

**ALLEMAGNE, AUTRICHE,  
BELGIQUE, etc.**

**Arrangement de Madrid du 14 avril 1891, concernant l'enregistrement international des marques de fabrique ou de commerce, révisé à Bruxelles le 14 décembre 1900, à Washington le 2 juin 1911, à La Haye le 6 novembre 1925, et à Londres le 2 juin 1934.**

*Texte officiel français communiqué par le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement a eu lieu le 3 octobre 1944.*

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**GERMANY, AUSTRIA, BELGIUM, etc.**

**Agreement of Madrid of April 14th, 1891, for the International Registration of Commercial and Industrial Trade Marks, revised at Brussels on December 14th, 1900, at Washington on June 2nd, 1911, at The Hague on November 6th, 1925, and in London on June 2nd, 1934.**

*French official text communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration took place October 3rd, 1944.*

## TRADUCTION. — TRANSLATION.

No. 4833. — AGREEMENT OF MADRID OF APRIL 14TH, 1891, FOR THE INTERNATIONAL REGISTRATION OF COMMERCIAL AND INDUSTRIAL TRADE MARKS, REVISED AT BRUSSELS ON DECEMBER 14TH, 1900, AT WASHINGTON ON JUNE 2ND, 1911, AT THE HAGUE ON NOVEMBER 6TH, 1925, AND IN LONDON ON JUNE 2ND, 1934<sup>1</sup>.

The undersigned, being duly authorised for the purpose, have, in common accord, drawn up the following text, which shall be substituted for the Agreement of Madrid of April 14th, 1891,<sup>2</sup> revised at Brussels on December 14th, 1900,<sup>3</sup> at Washington on June 2nd, 1911,<sup>4</sup> and at The Hague on November 6th, 1925,<sup>5</sup> that is to say:

*Article 1.*

1. Nationals of each of the contracting countries may, in all the other countries, ensure the protection of their commercial and industrial trade marks registered in the country of origin by depositing the said marks at the International Bureau at Berne through the intermediary of the Administration of the said country of origin.

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

*Article 2.*

Nationals of countries which have not acceded to the present Agreement who, in the territory of the limited Union constituted by this Agreement, fulfil the conditions laid down in Article 3 of the General Convention shall be assimilated to nationals of the contracting countries.

*Article 3.*

1. Every application for international registration must be submitted on the form prescribed in the Rules for the Application of this Agreement, and the Administration of the country of origin of the mark must certify that the statements made in these applications concord with those entered in the national Register.

<sup>1</sup> *Ratification deposited in London:*

GERMANY . . . . . August 10th, 1937.

*Accessions:*

FRANCE . . . . .	effective as from	June 25th, 1939.
SWITZERLAND . . . . .	»	November 24th, 1939.
BELGIUM . . . . .	»	November 24th, 1939.
TANGIER . . . . .	»	June 13th, 1939.
MOROCCO (French Zone) . . . . .	»	January 21st, 1941.
TUNIS. . . . .	»	October 4th, 1942.

<sup>2</sup> *British and Foreign State Papers*, Vol. 96, page 839.

<sup>3</sup> *British and Foreign State Papers*, Vol. 96, page 848.

<sup>4</sup> *British and Foreign State Papers*, Vol. 108, page 404.

<sup>5</sup> Vol. LXXIV, page 327; Vol. LXXXIII, page 464; Vol. LXXXVIII, page 367; Vol. CXCII, page 404; Vol. C, page 247; Vol. CVII, page 508; Vol. CXVII, page 187; Vol. CXXX, page 449; Vol. CXXXIV, page 406; Vol. CXXXVIII, page 445; Vol. CXLII, page 350; Vol. CLX, page 347; Vol. CLXIV, page 379; Vol. CCIV, page 470, of this Series; and page 219, of the present Volume.

2. If the applicant claims colour as a distinctive feature of 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 application specimens of the coloured mark in question 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 Agreement.
3. The International Bureau shall immediately register marks deposited in accordance with Article 1. It shall notify such registration to the various Administrations without delay. The marks registered shall be published in a periodical report issued by the International Bureau on the basis of the statements contained in the application for registration together with an electrotype provided by the applicant.
4. 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 may be required of the applicant.

*Article 4.*

1. As soon as it has been thus registered at the International Bureau, the mark shall be protected in each of the contracting countries to the same extent as if it had been registered direct therein.
2. Every mark which has been internationally registered shall enjoy the right of priority conferred under Article 4 of the General Convention, without its being necessary to fulfil the formalities specified under letter D of that Article.

*Article 4 bis.*

1. 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 owner or of his representative, the international registration shall be deemed to replace previous national registrations, without prejudice to the rights acquired as a result of such registrations.
2. The national Administration shall be bound, upon request, to record the international registration in its registers.

*Article 5.*

1. 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 a refusal can be pronounced only in accordance with the conditions which would apply, by virtue of the General Convention, in respect of a mark deposited for national registration.
2. Administrations desiring to avail themselves of this right must notify the International Bureau of their refusal and of the reasons therefor, within the period prescribed by their own national laws and, at latest, within a period of one year as from the date on which the international registration of the mark took place.
3. 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 deposited by him direct in the country in which protection is refused.
4. The reasons for a refusal to protect a mark shall be communicated by the International Bureau to any persons concerned who make application therefor.
5. Administrations which have not, within the above-mentioned maximum period of one year, addressed any communication to the International Bureau shall be deemed to have accepted the mark.

6. An international mark may not be invalidated by the competent authorities unless the owner of the mark has been accorded an opportunity to justify his claim in due time. Such invalidation shall be notified to the International Bureau.

*Article 5 bis.*

Any documents containing evidence of the right to use certain component parts of marks, such as armorial bearings, 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 legalisation and certification other than that of the Administration of the country of origin.

*Article 5 ter.*

1. The International Bureau shall, on payment of a fee prescribed in the Rules for the Application of this Agreement, deliver to any person who so requests a copy of the details entered in the Register concerning any particular mark.

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

3. Extracts from the International Register asked for with a view to their production in one of the contracting countries shall be exempted from all acts of legalisation.

*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 cases in which the applicant has paid only 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.*

1. 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.

2. Six months before the expiration of the period of protection, the International Bureau shall send to the owner of the mark an unofficial notice reminding him of the exact date of such expiration.

3. If a mark submitted with a view to the renewal of a previous registration has been modified in a manner which alters the distinctive character of the mark, Administrations may refuse to register it as a renewal, and 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 waives his claim to the protection of the mark in respect of products other than those designated, in identical terms, at the time of the previous registration.

4. When a mark is not accepted for renewal, rights of priority or other rights acquired by the fact of previous registration shall be taken into account. In particular, the mark shall enjoy such rights of priority in respect of such of the products as are designated in identical terms both at the time of the previous registration and at the time of renewal.

*Article 8.*

1. The Administration of the country of origin shall at its own discretion determine, and shall for its own benefit collect, a national fee which it shall levy on the owner of the mark in respect of which international registration is applied for.

2. To this fee there 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 deposited at the same time at the International Bureau in the name of the same owner.

3. The applicant shall, at the time of the international registration, be entitled to pay the sum of 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.

4. If the applicant avails himself of this right, he must, before the expiration of a period of ten years as from the date of international registration, pay to the International Bureau a further sum of seventy-five francs for the first mark and fifty francs for each of the marks deposited at the same time as the first, failing which he shall, on the expiration of the said period, forfeit the benefits of registration. Six months before the expiration of this period, the International Bureau shall send to the applicant an unofficial notice of the exact date of expiration so as 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 period, the Bureau shall cancel the mark, notify the various Administrations of its action and publish the fact in its journal. If the further charge due in respect of the marks included in a collective registration is not paid in respect of all the marks at the same time, the applicant must specify exactly in respect of which marks it is his intention to pay the further charge and he must pay the fee of seventy-five francs in respect of the first mark in each series.

5. When the list of products for which protection is claimed contains more than one hundred words, the mark shall not be registered until a surtax, the amount of which is to be determined in the Rules for the Application of this Agreement, has been paid.

6. The annual revenue made up 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 expenses occasioned by the execution of the present Agreement.

7. If, at the time of the coming into force of the present revised Agreement, a country has not yet acceded to the Act of The Hague, it shall, until the date of its subsequent accession, be entitled only to a share of the surplus receipts calculated on the basis of the former charges.

#### *Article 8 bis.*

The owner of an international mark may at any time relinquish protection thereof 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, which shall notify the countries which this relinquishment concerns. No fee shall be charged in respect of such relinquishment.

#### *Article 9.*

1. The Administration of the country of origin shall likewise notify the International Bureau of all annulments, cancellations, relinquishments, transfers and other changes affecting the registration of a mark in the national register, if such changes affect also its international registration.

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

3. Similar action shall be taken when the owner of a mark requests a reduction in the list of products to which the mark applies.

4. A charge, the amount of which shall be determined in the Rules for the Application of this Agreement may be made for these operations.

5. In order to secure the subsequent addition of a new product to the list, a new application must be made in accordance with the provisions of Article 3.

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

#### *Article 9 bis.*

1. 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 said country of origin. After obtaining the assent of the Administration to whose jurisdiction the new owner is subject, the International Bureau shall register the transfer, notify the other Administrations thereof and publish the fact in its journal, mentioning, if possible, the date of registration and the registration number of the mark in its new country of origin.

2. No transfer of a mark registered in the International Register may be recorded if the mark is transferred to a person not authorised to register an international mark.

3. In cases in which it has been impossible to record a transfer in the International Register, either because the new country of origin has refused its consent or because the transfer was to a person not authorised to register an international mark, the Administration of the former country of origin shall be entitled to request the International Bureau to cancel the registration of the mark.

#### Article 9 ter.

1. If the transfer of an international mark in respect of a part only of the products registered is notified to the International Bureau, the latter shall record the transfer in its registers. Each contracting country shall be entitled to refuse to recognise the validity of this transfer if the products included in the part thus transferred are similar to those in respect of which the mark remains registered in the name of the transferor.

2. The International Bureau shall also register the transfer of an international mark in respect of one or more contracting countries only.

3. If, in the foregoing cases, there is a change in the country of origin, the consent of the Administration to whose jurisdiction the transferee is subject must be obtained as provided in Article 9 bis.

4. The application of the provisions of the foregoing paragraphs shall be subject to the terms of Article 6 *quater* of the General Convention.

#### Article 10.

Details relating to the execution of the present Agreement shall be settled by common agreement between the Administrations concerned.

#### Article 11.

1. Countries members of the Union for the Protection of Industrial Property which are not parties to the present Agreement shall be allowed to accede thereto at their request and in the form prescribed by Article 16 of the General Convention.

2. As soon as the International Bureau is informed that a country or one of its colonies has acceded to the present Agreement, it shall send to the Administration of that country, in conformity with Article 3, a collective notification of the marks which at that moment enjoy international protection.

3. Such notification shall, of itself, be sufficient to ensure for the benefit of the preceding provisions in the territory of the acceding country and shall, from the beginning of the period of one year during which the Administration concerned may make a declaration referred to in Article 5.

4. Any country may, however, when acceding to the present Agreement, declare that, except as regards international marks which have already formed the subject in that country of identical national registration still in force and which will be immediately recognised at the request of the persons concerned, this Act shall apply only to marks registered as from the date on which the accession takes effect.

5. Such a declaration shall make it unnecessary for the International Bureau to effect the collective notification mentioned above. It shall merely give notification of that date in respect

of which an application for the exceptional treatment referred to in the preceding paragraph is submitted to it, together with all necessary details, within the period of one year from the date of the accession of the new country.

6. The registration of marks which have formed the subject of one of the notifications provided for in the present Article shall be deemed to be substituted for direct registrations effected in the new contracting country prior to the date on which its accession takes effect.

7. The provisions of Article 16 *bis* of the General Convention shall apply to the present Agreement.

*Article 11 bis.*

In the event of the denunciation of the present Agreement, Article 17 *bis* of the General Convention shall apply. International marks which have been registered prior to the date on which the denunciation becomes effective, and which have not been refused protection within the period of one year prescribed in Article 5, shall continue, for the duration of international protection, to enjoy the same protection as if they had been registered direct in the country in question.

*Article 12.*

1. The present Agreement shall be ratified and the ratifications thereof shall be deposited in London not later than July 1st, 1938.

2. It shall come into force, between the countries which have ratified it, one month after that date and shall have the same validity and duration as the General Convention.

3. In the relations between the countries which have ratified it, the present Act shall replace the Agreement of Madrid of 1891, revised at The Hague on November 6th, 1925. The latter Agreement shall, however, remain in force as regards relations with countries which have not ratified the present Act. As regards countries which have not yet ratified the Act of The Hague, the Agreement as revised at Washington in 1911 shall remain in force.

Done in London, in a single copy, June 2nd, 1934.

*For Germany :*

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WOLFGANG KÜHNAST.  
HERBERT KÜHNEMANN.

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