

No. 177

DENMARK
and
FRANCE

Agreement on the protection of the industrial property.
Signed at Paris, on 16 July 1947

French official text communicated by the Permanent Representative of Denmark to the United Nations. The registration took place 2 January 1948.

DANEMARK
et
FRANCE

Accord sur la protection de la propriété industrielle. Signé à Paris, le 16 juillet 1947

Texte officiel français communiqué par le représentant permanent du Danemark auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 2 janvier 1948.

TRANSLATION — TRADUCTION

No. 177. AGREEMENT¹ BETWEEN FRANCE AND DENMARK
ON THE PROTECTION OF INDUSTRIAL PROPERTY.
SIGNED AT PARIS, ON 16 JULY 1947

The Government of the Kingdom of Denmark
and

The Government of the French Republic,

desirous of restoring certain industrial property rights, affected by the war, have agreed as follows:

Article I

1. The nationals of each of the Contracting States may on a mere application within a time limit of twelve months reckoned from the date of the entry into force of the present Agreement, without supplementary fees or penalty of any kind, obtain:

(a) The restoration of the rights of priority, provided under Article 4 of the Union Convention of Paris of 20 March 1883, last revised in London on 2 June 1934², for the deposit or registration of applications for patents, trademarks, designs and models, which had not yet expired on 3 September 1939, also those which originated during the war, or which might have originated if the war had not taken place;

(b) The restoration of their applications for patents, deposit of trademarks or designs and models considered as abandoned or revoked since 3 September 1939, on condition that any action or formality required is taken or complied with, any necessary fees paid, and, generally speaking, any requirement laid down by the laws and regulations of each State for obtaining or maintaining industrial property rights is fulfilled;

(c) The restoration of industrial property rights which have lapsed since 3 September 1939 owing to failure to take any action, comply with any formality or to pay any fee, shall be consequent upon the taking of the said action, compliance with the formality or payment of the fee.

¹ Came into force on 16th September 1947, in accordance with Article VI.

² League of Nations, *Treaty Series*, Volume CXCH, page 17; Volume CCIV, page 469 and Volume CCV, page 218.

2. (a) In any event, third parties who, in good faith, have made use of inventions or industrial models and designs before the date of restoration may obtain a non-exclusive licence for use subsequent to the date of restoration. In the absence of an understanding between the parties, the conditions for the licence shall conform to the relevant laws of the Contracting States. These conditions shall take into account all relevant facts, including any prejudice suffered by the holder of a patent which lapsed owing to failure to pay yearly fees, due to the use of the patented invention during the period after the patent has lapsed by the third party now applying for the licence.

(b) Restoration of a patent or model in conformity with paragraph 1 of the present article shall not entitle the patentee or the registered proprietor of the model to institute proceedings or claim damages for infringement of the patent or model during the interval between the date of expiration of the patent or the model and the date of restoration.

3. The time limit of twelve months provided under paragraph 1 of the present Article may be extended in accordance with rules to be agreed between the two Governments.

Article II

The conditions of the compulsory licences granted since 8 April 1940 for utilization of industrial property rights, may be revised at the request of the parties concerned. Applications should be submitted in conformity with the legislation in force. The revised conditions shall take into account all the relevant facts, including any prejudice suffered by the patentee owing to previous utilization of his rights by the holder of a compulsory licence.

If the patentee is able to prove that he has suffered loss or prejudice owing to the war he shall be granted an extension of the period of protection under the conditions provided by the national law of each of the less Contracting States.

Article III

The period between 3 September 1939 and the date of entry into force of the present Agreement shall not be counted as part of the period for putting a patent into use or for the use of trade-marks or the utilization of industrial designs and models; furthermore, it is agreed that a patent, trade-mark, or industrial design or model, which was still valid on 3 September 1939 shall not lapse or be revoked owing to the mere fact that it is not used before the expiration of a period of two years reckoned from the entry into force of the present Agreement.

Article IV

If the renewal of trade-marks, which have expired in the normal course of events, is carried out before the expiration of the time limit laid down in Article I, it shall have the effect of making the duration of the new period of protection retroactive to the date of expiration of the said period which has lapsed.

Article V

The present Agreement is applicable in all matters concerning patents, trade-marks and designs and models, which are registered, both by France and Denmark, with the Industrial Property Service.

It shall be extended to patents, trade-marks, designs and models, registered and protected in overseas territory under the authority or the control of France simply upon notification by the Contracting Government concerned to the other Contracting Government.

Nevertheless, the provisions of paragraphs 1 (a) and 3 of article I of the present Agreement shall not be extended to overseas territory under the authority or the control of France in which the Union Convention of Paris of 20 March 1883, as last revised in London, 2 June 1934, has not been applied.

Article VI

The present Agreement shall enter into force two months after the date of signature.

IN FAITH WHEREOF, the undersigned, duly authorized by their respective Governments, have signed the present Agreement and attached their seal thereto.

DONE in two copies in Paris, 16 July 1947.

For Denmark:
J. C. W. KRUSE
[L.S.]

For France:
BIDAULT
[L.S.]