

PROTECTION OF INDUSTRIAL PROPERTY

Convention and final protocol signed at Washington June 2, 1911

Senate advice and consent to ratification February 6, 1912

Ratified by the President of the United States June 20, 1912

Procès-verbal of first deposit of ratifications (including that of the United States) at Washington dated April 1, 1913

Proclaimed by the President of the United States April 29, 1913

*Entered into force May 1, 1913*¹

Replaced by convention of November 6, 1925,² as between contracting parties to the later convention

38 Stat. 1645; Treaty Series 579

[TRANSLATION]

CONVENTION OF THE UNION OF PARIS OF MARCH 20, 1883, FOR THE PROTECTION OF INDUSTRIAL PROPERTY, REVISED AT BRUSSELS DECEMBER 14, 1900, AND AT WASHINGTON JUNE 2, 1911

His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire; His Majesty the Emperor of Austria, King of Bohemia, etc. and Apostolic King of Hungary for Austria and for Hungary; His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain; the President of the United States of America; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Territories Beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the United States of Mexico; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Provisional Government of the Republic of Portugal; His Majesty the King of Servia; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; the Government of Tunis,

Having judged it expedient to make certain modifications and additions to the international Convention of March 20, 1883,³ concerning the creation

¹ One month after date of procès-verbal of deposit of ratifications (see art. 18).

² TS 834, *post*, vol. 2.

³ TS 379, *ante*, p. 80.

of an International Union for the Protection of Industrial Property, revised at Brussels December 14, 1900,⁴ have named for their plenipotentiaries, to-wit:

His Majesty the Emperor of Germany, King of Prussia:

Dr. Haniel von Haimhausen, Counselor of the Embassy of His Majesty the Emperor of Germany at Washington;

Mr. Robolski, Regency High Councillor, reporting Counsellor to the Imperial Department of the Interior;

Professor Dr. Albert Osterrieth;

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

For Austria and Hungary:

His Excellency Baron Ladislas Hengelmüller de Hengervár, His Privy Councillor, His Ambassador Extraordinary and Plenipotentiary at Washington;

For Austria:

His Excellency Dr. Paul Chevalier Beck de Mannagetta et Lerchenau, His Privy Councillor, Departmental Chief in the Imperial and Royal Ministry of Public Works, and President of the Imperial and Royal Patent Office;

For Hungary:

Mr. Elemér de Pompéry, Ministerial Adviser at the Royal Hungarian Patent Office;

His Majesty the King of the Belgians:

Mr. Jules Brunet, Director General in the Ministry of Foreign Affairs;

Mr. Georges de Ro, Deputy Senator, Belgian Delegate to the Madrid and Brussels Conferences for the Protection of Industrial Property;

Mr. Albert Capitaine, Advocate at the Liège Court of Appeal;

The President of the United States of Brazil:

Mr. R. de Lima e Silva, Chargé d'Affaires of the United States of Brazil at Washington;

The President of the Republic of Cuba:

His Excellency M. Rivero, Envoy Extraordinary and Minister Plenipotentiary of Cuba at Washington;

His Majesty the King of Denmark:

Mr. Martin J. C. T. Clan, Consul-General of Denmark at New York;

The President of the Dominican Republic:

His Excellency Emilio C. Joubert, Envoy Extraordinary and Minister Plenipotentiary of the Dominican Republic at Washington;

⁴ TS 411, *ante*, p. 296.

His Majesty the King of Spain:

His Excellency Juan Riaño y Gayangos, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

His Excellency Juan Florez Posada, Director of the Madrid School of Engineers;

The President of the United States of America:

Mr. Edward Bruce Moore, Commissioner of Patents;

Mr. Frederick P. Fish, Attorney at the Supreme Court of the United States and at the Supreme Court of the State of New York;

Mr. Charles H. Duell, formerly Commissioner of Patents, formerly Judge of the Court of Appeals of the District of Columbia, Attorney at the Supreme Court of the United States and at the Supreme Court of the State of New York;

Mr. Robert H. Parkinson, Attorney at the Supreme Court of the United States and at the Supreme Court of the State of Illinois;

Mr. Melville Church, Attorney at the Supreme Court of the United States;

The President of the French Republic:

Mr. Lefèvre-Pontalis, Counselor of the Embassy of the French Republic at Washington;

Mr. Georges Breton, Director of the National Office of Industrial Property;

Mr. Michel Pelletier, Advocate at the Paris Court of Appeal, Delegate to the Rome, Madrid, and Brussels Conferences for the Protection of Industrial Property;

Mr. Georges Maillard, Advocate at the Paris Court of Appeal;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India:

Mr. Alfred Mitchell Innes, Counselor of the Embassy of His Britannic Majesty at Washington;

Sir Alfred Bateman, K.C.M.G., formerly Comptroller General of Commerce, Labor, and Statistics;

Mr. W. Temple Franks, Comptroller General of Patents, Designs and Trademarks;

His Majesty the King of Italy:

Nob. Lazzaro dei Marchesi Negrotto Cambiaso, Counselor of the Embassy of His Majesty the King of Italy at Washington;

Mr. Emilio Venezian, Engineer, Inspector at the Ministry of Agriculture, Commerce, and Industry;

Dr. Giovanni Battista Ceccato, Commercial Attaché to the Embassy of His Majesty the King of Italy at Washington;

His Majesty the Emperor of Japan:

Mr. K. Matsui, Counselor of the Embassy of His Majesty the Emperor of Japan at Washington;

Mr. Morio Nakamatsu, Director of the Patent Office;

The President of the United States of Mexico:

Mr. José de las Fuentes, Engineer, Director of the Patent Office;

His Majesty the King of Norway:

Mr. L. Aubert, Secretary of the Legation of His Majesty the King of Norway at Washington;

Her Majesty the Queen of the Netherlands:

Dr. F. W. J. G. Snyder van Wissenkerke, Director of the Office of Industrial Property, Counselor at the Ministry of Justice;

The President of the Provisional Government of the Republic of Portugal:

His Excellency Viscount de Alte, Envoy Extraordinary and Minister Plenipotentiary of Portugal at Washington;

His Majesty the King of Servia:

His Majesty the King of Sweden:

His Excellency Count Albert Ehrensvärd, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

The Federal Council of the Swiss Confederation:

His Excellency Paul Ritter, Envoy Extraordinary and Minister Plenipotentiary of Switzerland at Washington;

Mr. W. Kraft, attached to the Federal Bureau of Intellectual Property at Bern;

Mr. Henri Martin, Secretary of the Legation of Switzerland at Washington;

The President of the French Republic, for Tunis:

Mr. de Peretti de la Rocca, First Secretary of the Embassy of the French Republic at Washington;

Who, after having been given their full respective powers, made in good and due form, have agreed upon the following articles:

ARTICLE 1

The contracting countries constitute a state of Union for the protection of industrial property.

ARTICLE 2

The subjects or citizens of each of the contracting countries shall enjoy, in all the other countries of the Union, with regard to patents of invention, models of utility, industrial designs or models, trademarks, trade names, the statements of place of origin, suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country. Consequently, they shall have the same protection as the latter and the same legal remedies against any infringements of their

rights, provided they comply with the formalities and requirements imposed by the National laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union.

ARTICLE 3

The subjects or citizens of countries which do not form part of the Union, who are domiciled or own effective and bona fide industrial or commercial establishments in the territory of any of the countries of the Union, shall be assimilated to the subjects or citizens of the contracting countries.

ARTICLE 4

(a) Any person who shall have duly filed an application for a patent, utility model, industrial design or model, or trademark, in one of the contracting countries, or the successor or assignee of such person shall enjoy, for the purpose of filing application in the other countries, and subject to the rights of third parties, a right of priority during the periods hereinafter specified.

(b) Consequently, the subsequent filing in one of the other countries of the Union, prior to the expiration of such periods, shall not be invalidated by acts performed in the interval, especially, by another application, by publication of the invention or the working of the same, by the sale of copies of the design or model, nor by the use of the mark.

(c) The periods of priority above referred to shall be twelve months for patents and models of utility and four months for industrial designs and models as also for trademarks.

(d) Whoever shall wish to avail himself of the priority of an anterior filing, shall be required to make a declaration showing the date and the country of this filing. Each country shall determine at what moment, at the latest, this declaration must be executed. This information shall be mentioned in the publications issued by the competent Administration, particularly on patents and the specifications relative thereto. The contracting countries shall require of one who makes a declaration of priority the production of a copy of the application (specification, drawings, etc.) previously filed, certified to be a true copy by the Administration which shall have received it. This copy shall be dispensed from any legalisation. It may be required that it be accompanied by a certificate of the date of filing, issuing from this Administration, and of a translation. Other formalities shall not be required for the declaration of priority at the time of the filing of the application. Each contracting country shall determine the consequences of the omission of the formalities prescribed by the present article, unless these consequences exceed the loss of the right of priority.

(e) Later other justifications can be demanded.

ARTICLE 4½

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

This provision shall be understood in an absolute manner, particularly in the sense that the patents applied for during the term of priority are independent, as much from the point of view of the causes of nullity and of forfeiture as from the point of view of the normal duration.

It applies to all patents existing at the time of entrance into force.

It shall be likewise, in case of accession of new countries, for patents existing on both sides at the time of accession.

ARTICLE 5

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

However, the patentee shall be obliged to work his patent according to the laws of the country into which he introduces the patented objects, but with the restriction that the patent shall not be liable to forfeiture because of non-working in one of the countries of the Union until after a term of three years, from the date of the filing of the application in that country, and only in case the patentee shall fail to show sufficient cause for his inaction.

ARTICLE 6

Every trademark regularly registered in the country of origin shall be admitted to registration and protected as that in the other countries of the Union.

However, there may be refused or invalidated:

1. Marks which are of a nature to infringe rights acquired by third parties in the country where protection is claimed.

2. Marks devoid of all distinctive character, or even composed exclusively of signs or data which may be used in commerce, to designate the kind, quality, quantity, destination, value, place of origin of the products or the time of production, or become common in the current language or the legal and steady customs of commerce of the country where the protection is claimed.

In the estimation of the distinctive character of a mark, all the circumstances existing should be taken into account, particularly the duration of the use of the mark.

3. Marks which are contrary to morals or public order.

The country where the applicant has his principal establishment shall be considered as the country of origin.

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

ARTICLE 7

The nature of the product on which the trademark is to be applied cannot, in any case, be an obstacle to the filing of the mark.

ARTICLE 7½

The contracting countries agree to admit for filing and to protect marks belonging to associations the existence of which is not contrary to the law of the country of origin, even if these associations do not possess an industrial or commercial establishment.

Each country shall be judge of the special conditions under which an association may be admitted to have the marks protected.

ARTICLE 8

Trade names shall be protected in all the countries of the Union without the obligation of filing, whether it be a part or not of a trademark.

ARTICLE 9

Any product bearing illegally a trademark or a trade name shall be seized at importation in those of the countries of the Union in which this mark or this trade name may have a right to legal protection.

If the laws of a country do not admit of seizure on importation, the seizure shall be replaced by prohibition of importation.

The seizure shall be likewise effected in the country where illegal affixing shall have been made, or in the country into which the product shall have been imported.

The seizure shall be made at the request of the public ministry, or any other competent authority, or by an interested party, individual or society, in conformity to the interior laws of each country.

The authorities shall not be required to make the seizure in transit.

If the laws of a country admit neither of the seizure on importation nor the prohibition of importation, nor seizure in said country, these measures shall be replaced by the acts and means which the law of such country would assure in like case to its own citizens.

ARTICLE 10

The provisions of the preceding article shall be applicable to any product bearing falsely, as indication of place of production, the name of a definite locality, when this indication shall be joined to a fictitious or borrowed trade name with an intention to defraud.

The interested party is considered any producer, manufacturer or merchant, engaged in the production, manufacture or commerce of such product, and

established either in the locality falsely indicated as place of production or in the region where this locality is situated.

ARTICLE 10½

All the contracting countries agree to assure to the members of the Union an effective protection against unfair competition.

ARTICLE 11

The contracting countries shall accord, in conformity with their national laws, a temporary protection to patentable inventions, working models, industrial models or designs, as well as to trademarks, for products exhibited at international expositions, official or officially recognized, organized in the territory of one of them.

ARTICLE 12

Each of the contracting countries agrees to establish a special service for Industrial Property and a central office for the communication to the public of patents, working models, industrial models or designs and trademarks.

This service shall publish, as often as possible, an official periodical.

ARTICLE 13

The international Office instituted at Berne under the name of "Bureau international pour la protection de la Propriété industrielle" is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its operation.

The international Bureau shall centralize information of any nature relative to the protection of industrial property, and form it in a general statistical report which shall be distributed to all Administrations. It shall proceed to considerations of common utility interesting to the Union and shall edit, with the aid of the documents put at its disposal by the different Administrations, a periodical in the French language on questions concerning the object of the Union.

Numbers of this periodical, like all the documents published by the international Bureau, shall be distributed among the Administrations of the countries of the Union, in proportion to the number of contributive units mentioned below. Copies and supplementary documents which shall be requested, either by the said Administrations, or by societies or individuals, shall be paid for separately.

The international Bureau shall hold itself at all times at the disposition of the members of the Union, to furnish them special information of which they may have need, on the questions relative to the international service of industrial property. It shall make an annual report of its management which shall be communicated to all members of the Union.

The official language of the international Bureau shall be French.

The expense of the international Bureau shall be borne in common by the contracting countries. They may not, in any case, exceed the sum of sixty thousand francs per year.

In order to determine the contributive part of each of the countries in this sum total of the expenses, the contracting countries and those which later join the Union shall be divided into six classes, each contributing in proportion to a certain number of units, to-wit:

	Units
Class 1.....	25
Class 2.....	20
Class 3.....	15
Class 4.....	10
Class 5.....	5
Class 6.....	3

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

Each of the contracting countries shall designate at the time of its accession, the class in which it wishes to be ranked.

The Government of the Swiss Confederation shall supervise the expenses of the international Bureau, make necessary advances and draw up annual statements of accounts which shall be communicated to all the other Administrations.

ARTICLE 14

The present Convention shall be submitted to periodical revisions with a view to introducing improvements in it of a nature to perfect the system of the Union.

To this end Conferences of the delegates of the contracting countries shall be held successively in one of the said countries.

The Administration of the country where the Conference is to be held shall prepare, with the concurrence of the international Bureau the works of such Conference.

The Director of the international Bureau will assist at the meetings of the Conferences and take part in the discussions without a vote.

ARTICLE 15

It is understood that the contracting countries reserve to themselves respectively the right to make separately, between themselves, special arrangements for the protection of industrial Property, in so far as these arrangements may not interfere with the provisions of the present Convention.

ARTICLE 16

The countries which have not taken part in the present Convention shall be permitted to adhere to it upon their request.

Notice of adhesion shall be made through diplomatic channels to the Government of the Swiss Confederation, and by the latter to all the others.

It shall entail complete adhesion to all the clauses and admission to all the advantages stipulated by the present Convention, and shall take effect one month after the notification made by the Government of the Swiss Confederation to the other unionist countries, unless a later date shall have been indicated by the adhering country.

ARTICLE 16½

The contracting countries have the right to adhere at any time to the present Convention for their colonies, possessions, dependencies and protectorates, or for certain ones of them.

They may, to this end, either make a general declaration by which all their colonies, possessions, dependencies and protectorates are included in the adherence, or expressly name those included therein, or simply indicate those excluded from it.

This declaration shall be made in writing to the Government of the Swiss Confederation and by the latter made to all the others.

The contracting countries can, under like conditions, renounce the Convention for their colonies, possessions, dependencies and protectorates, or for certain ones of them.

ARTICLE 17

The fulfillment of the reciprocal obligations contained in the present Convention is subordinated, in so far as need be, to compliance with the formalities and regulations established by the constitutional laws of those of the contracting countries which are bound to secure the application of the same which they engage to do with the least possible delay.

ARTICLE 17½

The Convention shall remain in force an indefinite time, until the expiration of one year from the day when the renunciation shall be made.

This renunciation shall be addressed to the Government of the Swiss Confederation. It shall affect only the country giving such notice, the Convention remaining operative as to the other contracting countries.

ARTICLE 18

The present Act shall be ratified, and the ratification filed in Washington, at the latest, April 1, 1913. It shall be put into execution, among the countries which shall have ratified it, one month after the expiration of this period of time.

This Act, with its Final Protocol, shall replace, in the relations of the countries which shall have ratified it: the Convention of Paris, March 20,

1883;⁵ the Final Protocol annexed to that Act;⁵ the Protocol of Madrid, April 15, 1891⁶ relating to the dotation of the international Bureau, and the additional Act of Brussels, December 14, 1900.⁷ However, the Acts cited shall remain binding on the countries which shall not have ratified the present Act.

ARTICLE 19

The present Act shall be signed in a single copy, which shall be filed in the archives of the Government of the United States. A certified copy shall be sent by the latter to each of the unionist Governments.

In witness whereof, the respective Plenipotentiaries have signed the present Act.

Done at Washington, in a single copy, the second day of June 1911.

For Germany:

HANIEL VON HAIMHAUSEN
H. ROBOLSKI
ALBERT OSTERRIETH

For Austria and for Hungary:

L. BARON DE HENGELMULLER,
Ambassador of Austria-Hungary

For Austria:

DR. PAUL CHEVALIER BECK DE MAN-
NAGETTA ET LERCHENAU, *Depart-*
mental Chief and President of the
Imperial and Royal Patent Office

For Hungary:

ELEMÉR DE POMPÉRY,
Ministerial Counselor at the Royal
Hungarian Patent Office

For Belgium:

J. BRUNET
GEORGES DE RO
CAPITAINE

For Brazil:

R. DE LIMA E SILVA

For Cuba:

ANTONIO MARTIN RIVERO

For Denmark:

J. CLAN

For the Dominican Republic:

EMILIO C. JOUBERT

For Spain:

JUAN RIAÑO Y GAYANGOS
J. FLOREZ POSADA

For the United States of America:

EDWARD BRUCE MOORE
MELVILLE CHURCH
CHARLES H. DUELL
ROBT. H. PARKINSON
FREDERICK P. FISH

For France:

PIERRE LEFÈVRE-PONTALIS
G. BRETON
MICHEL PELLETIER
GEORGES MAILLARD

For Great Britain:

A. MITCHELL INNES
A. E. BATEMAN
W. TEMPLE FRANKS

For Italy:

LAZZARO NEGROTTO CAMBIASO
EMILIO VENEZIAN
G. B. CECCATO

For Japan:

K. MATSUI
MORIO NAKAMATSU

For the United States of Mexico:

J. DE LAS FUENTES

For Norway:

LUDWIG AUBERT

For the Netherlands:

SNYDER VAN WISSENKERKE

For Portugal:

J. F. H. M. DA FRANCA, VTE. D'ALTE

For Servia:

For Sweden:
ALBERT EHRENSVÄRD

⁵ TS 379, *ante*, p. 80.

⁶ TS 385, *ante*, p. 183.

⁷ TS 411, *ante*, p. 296.

For Switzerland:

P. RITTER
W. KRAFT
HENRI MARTIN

For Tunis:

E. DE PERETTI DE LA ROCCA

FINAL PROTOCOL

At the time of proceeding to the signing of the Act concluded on this day, the undersigned Plenipotentiaries are agreed upon the following:

AD ARTICLE 1

The words "Propriete industrielle" [Industrial Property] shall be taken in their broadest acceptation; they extend to all production in the domain of agricultural industries (wines, grains, fruits, animals, etc.), and extractives (minerals, mineral waters, etc.).

AD ARTICLE 2

(a) Under the name of patents are comprised the different kinds of industrial patents admitted by the laws of the contracting countries, such as patents of importation, patents of improvement, etc., for the processes as well as for the products.

(b) It is understood that the provision in Article 2 which dispenses the members of the Union from the obligation of domicile and of establishment has an interpretable character and must, consequently, be applied to all the rights granted by the Convention of March 20, 1883, before the entrance into force of the present Act.

(c) It is understood that the provisions of Article 2 do not infringe the laws of each of the contracting countries, in regard to the procedure followed before the courts and the competency of those courts, as well as the election of domicile or the declaration of the selection of an attorney required by the laws on patents, working models, marks, etc.

AD ARTICLE 4

It is understood that, when an industrial model or design shall have been filed in a country by virtue of the right of priority based on the filing of a working model, the term of priority shall be only that which Article 4 has fixed for industrial models and designs.

AD ARTICLE 6

It is understood that the provision of the first paragraph of Article 6 does not exclude the right to require of the depositor a certificate of regular registration in the country of origin, issued by competent authority.

It is understood that the use of badges, insignia or public decorations which shall not have been authorized by competent powers, or the use of official signs and stamps of control and of guaranty adopted by a unionist country, may be considered as contrary to public order in the sense of No. 3 of Article 6.

However, marks, which contain, with the authorization of competent powers, the reproduction of badges, decorations or public insignia, shall not be considered as contrary to public order.

It is understood that a mark shall not be considered as contrary to public order for the sole reason that it is not in conformity with some provision of laws on marks, except in the case where such provision itself concerns public order.

The present Final Protocol, which shall be ratified at the same time as the Act concluded on this day, shall be considered as forming an integral part of this Act, and shall be of like force, value and duration.

In witness whereof, the respective Plenipotentiaries have signed the present Protocol.

Done at Washington, in a single copy, June 2, 1911.

HANIEL VON HAIMHAUSEN
 H. ROBOLSKI
 ALBERT OSTERRIETH
 L. BARON DE HENGELMULLER
 DR. PAUL CHEVALIER BECK DE
 MANNAGETTA ET LERCHENAU
 ELEMÉR POMPÉRY
 J. BRUNET
 GEORGES DE RO
 CAPITAINE
 R. DE LIMA E SILVA
 J. CLAN
 JUAN RIAÑO Y GAYANGOS
 J. FLOREZ POSADA
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 MORIO NAKAMATSU
 J. DE LAS FUENTES
 SNYDER VAN WISSENKERKE
 J. F. H. M. DA FRANCA, VTE. D'ALTE
 ALBERT EHRENSVÄRD
 P. RITTER
 W. KRAFT
 HENRI MARTIN
 E. DE PERETTI DE LA ROCCA
 LUDWIG AUBERT
 ANTONIO MARTIN RIVERO