any effect without further legislation. (Opinion of the Attorney General, 47 O. G., 397.)

³ This is Article 3 as amended at the Brussels conference of 1897. The amendment is not yet formerly ratified by all of the countries of the Union, but doubtless will be in the near future. The amendment consists in the insertion of the words bona fide (effectifs et sérieux) before "industrial or commercial establishments."

This article is given full force and effect in all the countries of the Union.
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, three months for designs or industrial models, as well as trade or commercial marks. They shall be augmented by one month for countries beyond the seas.¹

¹ This Article was amended at the Brussels conference of 1897 by the omission of the word "by a third party" (par un tiers) after the words "publication of the invention or its working." This amendment is not yet formally ratified by all the countries of the Union, but doubtless will be in the near future.

As to the mode of reckoning the periods of priority in the several countries, see Part I, § 106.

The following countries of the Union have adopted legislation giving effect to this article:

Belgium, Law of 1884.
Great Britain, Law of 1883, Article 103 (Patents, Designs and Trademarks).
Queensland, Law of 1884, Article 80 (Patents, Designs and Trademarks).
[Other British Colonies which, though not members of the Union, provide by law for giving effect to this article are:

Malta, Law of 1893, Article 8 (Patents).
New South Wales, Law of 1897 (Patents, Designs and Trademarks).
Tasmania; Law of 1893, Article 100 (Patents, Designs and Trademarks).
Western Australia, Law of 1894, Article 3 (Patents, Designs and Trademarks.).]
Italy, Law of 1898 (Patents, Designs and Trademarks).
Japan, Law of 1899, Article 9 (Patents and Trademarks).
Netherlands, Law of 1893, Article 3 (Trademarks).
Portugal, Law of 1896, Articles 9, 27 and 29 (Patents). Law of 1896, Articles 76 and 79 (Trademarks).
Switzerland, Law of 1888, Article 32 (Patents), Law of 1891, Article 7 (Trademarks).

This Article is given full force and effect in France, Spain and Tunis without express legislation. Serbia, which has no patent law, does not provide in the laws relating to designs and trademarks for carrying this article into effect. See in connection with this article Part I, §§ 38 to 47 and 98, and Part II, § 171.
CONVENTIONS AND TREATIES.

ARTICLE 4 bis.

Patents applied for in the different contracting States by persons admitted to the benefit of the Convention under the terms of Articles 2 and 3, shall be independent of the patents obtained for the same invention in the other States adhering or not to the Union.

This provision shall apply to patents existing at the time of its going into effect.

The same rule applies in the case of adhesion of new States as to patents already existing, either in the Union or in the new adhering State at the time of the adhesion.¹

ARTICLE 5.

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.²

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.³

¹This additional article was agreed to at the Brussels conference of 1897. It has not as yet been formally ratified by all of the countries of the Union, but doubtless will be in the near future.

Under the laws of the following countries of the Union a patent granted on an invention previously patented in another country is not limited to expire with such previously granted patent (see Part I, § 81):

Denmark, Great Britain, Japan, Norway, Portugal, Spain (see §§ 34 and 73),

Sweden, Switzerland, United States.

In the following countries of the Union the law requires that a patent granted on an invention previously patented in a foreign country shall be limited to expire with such previously granted patent (see Part I, § 82):

Belgium, Brazil, France, Italy.

²The only countries of the Union under the law of which such introduction of goods forfeits the patent are France. (Law of 1844, Article 32, and Tunis, Law of 1888, Article 23.) Notwithstanding this provision of the law, this article of the Convention is, however, given full force in these countries so far as patents granted to subjects or citizens of other countries of the Union are concerned.

³In the protocol adopted by the conference at Rome, in 1886, it was proposed to add to this article the following:

"Each country shall determine for itself the interpretation to be given to the word 'working.'"

Substantially the same provision with respect to the interpretation to be given
ARTICLE 6.

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.¹

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.²

ARTICLE 7.

The nature of the production upon which the trade or com-

to this word is found in the 4th protocol, adopted by the conference at Madrid in 1890. Because of other provisions contained in them, both of these protocols failed of ratification, but the adoption of this provision by the successive conferences clearly shows that, in the opinion of the delegates to the conferences, each of the countries of the Union is free to enforce such requirements as to working as are found in its present law.

¹This translation does not give the correct meaning of the words sera admise au dépôt et protégée telle quelle of the text of the Convention. A better translation is that given by Great Britain which is "shall be admitted for registration and protected in the form originally registered," that is, marks regularly registered in the country of origin shall be registered and protected in all the other countries of the Union whatever their nature, whether registrable or not under the laws of the particular country. (See paragraph 4 of the Final Protocol.)

²This article is given full force and effect by legislation in the following countries:

Denmark, Law of 1890, Article 14 (7), see Part II, §§ 157 and 160.
Norway, Law of 1884, Article 15 (7), see Part II, §§ 157 and 160.
Sweden, Law of 1884, Article 16 (7), see Part II, §§ 157 and 160.

The laws of the following countries appear to permit the registration of any mark not open to the objection of being contrary to morals or to public order (see Part II, §§ 155 and 163), which would be registrable in any other country of the Union:
Belgium, Brazil, France, Italy, Japan, Netherlands, Portugal, Serbia, Spain, Switzerland, Tunis.

This article is not given full force and effect so far as the admission to registration of marks previously registered in another country which are not under the laws of the particular country considered registrable trademarks in Great Britain or the United States.

See in connection with this article Part II, § 155.
commercial mark is to be affixed cannot in any case be an obstacle to the deposit of the mark.  

**ARTICLE 8.**

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

**ARTICLE 9.**

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.

*In the States whose legislation does not admit of seizure on importation, such seizure may be replaced by the prohibition of importation.*

*The authorities shall not be required to effect seizure in case of goods in transit.*

**ARTICLE 10.**

The provisions of the preceding Article shall be applicable to every product 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.

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1 There is not in the laws of any of the countries which are members of the Union any provision inconsistent with this article.

2 Commercial or trade names are protected in all the countries of the Union. See Part II, § 137.

3 The paragraphs in italics were added by amendment agreed to at the Brussels Conference of 1897. This amendment has not as yet been formally ratified by all the countries of the Union, but will doubtless be ratified in the near future.

This article as originally proposed provided that importation into and even transit through the countries of the Union of goods so marked should be prohibited. As finally adopted it seems rather to permit than to require seizure or prohibition of importation of falsely marked goods.
Is reputed interested party every *producer*, manufacturer, or trader engaged in the *production*, the manufacture or the sale of such product when established *either* in the locality falsely indicated as place of export *or in the region where said locality is situated.*

**ARTICLE 11.**

The High Contracting parties *shall accord conformably to the legislation of each country*, a temporary protection to patentable inventions, to industrial designs or models, as well as to trademarks, for the productions which may figure at official or officially recognized International Expositions *organized upon the territory of one of them.*

**ARTICLE 12.**

Each one of the High Contracting parties engages to establish a special service of Industrial Property and a Central Depot for giving information to the public concerning patents

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1 This is Article 10 as amended at the Brussels Conference of 1897. The amendment consists of the insertion of the words in italics. The amendment has not as yet been ratified by all of the countries of the Union, but doubtless will be in the near future.

2 This is Article 11 as amended at the Brussels Conference of 1897. The amendment consists in the substitution of the words in italics in lines 1 and 2 for the words "engage between themselves to accord," and the addition of the words in italics at the end of the article. The amendment has not yet been ratified by all the countries of the Union, but doubtless will be in the near future.

The following countries of the Union have adopted laws under which the protection provided for by this article may be had:

- Brazil, notice required, term of protection not stated in the law.
- Denmark, no notice required, protection six months.
- France, notice required, protection until three months after close of exhibition.
- Great Britain, notice required, protection six months.
- New Zealand, notice required, protection six months.
- Queensland, notice required, protection six months.
- Japan, notice required, protection six months.
- Norway, no notice required, protection six months.
- Spain, notice required, protection six months.
- Sweden, no notice required, protection six months.
- Switzerland, notice required, protection six months.
- Tunis, notice required, protection until three months after close of exhibition.

See in connection with this article Part I, §§ 48 to 50.
of invention, industrial designs or models and trade or commercial marks.¹

ARTICLE 13.

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 power shall be determined by common accord between the States of the Union.²

¹This article is understood to require the publication in each country of an official periodical. (See paragraph 5 of the Final Protocol.)

Such official periodicals are published by the following countries of the Union: Belgium, Recueil Spécial des Brevets d’Invention; Recueil Officiel des Marques de Fabrique et de Commerce.

Denmark, Dansk Patenttidende.

France, Bulletin Officiel de la Propriété Industrielle et Commerciale.


Italy, Bolletino dell Privative Industriali del Regno d’Italia.

Netherlands, Nederlandsche Staatscourant.

New Zealand, New Zealand Gazette.

Norway, Norsk Patentblad, Norsk Registreringstedere for Varemaerker.

Portugal, Boletim da Propriedade Industrial.

Queensland, Queensland Government Gazette.

Spain, Boletin Oficial de la Propiedad Intelectual é Industrial.


Switzerland, Liste des Brevets; Marques de Fabrique et de Commerce enregistrées en Suisse.


²The duties of the International Bureau are more fully defined in paragraph 6 of the Final Protocol in which, as amended at the Madrid Conference of 1891, the arrangement for the payment by the several governments of the cost of the Bureau is fully set forth. The Bureau provided for by this article is located at Berne, Switzerland, and is under the direction of H. Morel. The official organ of the Union under the name of La Propriété Industrielle is published monthly and contains full information of the changes made from time to time in the legislation of the several countries of the Union, as well as of other countries, in reference to patents, trademarks and other industrial property, information as to important cases respecting industrial property decided by the courts of the several countries, statistics of the several countries, and other general information of importance
ARTICLE 14.

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.¹

ARTICLE 15.

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.²

ARTICLE 16.

The States that have not taken part in the present Con-
respecting industrial property. The price of this journal is 5 fr. 50, (about $1.10) a year. The Bureau has also published two volumes of a collection of the patent and trademark laws and rules of practice of all the countries of the world, under the name of Recueil Général de la législation et de traités concernant la propriété industrielle, Berne, 1896, and has the final volume in preparation. The two volumes published, containing the laws of European and Asiatic countries, are sold at 50 fr. (about $6.00).

¹The words "the next meeting shall take place in 1885 at Rome," appear in this article as originally adopted. These words were canceled by amendment adopted at the Brussels Conference of 1897.

Conferences have been held as follows: Rome, 1886; Madrid, 1890; Brussels, 1897.

²Restricted Unions have been entered into by countries which are members of the Union as follows: For the suppression of false indication of origin under the Agreement signed at Madrid, April 14, 1891, to which the following members of the Union are parties: Brazil, Spain, France, Great Britain, Portugal, Switzerland and Tunis.

For the International registration of Trademarks under the agreement signed at Madrid, April 14, 1891, to which the following members of the Union are parties: Brazil, Belgium, Spain, France, Italy, Netherlands, Portugal, Switzerland and Tunis. Under this Union trademarks registered in one of the countries of the Union are registered in all the other countries of the Union, through the International Bureau at Berne, on payment of a single fee of 100 fr. (§20). The number of trademarks so registered up to the close of 1898 was 1700. The term of registration is twenty years, renewable, but expires earlier if the registration is not kept in force in the country of origin.
Conventions 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, and shall go into force a month after the sending to the other Unionist States, unless a later date shall have been indicated by the adhering State.¹

**ARTICLE 17.**

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 18.**

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 denunciation² 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 19.**

The present Convention shall be ratified and the ratifica-

¹The words in italics were added by amendment agreed to at the Brussels Conference of 1897. For countries which have adhered to the Convention, see note under Article I.
²Notice of withdrawal.
tions 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.

*     *     *     *     *     *     *

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,
Serbia and Switzerland, for the protection of industrial prop-
erty, the undersigned plenipotentiaries have agreed on the
following:

1. The words Industrial Property are to be understood in
their widest acceptation, 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 Inventions 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 proce-
dure 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 pro-
tection, 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 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 expenses of the International Bureau instituted by Article 13 shall be supported by the contracting States in common. They cannot in any event exceed the sum of sixty thousand francs (about $15,000) per annum.

In order to determine the contributory share of each of the States in 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: First class, 25 units; second class, 20 units; third class, 15 units; fourth class, 10 units; fifth class, 5 units; sixth class, 3 units.

These co-efficients 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:

First class: France, Italy. Second class: Spain. Third

1 The words in italics were inserted by amendment adopted by the Conference in Madrid in 1891.

2 The countries which have adhered to the Convention since the adoption of this protocol are classified as follows: First class: Great Britain, United States. Second class: Japan. Third class: Sweden. Fourth class: Norway. Sixth class: Dominican Republic, Tunis. The share of the United States amounts to about $700 a year.
Fourth class: Belgium, Brazil, Portugal, Switzerland. Fifth class: Netherlands. Sixth class: Serbia. 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.

*Not now members of the Union. See note under Article 1.

*See note under Article 13.
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.

* * * * * * * * *

Sec. 216. Convention with Austria-Hungary relative to the protection of trademarks.

Convention relative to the protection of trademarks, concluded November 25, 1871; ratifications exchanged at Vienna, April 22, 1872; proclaimed June 1, 1872.

ARTICLE I.

Every reproduction of trade-marks which in the countries or territories of the one of the contracting parties are affixed to certain merchandise to prove its origin and quality, is forbidden in the countries or territories of the other of the contracting parties, and shall give to the injured party ground for such action or proceedings to prevent such reproduction, and to recover damages for the same, as may be authorized by the laws of the country in which the counterfeit is proven, just as if the plaintiff were a citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in the Austro-Hungarian Empire, or of citizens of the Austro-Hungarian Monarchy in the territory of the United States, cannot exist for a longer period than that fixed by the law of the country for its own citizens. If the trademark has become public property in the country of its origin, it shall be equally free to all in the countries or territories of the other of the two contracting parties.
ARTICLE II.

If the owners of trade-marks, residing in the countries or territories of the one of the contracting parties, wish to secure their rights in the countries or territories of the other of the contracting parties, they must deposit duplicate copies of those marks in the Patent Office at Washington and in the Chambers of Commerce and Trade in Vienna and Pesth.

ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications, and shall continue in force for ten years from this date.

In case neither of the high contracting parties gives notice of its intention to discontinue this Convention twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE IV.

The ratifications of this present Convention shall be exchanged at Vienna within twelve months, or sooner, if possible.

In faith whereof the respective plenipotentiaries have signed the present Convention as well in English as in German and Hungarian, and have affixed thereto their respective seals.

Done at Vienna the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-one, in the ninety-sixth year of the Independence of the United States of America, and in the twenty-third year of the reign of His Imperial and Royal Apostolic Majesty.

(Seal.)

John Jay.

(Seal.)

Andrassy.

Sec. 217. Treaty and Convention with Belgium relative to the protection of trademarks.

Treaty of commerce and navigation, concluded March 5, 1875; ratifications exchanged at Brussels, June 11, 1875; proclaimed June 29, 1875.

* * * * * * * * *
The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade marks in which the citizens of one of the two countries may wish to secure the right of property in the other must be lodged, to wit: the marks of citizens of the United States, at Brussels, in the office of the clerk of the Tribunal of Commerce; and the marks of Belgian citizens at the Patent Office in Washington.

It is understood that if a trademark has become public property in the country of its origin, it shall be equally free to all in the other country.

ARTICLE XVI.

The present treaty shall be in force during ten years from the date of the exchange of the ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned, and it is agreed that after the expiration of the twelve months of prolongation accorded on both sides, this treaty and all its stipulations shall cease to be in force.

ARTICLE XVII.

This treaty shall be ratified, and the ratifications shall be exchanged at Brussels within the term of nine months after its date, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed
the present treaty in duplicate, and have affixed thereto their seals at Washington, the eighth day March, eighteen hundred and seventy-five.

(Seal.)
(Seal.)

HAMILTON FISH.
MAURICE DELFOSSE.

Convention for securing reciprocal protection for trade-marks and trade labels concluded April 7, 1884; ratifications exchanged at Washington, July 7, 1884; proclaimed July 9, 1884.

ARTICLE I.

Citizens of the United States in Belgium and Belgian citizens in the United States of America shall enjoy, as regards trade-marks and trade-labels, the same protection as native citizens, without prejudice to any privilege or advantage that is or may hereafter be granted to the citizens of the most favored nation.

ARTICLE II.

In order to secure to their marks the protection provided for by the foregoing article, the citizens of each one of the contracting parties shall be required to fulfil the law and regulations of the other.

ARTICLE III.

The present arrangement shall take effect on the day of its official publication, and shall remain in force until the expiration of the twelve months following the notice, given by either of the contracting parties, of its desire for the cessation of its effects.

The ratifications of this convention shall be exchanged at Washington as soon as possible within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and French languages, and affixed thereto the seals of their arms.
CONVENTIONS AND TREATIES.

Done at Washington the 7th day of April, in the year of our Lord one thousand eight hundred and eighty-four.

(Seal.) FRED'K T. FRELINGHUYSEN.
(Seal.) TH'RE DE BOUNDER DE MELSBROECK.

Sec. 218. Agreement with Brazil relative to the protection of trademarks.

Agreement for the reciprocal protection of marks of manufacture and trade, concluded September 24, 1878; proclaimed June 17, 1879.

The Government of the United States of America and the Government of His Majesty the Emperor of Brazil, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The citizens or subjects of the two high contracting parties shall have in the dominions and possessions of the other the same rights as belong to native citizens or subjects in everything relating to property in marks of manufacture and trade.

It is understood that any person who desires to obtain the aforesaid protection must fulfil the formalities required by the laws of the respective countries.

In witness whereof the undersigned, duly authorized to this end, have signed the present agreement and have affixed thereto the seals of their arms.

Done in duplicate at Rio de Janeiro the twenty-fourth day of the month of September, one thousand eight hundred and seventy-eight.

(Seal.) HENRY WASHINGTON HILLIARD.
(Seal.) B. DE VILLA BELLA.

Sec. 219. Convention with Denmark relative to the protection of trademarks.

Convention for the reciprocal protection of trade-marks and trade-labels, concluded June 15, 1892; ratifications exchanged at Copenhagen September 28, 1892; proclaimed October 12, 1892.
With a view to secure for the manufacturers in the United States, and those in Denmark, the reciprocal protection of their Trade Marks and Trade Labels, the undersigned, duly authorized to that effect, have agreed on the following dispositions:

ARTICLE I.

The subjects or citizens of each of the High Contracting parties shall in the Dominions and Possessions of the other have the same rights as belong to native subjects or citizens in everything relating to Trade Marks and Trade Labels of every kind.

Provided, always, that in the United States the subjects of Denmark, and in Denmark the citizens of the United States of America, cannot enjoy these rights to a greater extent or for a longer period of time than in their native country.

ARTICLE II.

Any person in either country desiring protection of his Trade Mark in the Dominions of the other must fulfil the formalities required by the law of the latter; but no person, being a subject or citizen of one of the contracting States, shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

ARTICLE III.

This arrangement shall go into effect immediately on or after the exchange of the ratifications, and shall be in force until a year after it has been recalled by the one or the other of the two High Parties.

ARTICLE IV.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Denmark, and the ratifications shall be exchanged at
CONVENTIONS AND TREATIES.

Copenhagen as soon as may be within ten months from the date hereof.

In witness whereof the undersigned have signed the present convention and have affixed thereto the seal of their arms.

Done at Copenhagen in double expedition the 15. June, 1892.

(Seal.) CLARK E. CARR.
(Seal.) REEDTZ THOTT.

220. Convention with France concerning trademarks.

Convention concerning trademarks, concluded April 16, 1869; ratifications exchanged at Washington, July 3, 1869; proclaimed July 6, 1869.

ARTICLE I.

Every reproduction in one of the two countries of trade marks affixed in the other to certain merchandise to prove its origin and quality is forbidden, and shall give ground for an action for damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven, just as if the plaintiff were a subject or citizen of that country.

The exclusive right to use a trade mark for the benefit of citizens of the United States in France, or of French subjects in the territory of the United States, can not exist for a longer period than that fixed by the law of the country for its own citizens.

If the trade mark has become public property in the country of its origin, it shall be equally free to all in the other country.

ARTICLE II.

If the owners of trade marks, residing in either of the two countries, wish to secure their rights in the other country, they must deposit duplicate copies of those marks in the Patent Office at Washington, and in the clerk's office of the Tribunal of Commerce of the Seine, at Paris.
ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications by the two governments, and shall continue in force for ten years from this date.

In case neither of the two high contracting parties gives notice of its intention to discontinue this convention, twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE IV.

The ratifications of this present arrangement shall be exchanged at, Washington within ten months, or sooner, if possible.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate, and affixed thereto the seal of their arms.

Done at Washington the sixteenth day of April, in the year of our Lord one thousand eight hundred and sixty-nine.

(Seal.)

Hamilton Fish.

(Seal.)

Berthemy.

Sec. 221. Convention with Germany relating to trademarks.

Convention relating to the rights, privileges, immunities and duties of consuls, and to the protection of trade marks, concluded December 11, 1871; ratifications exchanged at Berlin, April 29, 1872; proclaimed June 1, 1872.

* * * * * * * * * *

ARTICLE XVII.

With regard to the marks or labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the citizens of Germany shall enjoy in the United States of America, and American citizens shall enjoy in Germany, the same protection as native citizens.
ARTICLE XVIII.

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be exchanged at Berlin within the period of six months.

In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on, from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof the plenipotentiaries have signed and sealed this Convention.

Berlin, the 11th of December, 1871.

(Seal.)  Geo. Bancroft.
(Seal.)  B. Köenig.

Sec. 222. Declaration with Great Britain for the protection of trademarks.

Declaration for the reciprocal protection of marks of manufacture and trade, concluded October 24, 1877; ratified by President May 25, 1878; proclaimed July 17, 1878.

The Government of the United States of America and the Government of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The subjects or citizens of each of the contracting parties shall have, in the dominions and possessions of the other, the same rights as belong to native subjects or citizens, or as are now granted or may hereafter be granted to the subjects and citizens of the most favored nation, in everything relating to property in trade-marks and trade-labels.

It is understood that any person who desires to obtain the
aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned have signed the present declaration, and have affixed thereto the seal of their arms.

Done at London, the twenty-fourth day of October, 1877.

(Seal.)
EdwardS Pierrepont.
(Seal.)
Derby.

Sec. 223. Declaration with Italy for the protection of trademarks.

Declaration for the reciprocal protection of marks of manufacture and trade, concluded June 1, 1882; proclaimed March 19, 1884.

Declaration.

The Government of the United States of America and the Government of His Majesty the King of Italy, wishing to provide for the reciprocal protection of the marks of manufacture and trade, have agreed as follows:

The citizens of each of the high contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as belong to native citizens, or as are now granted or may hereafter be granted to the subjects or citizens of the most favored nation, in everything relating to property in trade-marks and trade-labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned, having been duly authorized to this effect, have signed the present declaration, and have affixed thereto the seal of their arms.

Done in duplicate original at Washington, this first day of June, one thousand eight hundred and eighty-two.

(Seal.)
Fred'k T. Frelinghuysen.
(Seal.)
Fava.
CONVENTIONS AND TREATIES.

Sec. 224. Treaty and convention with Japan relative to patents and trademarks.

Treaty of commerce and navigation, concluded at Washington November 22, 1894; ratifications exchanged at Washington March 21, 1895; proclaimed March 21, 1895.

* * * * * * *

ARTICLE XVI.

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trademarks and designs, upon fulfilment of the formalities prescribed by law.

* * * * * * *

ARTICLE XIX.

This Treaty shall go into operation on the 17th day of July, 1899, and shall remain in force for the period of twelve years from that date.

Either High Contracting Party shall have the right, at any time thereafter, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

ARTICLE XX.

This Treaty shall be ratified, and the ratifications thereof shall be exchanged, either at Washington or Tokio, as soon as possible, and not later than six months after its signature.

In witness whereof the respective plenipotentiaries have signed the present Treaty in duplicate and have thereunto affixed their seals.

Done at the City of Washington the 22d day of November, in the eighteen hundred and ninety-fourth year of the Chris-

1The rights secured to citizens of the United States by this treaty and convention, so far as patents are concerned, are now accorded by law (law of March 1, 1899, of Japan) to foreigners generally.
tian era, corresponding to the 22d day of the 11th month of the 27th year of Meiji.

(Seal.)
WALTER Q. GRESHAM.
(Seal.)
SHINICHIRO KURINO.

Convention securing immediate reciprocal protection for patents, trademarks and designs, concluded at Washington, January 13, 1897; ratifications exchanged at Tokyo, March 8, 1897; proclaimed, March 9, 1897.

Whereas a Convention between the United States of America and the Empire of Japan securing immediate reciprocal protection for patents, trademarks and designs, was concluded and signed by their respective plenipotentiaries at the City of Washington on the thirteenth day of January, one thousand eight hundred and ninety-seven, the original of which Convention being in the English language is word for word as follows:

The President of the United States of America and His Majesty the Emperor of Japan, being desirous of securing immediate reciprocal protection for patents, trademarks and designs, have resolved to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States, the Honorable Richard Olney, Secretary of State of the United States, and His Majesty the Emperor of Japan, Toru Hoshi, Jushii, His Majesty’s Envoy Extraordinary and Minister Plenipotentiary, near the Government of the United States:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

Article XVI. of the Treaty of Commerce and Navigation between the United States of America and Japan, concluded at Washington on the twenty-second day, the eleventh month, the twenty-seventh year of Meiji, corresponding to the twenty-second day of November, eighteen hundred and ninety-four
of the Christian Era, shall have full force and effect from the
date of the exchange of ratifications of this Convention.

The present Convention shall be duly ratified by the Presi-
dent of the United States of America, by and with the advice
and consent of the Senate thereof, and by His Majesty the
Emperor of Japan, in the usual manner; and the ratifications
shall be exchanged at Tokyo as soon as possible.

In witness whereof the respective Plenipotentiaries have
signed this Convention and have thereunto affixed their Seals.

Done in duplicate original, at Washington, this thirteenth
day of January, in the one thousand eight hundred and ninety-
seventh year of the Christian Era.

Richard Olney. (Seal.)
Toru Hoshi. (Seal.)

Sec. 225. Diplomatic notes exchanged with Netherlands rela-
tive to trademarks.

The object of a convention is accomplished by the exchange
of diplomatic notes, as follows:

(1) Mr. de Weckherlin to Mr. Freelinghuysen.
Legation of the Netherlands,
Washington, February 10, 1883.

Mr. Secretary of State:

I have the honor herewith to transmit to your excellency a copy of the official
edition of the Dutch law relative to trademarks, bearing date of May 25, 1880.

The provisions of this law make no distinction between natives of the Nether-
lands and foreigners, so that citizens of the United States of America receive the
same usage in the Netherlands as my countrymen as regards everything connected
with the registration and protection of their trademarks.

It consequently seems that so far as the Netherlands are concerned, the condi-
tions of reciprocity are fulfilled which are established for the registration and pro-
tection of foreign trademarks in the United States of America by the act of
Congress approved March 3, 1881, which allows the registration of trademarks
whose owners reside in foreign countries, the laws of which grant the same privi-
lege to the citizens of the United States of America.

I have, therefore, been instructed by my Government to beg your excellency to
be pleased, if there are no objections, to cause the adoption of the measures neces-
sary in order that subjects of the Netherlands may hereafter avail themselves in
the United States of America of the act of Congress to which I have just referred.

Be pleased to accept, Mr. Secretary of State, etc.,

G. de Weckherlin.
FOREIGN PATENT AND TRADEMARK LAWS.

(2) Mr. Frelinhuysen to Mr. de Weckerlin.

DEPARTMENT OF STATE,
WASHINGTON, FEBRUARY 16, 1883.

Sir: I have the honor to acknowledge the receipt of your note of the 10th instant, by which you communicate to me the text of the Netherlands law of the 25th of May, 1880, concerning marks of trade and commerce.

I have taken due note of your statement that this law makes no distinction between Netherlanders and foreigners, so that the citizens of the United States are treated in the Low Countries on the same footing as the natives thereof in all that concerns the registration and protection of their commercial and trade marks.

As the enacting clause of the act of Congress of March 3, 1881, "to authorize the registration of trade-marks and protect the same," provides in terms as follows: "That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States, or located in any foreign country or tribes which by treaty, convention, or law afford similar privileges to citizens of the United States may obtain registration of such trade-marks by complying with" the requirements of that act, and as your declaration establishes the fact that the Netherlands law gives similar privileges to citizens of the United States located in the Low Countries, the fact of entire reciprocity of usage between the two countries in this respect may now be regarded as established and evidenced by the present exchange of diplomatic notes, and as henceforth operative without further formalities between them.

Accept, sir, etc.,
FREDERICK T. FRELINGHUYSEN.

Sec. 226. Treaty and declaration with Russia relative to trade marks.

Article respecting trademarks, additional to the treaty of navigation and commerce of December 6–18, 1832, concluded at Washington, January 27, 1868; ratifications exchanged at St. Petersburg, September 21, 1868; proclaimed October 15, 1868.

Additional Article.

The high contracting parties desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.
CONVENTIONS AND TREATIES.

The trade marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other must be lodged exclusively, to wit, the marks of citizens of the United States in the Department of Manufactures and Inland Commerce at St. Petersburg, and the marks of Russian subjects at the Patent Office in Washington.

This additional article shall be terminable by either party, pursuant to the twelfth article of the treaty, to which it is an addition. It shall be ratified by the President, by and with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of all the Russias, and the respective ratifications of the same shall be exchanged at St. Petersburg within nine months from the date hereof, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed this convention and thereto affixed the seals of their arms.

Done at Washington the 30th day of March, in the year of our Lord 1867.

(Seal.)

(Seal.)

WILLIAM H. SEWARD.

EDOUARD DE STOECKL.

Declaration respecting previous treaty stipulations in regard to trademarks signed March 28, 1874; proclaimed November 24, 1874.

ARTICLE I.

With regard to marks of goods or of their packages, and also with regard to marks of manufacture and trade, the citizens of the United States of America shall enjoy in Russia, and Russian subjects shall enjoy in the United States, the same protection as native citizens.

ARTICLE II.

The preceding article, which shall come immediately into operation, shall be considered as forming an integral part of
the treaty of the 6th-18th December, 1832, and shall have the same force and duration as the said treaty.

In faith whereof the undersigned have drawn up and signed the present declaration, and affixed thereto their seals.

Done in duplicate in the English and Russian languages at St. Petersburg, this 16th-28th day of March, 1874.

(Seal.) MARSHALL JEWELL.
(Seal.) GORTCHACOW.

Sec. 227. Treaty with Serbia relative to trademarks.

Treaty between the United States and Serbia for facilitating and developing commercial relations, concluded at Belgrade October 2-14, 1881; ratifications exchanged at Belgrade November 2-15, 1882; proclaimed December 27, 1882.

* * * * * * *

ARTICLE XII.

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade marks affixed in the other on merchandise to show its origin and quality shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured parties, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other, must be registered exclusively, to wit: The marks of citizens of the United States in the Tribunal of Commerce at Belgrade, and the marks of Serbian subjects in the Patent Office at Washington, subject to the conditions and restrictions prescribed by the laws and regulations of the country in which the trademarks are registered.

* * * * * * *
CONVENTIONS AND TREATIES.

ARTICLE XIV.

The present treaty shall remain in force for ten years from the day of the exchange of ratifications, and if twelve months before the expiration of that period neither of the high contracting parties shall have announced to the other its intention to terminate said treaty, it shall remain obligatory until the expiration of one year from the day when either of the high contracting parties shall have denounced it.

The preceding stipulations shall come into force in the two countries one month after the exchange of ratifications.

ARTICLE XV.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Highness, the Prince of Serbia, and the ratifications shall be exchanged at Belgrade as soon as possible.

In faith whereof the plenipotentiaries of the two high contracting parties have signed the present treaty in duplicate in English and the Serbian languages, and thereto affixed their respective seals.

Done in duplicate at Belgrade this 2-14 day of October, 1881.

(Seal.)  
EUGENE SCHUYLER.

(Seal.)  
CH. MIJATOVICH.

Sec. 228. Convention with Spain for securing protection for trademarks and manufactured articles and Treaty relative to patent rights.

Convention for securing reciprocal protection for trademarks and manufactured articles, concluded June 19, 1882; ratifications exchanged at Washington, April 19, 1883; proclaimed April 19, 1883.

ARTICLE I.

The citizens and subjects of each of the two contracting parties shall enjoy, in the dominions and possesions of the
other, the same rights as the natives of the country in everything relating to the ownership of trade-marks, industrial designs or models, or of manufactures of any kind.

ARTICLE II.

Persons desiring to secure the aforesaid protection shall be obliged to comply with the formalities required by the laws of the respective countries.

ARTICLE III.

This convention shall take effect as soon as it shall have been promulgated in both countries, and shall remain in force for ten years thereafter, and further until the expiration of one year after either of the contracting parties shall have given notice to the other of its wish to terminate the same; each of the contracting parties being at liberty to give such notice to the other at the end of said period of ten years or any time thereafter.

The ratifications of this convention shall be exchanged at Washington as soon as possible, within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and Spanish languages, and affixed thereto the seals of their arms.

Done at Washington, the 19th day of June, in the year of our Lord one thousand eight hundred and eighty-two.

(Seal.) FRED'K T. FRELINGHUYSEN.
(Seal.) FRANCO BARCA.

Treaty of peace signed at Paris, December 10, 1898; ratifications exchanged at Washington, April 11, 1899; proclaimed, Washington, April 11, 1899.

* * * * * * * * * *

ARTICLE XIII.

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto
Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of this treaty.

* * * * * * *

ARTICLE XVII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of our Lord one thousand eight hundred and ninety-eight.

(Seal.) WILLIAM R. DAY. (Seal.) EUGENIO MONTERO RIOS.
(Seal.) CUSHMAN K. DAVIS. (Seal.) B. DE ABAHRUZA.
(Seal.) W. M. P. FRYE. (Seal.) J. DE GARNICA.
(Seal.) GEO. GRAY. (Seal.) W. R. DE VILLA URRUTIA.
(Seal.) WHITELAW REID. (Seal.) RAFAEL CERERO.

Sec. 229. Diplomatic notes exchanged with Switzerland relative to trademarks.

The object of a convention is accomplished by the exchange of diplomatic notes, as follows:

(1) Mr. Frey to the Secretary of State.

SWISS LEGATION,
WASHINGTON, APRIL 27, 1883.

MR. SECRETARY OF STATE:

The undersigned, minister of the Swiss Confederation, has this day had the honor to receive your note of the 24th instant * * * relative to the mutual protection of trademarks.
The undersigned sees by the aforesaid note that you would prefer to make such an arrangement between the United States and Switzerland in the form of an exchange of notes, inasmuch as that form appears to you to be the most simple and the best calculated to avoid the difficulties connected with the ratification of a declaration or convention.

The undersigned has the honor to reply that, * * * by a communication of the 6th of March last, he laid before the Federal Council the text of your note of the 5th of that month, and at the same time he proposed to try an exchange of declarations which, as regards the form, would coincide with your views. The Federal Council having consented thereto by its communication of March 30, and having instructed the undersigned with full powers to make such an arrangement, the undersigned thinks that he represents the intentions of his Government by giving his adhesion to an exchange of notes.

As regards the question whether the principle of reciprocity is embodied in the Federal law of December 19, 1879, the undersigned has the honor to invite your attention to the text of Article 7, paragraph 2, of the Federal law of December 19, 1879, and also to the contents of the message of the Federal Council relative thereto. In the aforesaid paragraph of the law of December 19, 1879, it is expressly provided that producers and merchants, whose business is carried on in a State which accords the right of reciprocity to Swiss citizens, may have their marks registered in the same manner as Swiss citizens. But one condition is added, viz.: That foreigners shall be obliged to prove that these marks are already protected in the State to which they belong, the sole object of which reservation is to prevent foreigners from depositing with fraudulent intent, under the protection of reciprocity, marks for which they cannot claim protection in their own country. The Federal Council, moreover, in its message of October 15, 1879, whereby it transmitted to the Federal Chambers a bill for the protection of trademarks, made the following declaration touching trademarks: "As regards foreign trademarks, we are of opinion that Switzerland should stand upon the ground of reciprocity, and that this is the only position that should be taken by us in the interest of our industry."

In view of this declaration the Federal Chambers, in accepting without material modification the aforesaid paragraph 2 of Article 7 of the law in question, were without doubt actuated by a desire to embody the principle of full reciprocity in the law.

The undersigned takes the liberty, in conclusion, to ask your attention to the fact that the Confederation has, since the promulgation of the aforesaid law, concluded a convention with various States for the protection of trademarks upon the basis of reciprocity—for instance, with Great Britain, Belgium, and the Netherlands; and that the Confederation, previously to the promulgation of that law, guaranteed, in its commercial treaties with France, Germany and Italy, protection in Switzerland for their trademarks to the citizens or subjects of those States.

The undersigned thinks that he has, by the foregoing, furnished proof that the Confederation recognizes the principles of reciprocity as regards the international protection of trademarks as an integral part of its public law, and that the United States may, with the "most perfect confidence, enter into such an arrangement with the Confederation.

The undersigned avails himself, etc.,

E. Frey,
CONVENTIONS AND TREATIES.

(2) Mr. Davis to Mr. Frey.

DEPARTMENT OF STATE,

WASHINGTON, MAY 14, 1883.

COLONEL: I have the honor to acknowledge the receipt of your note of the 27th ultimo, concerning the reciprocal privilege of trademarks registration in the United States and Switzerland.

It gives me much pleasure to accept your declaration as evidence that the law of Switzerland affords such a guaranty of reciprocity in the matter as will make the application of the privileges of the Act of Congress of March 3, 1881, to owners of trademarks in Switzerland proper and certain.

This exchange of notes accomplishes the end in view of securing complete reciprocity under the legislation of the respective countries, and I have, therefore, communicated your note to the Secretary of the Interior, with this reply, and requested him to make the necessary regulations for admitting Swiss trademarks to all the privileges of registration which under that act pertain to the trademarks of American origin.

Now that the immediate object of our late correspondence on the subject is attained, permit me to suggest that, with a view to rendering the engagements of this Government with foreign nations as uniform as possible, the Government should be pleased to conclude and sign with you a formal trademarks convention, similar to that lately concluded with Spain, to which I have before referred, and of which I inclose a printed copy herewith.

Our present diplomatic accord will, of course, hold good until such formal convention can be made effective by ratification and exchange.

Accept, colonel, a renewed assurance of my highest consideration.

JOHN DAVIS,

Acting Secretary.
PART IV.

STATISTICS

REGARDING THE GRANT OF PATENTS AND REGISTRATION OF TRADEMARKS.

Sec. 230. General statistics regarding the grant of patents and registration of trademarks.¹

<table>
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<tr>
<th>Country</th>
<th>Patents.</th>
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</table>

*Has no trademark law. See § 142.

¹ For patents published in the several countries see § 108.

*Granted prior to July 7, 1895, when the joint patent law of Austria-Hungary ceased to be in force.

Granted since July 7, 1895.
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<th>Country</th>
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*Has no trademark law.  See 142.

1. Of this number 7,349 are government grants issued prior to the adoption in 1894 of a law providing for the grant of patents. Owing to the delay caused by the preliminary examination required under the law, no patents were issued in 1894.

2. Includes patents granted prior to July 1, 1877, in Baden, Bavaria, Prussia, Saxony and Wurttemburg.
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<th>Country</th>
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¹ Has no trademark law. See § 142.
² Has no trademark law and has granted no patents for many years.
³ Granted since July 7, 1865. See Austria-Hungary.
⁴ Includes patents granted in Sardinia prior to 1864.
⁵ Granted prior to 1869, when the patent law was abolished.
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</table>

* Has no trademark law.  
† Has no patent law.
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<th>Country</th>
<th>Total to December 31, 1898</th>
<th>Patents.</th>
<th>Trademarks.</th>
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No statistics regarding the grant of patents or the registration of trademarks in the following countries are available: Argentine Republic, Bolivia, British North Borneo,† British New Guinea, British South Africa, Bulgaria,|| Cape Colony,

*From 1865 to 1896 an average of 13 patents per year.
†From 1879 to 1896 an average of 6 patents per year.
‡Has no trademark law. See § 142.
||Has no patent law.
Colombia, Congo Free State, Costa Rica, Ecuador, French Indo China, Greece, Labuan, Mysore, Natal, Negri Sembilan, Orange Free State, Perak, Peru, Roumania, and Selangor.

Sec. 231. Patents granted and trademarks registered by citizens of the United States in foreign countries.

The following statement shows the number of patents taken out in the foreign countries named by citizens of the United States during the years named:

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* Has no trademark law. See § 142.
† Has no patent law.

1 Compiled from statistics published from time to time in the Propriété Industrielle.

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