

N° 1745.

ALLEMAGNE, AUTRICHE,
BELGIQUE,
BRÉSIL, CUBA, etc.

Arrangement de Madrid du 14 avril
1891, concernant l'enregistrement
international des marques de fabri-
que ou de commerce, révisé à
Bruxelles, le 14 décembre 1900,
à Washington, le 2 juin 1911, et à
La Haye, le 6 novembre 1925.

GERMANY, AUSTRIA,
BELGIUM, BRAZIL, CUBA, etc.

Agreement concluded at Madrid,
April 14, 1891, concerning Inter-
national Registration of Commer-
cial and Industrial Trade Marks,
revised at Brussels, December 14,
1900, at Washington, June 2, 1911,
and at The Hague, November 6,
1925.

¹ TRADUCTION. — TRANSLATION.

No. 1745. — AGREEMENT² CONCLUDED AT MADRID, APRIL 14, 1891, CONCERNING INTERNATIONAL REGISTRATION OF COMMERCIAL AND INDUSTRIAL TRADE MARKS REVISED AT BRUSSELS³, DECEMBER 14, 1900, AT WASHINGTON⁴, JUNE 2, 1911, AND AT THE HAGUE, NOVEMBER 6, 1925.

French official text communicated by the Netherlands Chargé d'affaires a. i. at Berne. The registration of this Agreement took place June 12, 1928.

The Undersigned, having been duly empowered by their respective Governments, have, by common consent, drawn up the following text, which shall replace the Madrid Arrangement⁵ of April 14, 1891, revised at Washington on June 2, 1911 :

Article 1.

Nationals of each of the contracting countries may, in all the other countries, ensure the protection of their commercial or industrial trade marks registered in the country of origin by applying for the registration of these marks at the International Bureau at Berne, such application to be effected through the Administration of the country of origin.

For the definition of the term country of origin, the relevant provision of Article 6 of the General Convention of the Union for the Protection of Industrial Property shall apply.

Article 2.

Subjects or citizens of countries that have not acceded to the present Arrangement who, in the territory of the limited Union constituted by the latter, fulfil the conditions laid down in Article 3 of the General Convention, shall be treated on the same footing as nationals of the contracting countries.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² Deposit of ratifications :

Switzerland, Italy, Germany, Austria, Spain, The Netherlands, at The Hague, May 1, 1928

Accessions :

Kingdom of the Serbs, Croats and Slovenes, effective as from October 29, 1928.
Spanish Zone of Morocco, effective as from November 5, 1928.

³ *British and Foreign State Papers*, Vol. 96, page 848.

⁴ *British and Foreign State Papers*, Vol. 108, page 404.

⁵ *British and Foreign State Papers*, Vol. 96, page 839.

Article 3.

Every request for international registration must be submitted on the form specified in the Rules for the Application of this Arrangement, and the Administration of the country of origin of the mark will certify that the statements made in these requests concord with those entered in the national Register.

If the applicant claims colour as a distinctive factor in his mark, he must :

(1) Declare the fact and accompany his application by a statement mentioning the colour or combination of colours claimed ;

(2) Transmit with his request specimens of the said coloured mark which shall be attached to the notifications issued by the international Bureau. The number of these specimens shall be determined in the Rules for the Application of this Arrangement.

The International Bureau shall immediately register the marks in respect of which application is made in conformity with Article 1. It shall notify such registration to the various Administrations without delay. The registered marks shall be published in a periodical edited by the International Bureau, with the statements, contained in the request for registration and a cliché provided by the applicant.

For the purposes of the publicity to be given in the contracting countries to registered marks, each Administration shall receive from the International Bureau, free of charge, as many copies of the above publication as it may request. Such publicity shall be regarded in all the Contracting countries as fully adequate, and no further publicity shall be required of the applicant.

Article 4.

As soon as it has been thus registered at the International Bureau, the mark shall be protected in each of the contracting countries to exactly the same extent as if it had been registered direct in each country.

Every mark which has been internationally registered shall enjoy the right of priority laid down in Article 4 of the General Convention, without its being necessary to fulfil the formalities specified in (d) of that article.

Article 4 a.

When a mark, already registered in one or more of the contracting countries, is subsequently registered by the International Bureau in the name of the same entitlee or his assign, the international registration shall be held to replace the previous national registrations, without prejudice to the rights acquired as a result of such registrations.

Article 5.

In countries whose laws authorise them to do so, the Administrations to which the International Bureau notifies the registration of a mark may declare that protection cannot be accorded to it in their territory. Such veto can only be exercised under the conditions that would, in accordance with the General Convention, hold good for a mark in respect of which application was made for national registration.

Administrations desiring to avail themselves of this right must notify the International Bureau of their refusal, together with a statement of reasons, within the time-limit specified by their own laws, and in any case not later than twelve months as from the date on which the international registration of the mark took place.

The International Bureau shall, without delay, transmit to the Administration of the country of origin and to the owner of the mark or to his agent — if the latter's name has been communicated to the Bureau by the said Administration — one of the copies of the declaration of refusal thus communicated to it. The person concerned shall have the same remedies as if the mark had been registered by him direct in the country in which protection is refused.

Administrations which have not, within the above mentioned maximum time limit of one year addressed any communication to the International Bureau, shall be deemed to have accepted the mark.

Article 5 a.

Documents transmitted as evidence of the legitimate use of certain component parts of marks, such as arms, escutcheons, portraits, distinctions, titles, trade names or names of persons other than the applicant, or other similar inscriptions which may be asked for by the Administrations of the contracting countries, shall be exempted from all acts of certification or legalisation other than those required by the Administration of the country of origin.

Article 5 b.

The International Bureau shall deliver to any person who so requests, for a fee fixed in the Rules for the Application of this Arrangement, a copy of the details entered in the Register concerning any given mark.

The Bureau may also, for payment, undertake to investigate the relative priority of international marks.

Article 6.

The protection afforded by registration at the International Bureau shall continue for twenty years as from the date of such registration (subject to the provisions contained in Article 8 concerning the case in which the applicant has only paid part of the international charge), but it may not be invoked on behalf of a mark which no longer enjoys legal protection in the country of origin.

Article 7.

Registration may in every case be renewed according to the provisions of Articles 1 and 3 for a further period of twenty years as from the date of renewal.

Six months before the expiration of the period of protection the International Bureau shall send the owner of the mark a semi-official notice reminding him of the exact date of expiration.

If a mark submitted in renewal of a previous registration has been modified in form, the various Administrations may refuse to register it as a renewal; they shall be similarly entitled to refuse registration if any change has been made in the list of the products to which the mark is to apply, unless, after receiving notification of the objection through the International Bureau, the person concerned states that he renounces his claim to the protection of products other than those designated, in identical terms, at the time of the previous registration.

When a mark is not accepted for renewal, rights of priority or other rights acquired by the fact of previous registration may be taken into account.

Article 8.

The Administration of the country of origin shall be free to fix, and shall collect for itself, a national fee to be levied on the owner of the mark in respect of which international registration is requested.

To this fee shall be added an international charge (in Swiss francs) of one hundred and fifty francs for the first mark and one hundred francs for each subsequent mark registered at the same time at the International Bureau in the name of the same owner.

The applicant shall at the time of the international registration be entitled to pay one hundred francs only for the first mark and seventy-five francs for each of the marks registered at the same time as the first.

If the applicant avails himself of this right he must, before the expiration of ten years as from the date of international registration, pay to the International Bureau a balance of seventy-five francs for the first mark and fifty francs for each of the other marks registered at the same time as the first ; failing which he shall, on the expiration of this time-limit, forfeit the benefits of registration. Six months before the expiration of this period the International Bureau shall send the applicant a semi-official notice of the exact date of this expiration to enable him to take any necessary action. If the balance of the charge has not been paid to the International Bureau before the expiration of this time-limit, the Bureau shall cancel the mark, notify the various Administrations of its action, and publish the fact in its journal.

When the list of products for which protection is claimed contains more than one hundred words, the mark shall not be registered until an additional charge, to be determined in the Rules for the Application of this Arrangement, has been paid.

The annual yield of the various sums received in respect of international registration shall be apportioned equally between the contracting countries by the International Bureau, after deducting the joint expenditure occasioned in carrying out the present Arrangement.

If, at the time of the coming into force of the present revised Arrangement, a country has still not ratified it, that country shall only be entitled, until the date of its subsequent accession, to a share of the surplus receipts calculated on the basis of the former charges.

Article 8 a.

The owner of an international mark may at any time renounce protection in one or more of the contracting countries by means of a declaration transmitted to the Administration of the country of origin of the mark for communication to the International Bureau. The Bureau shall notify the countries which this renunciation concerns.

Article 9.

The Administration of the country of origin shall notify the International Bureau of all annulments, cancellations, renunciations, transfers and other changes affecting the registration of the mark.

The Bureau shall enter these changes in the international Register, shall in turn notify them to the Administrations of the contracting countries, and shall publish them in its journal.

Similar action shall be taken when the owner of a mark asks to reduce the list of products to which this mark applies.

A charge, to be determined in the Rules for the Application of this Arrangement, may be made for these transactions.

The subsequent addition of a new product to the list may only be made by effecting a new registration in conformity with the provisions of Article 3.

The substitution of one product for another shall be treated as an addition.

Article 9 a.

When a mark entered in the international register is transferred to a person established in a contracting country other than the country of origin of the mark, the transfer shall be notified to the International Bureau by the Administration of the country of origin. After obtaining the

assent of the Administration to which the new entitlee is amenable, the International Bureau shall register this transfer, notify the other Administrations, and publish the fact in its journal, mentioning, if possible, the date and registration number of the mark in its new country of origin.

A mark filed in the international Register may not be transferred to a person not permitted to register an international mark.

Article 9 b.

The provisions of Articles 9 and 9 (a) concerning transfers shall not modify any laws of the contracting countries which provide that a mark may not be transferred unless the industrial or commercial establishment for whose products it is used is also transferred at the same time.

Article 10.

The various Administrations shall settle by common consent the details connected with the application of the present Arrangement.

Article 11.

Countries adhering to the Union for the Protection of Industrial Property which are not parties to the present Arrangement may accede thereto at their request and in the form prescribed by the General Convention.

As soon as the International Bureau is informed that a country or one of its colonies has acceded to the present Arrangement, it shall send to the Administration of that country, in conformity with Article 3, a complete list of all the marks which are at that time enjoying international protection.

The sending of this list shall be sufficient to ensure for these marks the benefit of the preceding provisions in the territory of the acceding country, and shall denote the commencement of the time limit of one year during which the Administration concerned may make the declaration referred to in Article 5.

Any country may, however, when acceding to the present Arrangement, declare that, except as regards international marks already entered in identical form in its national register and still valid, which will be immediately recognised at the request of the persons concerned, this Act shall only apply to marks registered as from the date on which the accession takes effect.

Such declaration will make it unnecessary for the International Bureau to send the complete list referred to above. In this case, it shall merely notify those marks for which the exceptional treatment referred to in the preceding paragraph has been requested ; such requests must, however, be accompanied by full explanations, and must be submitted within one year from the date of the accession of the new country.

Article 12.

The present Arrangement shall be ratified and the ratifications shall be deposited at The Hague not later than May 1, 1928.

It shall come into force one month after that date, and shall have the same validity and duration as the General Convention.

In the relations between countries which have ratified it, this Act shall replace the Madrid Arrangement of 1891, revised at Washington on June 2, 1911. The latter Arrangement shall, however, remain in force as regards relations with countries which have not ratified the present Act.

In faith whereof the respective Plenipotentiaries have signed the present Arrangement.

Done at The Hague, in a single copy, on November 6, 1925.

<i>For Germany :</i>	VIETINGHOFF. V. SPECHT. KLAUER. Albert OSTERRIETH.
<i>For Austria :</i>	Dr. Carl DUSCHANEK. Dr. Hans FORTWÄNGLER.
<i>For Belgium :</i>	CAPITAINE. Louis ANDRÉ. Thomas BRAUN. D. COPPIETERS.
<i>For the United States of Brazil :</i>	J. A. Barboza CARNEIRO. Carlos Americo BARBOSA DE OLIVEIRA.
<i>For Cuba :</i>	R. DE LA TORRE.
<i>For the Free City of Danzig :</i>	ST. KOZMIŃSKI.
<i>For Spain :</i>	Santiago MENDEZ DE VIGO. Fernando CABELLO LAPIEDRA. José GARCIA MONGE.
<i>For France :</i>	Ch. DE MARCILLY. Marcel PLAISANT. Ch. DROUETS. Georges MAILLARD. Elemér DE POMPÉRY.
<i>For Hungary :</i>	Domenico BARONE.
<i>For Italy :</i>	Letterio LABOCCETTA. Mario GHIRON.
<i>For Morocco :</i>	Ch. DE MARCILLY.
<i>For the United States of Mexico :</i>	Julio POULAT.
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