



1891

MADRID AGREEMENT CENTENARY
(INTERNATIONAL REGISTRATION OF MARKS)

1991

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NASCUNTUR AB HUMANO INGENIO OMNIA ARTIS INVENTORUMQUE OPERA.
QUAE OPERA DIGNAM HOMINIBUS VITAM SAEPIUNT.
REIPUBLICAE STUDIO PERSPICIENDUM EST ARTES INVENTAQUE TUTARI.



THE MADRID AGREEMENT

Concerning the
International Registration
of Marks
from 1891 to 1991



published by
the International Bureau of Intellectual Property
Geneva, 1991



Preface

One hundred years ago—that is, in 1891—nine of the 14 States then party to the Paris Convention for the Protection of Industrial Property brought into existence the first of the “special arrangements for the protection of industrial property” that they had, as parties to the Paris Convention, foreseen and reserved the right to make separately among themselves. The special arrangement was entitled an “Agreement Concerning the International Registration of Marks” and was adopted on April 14, 1891, in Madrid, by a diplomatic conference that met twice, first in 1890, then in 1891.

The idea behind the special arrangements envisaged by the Paris Convention was to enable those members of the Paris Union that so wished to intensify their cooperation in particular areas, provided that such intensified cooperation did not detract from their obligations under the Paris Convention. The particular area selected for such intensified cooperation in the Madrid Agreement was marks in international commerce. As the explanatory memorandum to the proposal put to the Diplomatic Conference held in Madrid in 1890 stated, it was considered desirable that all marks “which enter international commerce enjoy legal protection, and that not only from the point of view of the personal interest of the owners of those marks, but also from the point of view of the interest of the consumer and commercial morality.”

The Madrid Agreement was a prescient recognition of the intensification of international trade. Radical changes in the means of transportation and communication resulted in a massive flow of products, and, with them, the marks that distinguished the origins of those products, across frontiers. But the evidence that was available suggested that the marks that accompanied the products across national boundaries were only infrequently protected in the country of importation. The explanatory memorandum presented to the Diplomatic Conference at Madrid in 1890 indicated, for example, that in France only 361 (or 5.5%) of the 6,536 marks registered in 1888 were foreign marks. Certainly, this did not reflect the reality of the number of new foreign marks that entered commerce in France in that year, suggesting that it was too expensive and too complicated to register foreign marks. The Madrid Agreement was designed to remedy this situation by facilitating the protection of foreign marks through an international registration of marks that had been nationally registered in their country of origin, the international registration having, unless refused on clearly defined grounds, the same effect in other contracting parties as a national registration.

Over the 100 years since the conclusion of the Madrid Agreement, the growth of the internationalization of commerce has continued unabated. The Madrid Agreement has, in its own small and specialized area within that much larger context, contributed to the process of internationalization. In the first year of operations of the Madrid Agreement, 1893, the enterprises and traders of six countries asked for 76 international registrations. In the most recent year of such operations, 1990, the enterprises and traders of 28 countries asked for 22,011 new international registrations and renewals of existing international registrations.

At the end of the first century of the Madrid Agreement, we evoke with pride and gratitude the memory of the creators of the Madrid Agreement. We are also congratulating those who implemented and implement the Madrid Agreement.

Some 280,000 international registrations are presently in force, testimony to the foresight of the founders of the Madrid Agreement and to the service of those that have administered it over the past century.

At the same time, even greater hope can be expressed for the future of the system of international registration initiated by the Madrid Agreement. As the system enters its second century, the same city that gave birth to the Madrid Agreement in 1891 can take pride in the



fact that it hosted the Diplomatic Conference for the Conclusion of a Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. The Madrid Protocol offers the promise of an even greater internationalization of the protection of marks, once again to the benefit of the owners of those marks, consumers and commercial morality.

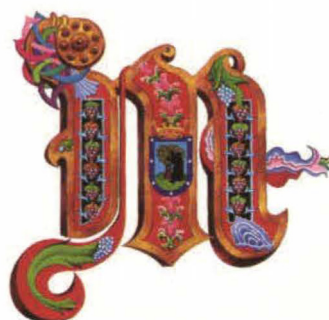
The present volume wishes to commemorate the centenary. A marble column has, also in 1991, been erected in the grounds surrounding the headquarters building of the World Intellectual Property Organization, to which the administration of the Madrid Agreement has been entrusted since 1970.

Arpad Bogsch
Director General
World Intellectual Property Organization



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Arpad Bogsch
Director General of WIPO, 1973-

THE FIRST HUNDRED YEARS

of the Madrid Agreement Concerning the International Registration of Marks

by Arpad Bogsch

*Director General of the World Intellectual Property Organization**



* Written with the help of Mr. Francis Gurry and Miss Anuradha Swaminathan of the staff of WIPO.

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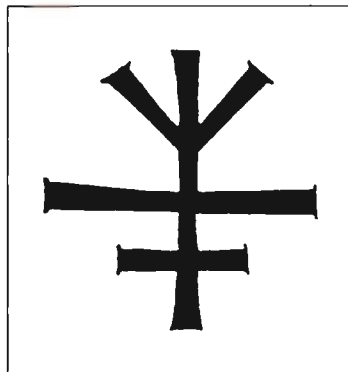
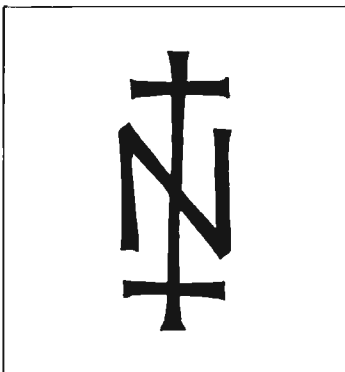


Part I

The Origins of the Madrid Union

Trademarks before the Madrid Agreement

Trademarks and service marks are amongst the oldest forms of recorded intellectual property, going back to ancient times. It is not possible to date with any precision the origins of marks. The earliest form of identification mark seems to have been the branding of livestock with some design—a practice which pre-dated literate societies. But marks were certainly used in some form in various periods and societies of Antiquity in Europe and Asia. Pottery in Ancient Greece and Rome, and later, porcelain in China, could bear the maker's name. Also bricks and tiles in Ancient Egypt, Mesopotamia and Rome might bear the maker's name, the factory mark, or the geographical origin of the material. Masonry was marked in various ways—with quarry marks indicating the source of the stone, or with stonecutters' signs for the purpose of either identifying individual masons, or assisting stone workers to claim their wages.



Throughout history, the development of the use of marks for purposes more sophisticated than just identification has been assisted by international trade; the spread of trade further and further away from the centers of production of goods, to the point of exporting them beyond seas and land frontiers, has always been conducive to marks acquiring a certain advertising function, as well as to their more exten-

sive use for the examination of claims made by producers, merchants, retailers, transporters, or customers.

The Middle Ages in Europe were particularly favorable to the growth of the conception of marks, and to their more widespread use. In addition to the use of house marks (representing a family, an inn, a shop or other business), proprietary marks (brands on livestock and merchandise) and appellations of origin (such as in textile industries), there was the establishment of craft and trade guilds, which was a powerful factor in institutionalizing the use of marks: guild members were under an obligation to use production marks, primarily as a means of fixing responsibility for the quality of their products, but also as a means of control where territorial trade barriers existed. One sequel to the multiplicity of marks used by individual guild members was the maintenance of registers of marks—the forerunners of modern trademark registration systems—which developed in Europe through the seventeenth and eighteenth centuries.

The Industrial Revolution of the eighteenth and nineteenth centuries, by transforming methods of production, transportation and ultimately consumer markets, definitively established the importance of industrial property systems. In the field of marks, the sheer scale of production, dissemination of information, and distribution facilitated by technological progress made producers, retailers and consumers increasingly aware of the need to identify goods. International trade, on a scale hitherto unknown, again reinforced the need for controls, whether for the purpose of protection for producers, or for the purpose of enabling consumers to select the type and quality of goods they required. By the middle of the nineteenth century, there was growing recognition, in the way marks were used, of all the characteristics of modern marks—namely, identification, a guarantee of consistency in the thing provided, and an advertising capacity, in a world of expanding markets.

It is thus no wonder that certain European countries, such as the Netherlands and Switzerland, had a national

ART. 19.

La présente Convention sera ratifiée, et les ratifications en seront échangées à Paris, dans le délai d'un an au plus tard.

En foi de quoi, les Plénipotentiaires respectifs s'ont signés et y ont apposé leurs cachets.

Fait à Paris, le 20 Mars 1856.

PROTOCOLE DE CLÔTURE.

Au moment de procéder à la signature de la Convention conclue, à la date de ce jour, entre les Gouvernements de France, de Belgique, du Brésil, d'Espagne, de Guatemala, d'Italie, des Pays-Bas, de Portugal, du Salvador, de Serbie et de Suisse, pour la protection de la Propriété industrielle, les Plénipotentiaires désignés sont convenus de ce qui suit :

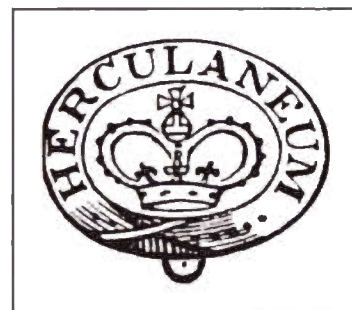
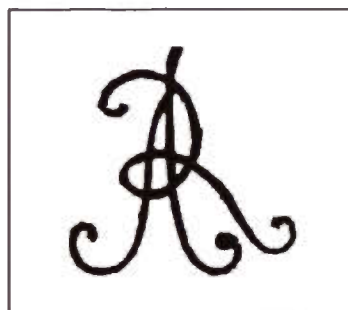
1. Les mots *Propriété industrielle* doivent être entendus dans leur acception la plus large, en ce sens qu'ils s'appliquent non seulement aux produits de l'industrie proprement dite, mais également aux produits de l'agriculture (vins, grains, fruits, bestiaux, etc.) et aux produits minéraux livrés au commerce (eaux minérales, etc.).

2. Sous le nom de *Brevets d'invention* sont comprises les diverses espèces de brevets industriels admises par les législations des États contractants, telles que brevets d'importation, brevets de perfectionnement, etc.

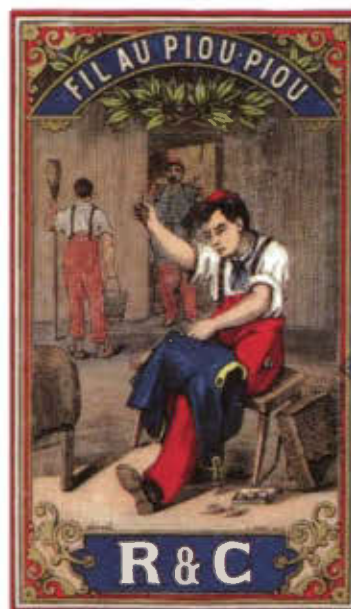
trademark law years before they made national legislative provision for patents and industrial designs.


The nineteenth century saw perhaps the most momentous growth of internationalism ever known, and in various fields. It was the Congress of Vienna in 1815 which put an end to the era of the Napoleonic Wars, and re-drew the map of Europe. Vienna was also the scene of the emergence of a real political will among nations to create an international instrument governing industrial property.

The increasing movement of commercial, scientific and cultural relations beyond national frontiers, aided by the explosion of technological progress in communications, created the necessity for international measures for the protection of industrial property. Following two international exhibitions held in Paris in 1855 and 1867 by the Government of Napoleon III, the Government of Austria-Hungary organized an international exhibition of inventions in Vienna in 1873; to meet the objections of foreigners unwilling to exhibit because of inadequate legal protection, a special Austrian law was passed granting temporary protection to foreign participants for their inventions, trademarks and industrial designs, and, even more significantly, the Congress of Vienna for Patent Reform was convened in that same year of 1873. At last, it was recognized that the kind of multilateral cooperation increasingly practiced in the political field was equally essential for industrial property; the system of bilateral treaties (there were 69 of them concerning the protection of foreigners' industrial property rights in 1883, in the year of the creation of the first International Union for the Protection of Industrial Property in Paris) which had hitherto been in force was clearly inadequate and outdated. The 1873 Congress passed a resolution urging governments "to bring about an international understanding upon patent protection as soon as possible."



The sequel to the Vienna Congress of 1873 was an International Congress on Industrial Property in Paris in 1878. The major result of that Congress was a decision that one of the governments should be asked to convene an international diplomatic conference "with the task of determining the basis of uniform legislation" in the field of industrial property. About trademarks in particular, the 1878 Congress expressed the wish that the registration of trademarks "should be subject to international provisions by which it would suffice for the owner of a trademark to register once only in a State to ensure the protection of that mark in all the other member States."



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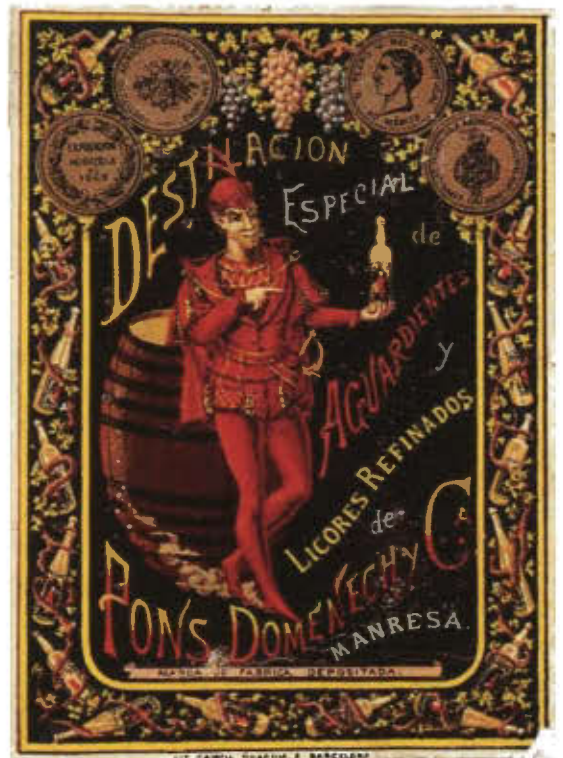
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It was the French Government which put forward a final draft proposing an international “Union” for the protection of industrial property, and invited a number of other governments to an International Conference in Paris in 1880. That Conference adopted a draft convention, transmitted by the French Government to other interested governments. In March 1883, another Diplomatic Conference was convened in Paris, and on March 20, the Paris Convention for the Protection of Industrial Property was signed by 11 States: Belgium, Brazil, France, Guatemala, Italy, Netherlands, Portugal, Salvador, Serbia, Spain and Switzerland.

The Paris Convention of 1883 was the keystone of subsequent international cooperation also in the field of trademarks. For the first time in the history of intellectual property, it created an international “Union,” made up of member States, for the protection of industrial property. It was more than a treaty establishing rights and obligations: the Paris Convention actually established a legal entity in international law, with the legal and administrative organs for the performance of the tasks assigned to the Union.

The provisions of the Paris Convention can be divided into four main categories. First, there are rules of substantive law which guarantee a basic right to *national treatment* in each of the member countries. A second category establishes another basic right—that of the *right of priority*. Thirdly, certain provisions define *common rules* establishing rights and obligations of natural persons and legal entities, or rules requiring or permitting member countries to enact legislation in conformity with those rules. Finally, there are provisions laying down the *administrative framework* for the implementation of the Convention.

The text of that first Act of the Paris Convention of 1883 contains many references to trademarks. This shows the importance of the place held by trademarks in the field of industrial property as a whole in the nineteenth century.

It is worth examining what the original Paris Convention established specifically for trademarks, since this was, as has been stated, the keystone of the subsequent special agreements on the subject.

The two major principles of national treatment and the right of priority were paramount for the future of international registration of trademarks and similar marks or signs. The principle of national treatment accorded to foreigners, in particular, was the crux of the matter. For the first time, an international convention contained provisions enabling member States of an international Union to offer each other similar terms for international registration, on a basis of reciprocity. Articles 2 and 3 established that once valid filing and registration had been effected, certain foreigners were to enjoy in countries of the Union the same advantages as the nationals of those countries. Eligibility for that treatment would be determined by nationality, residence, or the establishment of commercial or industrial entities, in any of the other countries of the Union.



A natural complement to this national treatment was therefore a Union-wide application of a right of priority, as laid down in Article 4. On the basis of a valid application for registration of a trademark in one member country, the same applicant or his successor in title could, within a specified period (in the text of 1883, three months for trademarks, with an additional month for “overseas” or more distant countries), apply for protection in other member countries, and be registered in them as from the original date of filing the application. The applicant could thus enjoy priority status in relation to other applications for the same industrial property title filed after his first application in any member country.

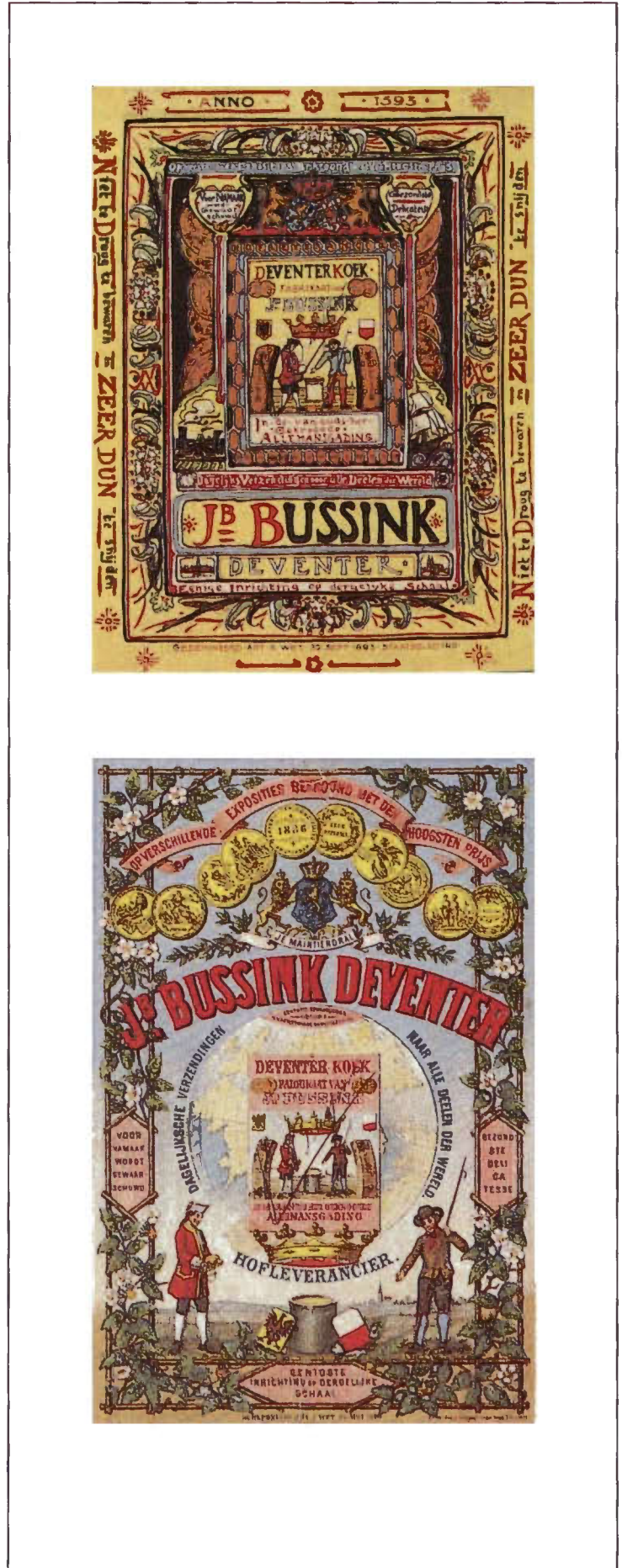
That original text of the Paris Convention also laid down common rules of substantive law concerning trademarks. These fall into two groups. Either they were “self-executing” rights of natural persons or legal entities (that is to say, immediately applicable, without any incorporation in national law), or they were common rules which had to be incorporated into national law. These common rules were naturally subject to certain conditions and exceptions, but by and large they were as follows.

The text of 1883 contained the rule, later modified, of a certain dependence of trademarks. Article 6[1] stated: “Every trade mark duly filed in the country of origin shall be accepted for filing and protected in its original form in the other countries of the Union.” Of course this rule was subject (Article 6[4] of the 1883 text) to important exceptions, such as the possible refusal of a trademark for reasons of morality or public order.

Moreover, Article 7 prohibited refusal by any member country to register a mark on the grounds that the nature of the goods to which the trademark applied could not legally be sold in that country. Protection of the right to file, then register, went as far as to override the different individual domestic restrictions as to the type of goods which could be sold in the member countries.

Article 11 of the Paris Convention dealt with a problem which, as we have already seen, was particularly topical in the latter half of the nineteenth century. It granted temporary protection to exhibits of industrial property, including trademarks, shown at official or officially recognized international exhibitions.

An important landmark in these common rules was the provision for sanctions and remedies against infringement. No international instrument could have any real weight, unless it was internationally enforceable, that is to say, unless offenses could be detected, punished and corrected beyond national boundaries. Article 9 laid down that any goods unlawfully bearing a trademark or a trade name might be seized on importation into those States of the Union where such mark or name had a right to protection, and that seizure could be at the request of the public prosecutor or of the interested party in accordance with the national law of each State.





Most important for the infrastructure and the practical implementation of any measures for the international registration of trademarks was Article 12, which required each member country to establish “a special industrial property service and a central office for the communication to the public of patents, industrial designs and trademarks.” This was no statement of the obvious in the 1880s, at a time when industrial property matters in various countries suffered neglect in the absence of a separate and distinct national industrial property institution: to relegate those matters to a small unit in one Ministry or another (not always consistently chosen), or, as in some cases, to accept that officials assigned to quite other duties should devote an unspecified amount of time to them, was not a serious way to implement an international instrument. Moreover, paragraph 5 of the Final Protocol specified the need for the industrial property service to publish an official periodical journal: the importance of this recommendation need not be emphasized, for no trademark office could function without a precise visual record of the registered trademarks.

Finally, the Convention, for the very first time in the history of intellectual property, created an international infrastructure to administer the working of the Union of member countries. Article 13 established the “International Bureau of the Union for the Protection of Industrial Property,” and placed it “under the high authority of the High Administration of the Swiss Confederation,” which was to supervise it. But the International Bureau’s functions were to be determined by the member States, and paragraph 6 of the Final Protocol constructed a framework for the international financing of the Bureau, as well as outlining the major obligations of the Bureau, the Swiss Administration and the member States as a whole. The administrative framework is dealt with in greater detail in Part III.

This consideration of the basis created by the Paris Convention of 1883 for international trademark registration ends with a reference to Article 14, and notably also to Article 15. Article 14 expressly made provision for the improvement of “the system of the Union” by subsequent amendments to that Convention. Article 15, moreover, made it clear that the contracting States “reserve the right to make separately between themselves special arrangements for the protection of industrial property, in so far as these arrangements do not contravene the provisions of the present Convention.”

The members of the Union clearly understood that the Paris Convention was only a first step, albeit an important one. It was by and large a statement of principle, a set of basic guidelines. The whole system of international trademark protection had to be worked out in detail—its laws, rules, procedures, day-to-day administration, and effective implementation—and various conflicts and contradictions had to be resolved. The blueprint of March 1883 prepared the way for the conferences held in Madrid in 1890 and again in 1891, when the Madrid Agreement Concerning the International Registration of Marks was finally signed.

Before Madrid, there was just an attempt at a serious follow-up in Rome, where the next Conference of the Paris Union was held from April 29 to May 11, 1886. But in the words of Mr. Grimaldi, the Italian Minister for Agriculture, Industry and Commerce, the Rome Conference could not claim "the glory of advancing the system of the [Paris] Union," but at least "demonstrated the attachment of the member States to the gains already made by the Convention of 1883." Apart from Additional Articles and Regulations added to the Paris Convention for the purposes of explanation and more detailed elaboration, the Rome Conference did in fact consider a draft Agreement concerning the international registration of trademarks, as proposed by Switzerland and amended by Italy. But the majority of the delegations, deciding that more time was needed to study the question in depth, voted to postpone consideration of this special Agreement until the next Conference. Madrid was chosen, by acclamation, to host it, and it took place in 1890 and 1891.

The Need for a Special Agreement, and its Culmination in Madrid

The nineteenth century saw an unprecedented pace of industrial development all over the world, not the least product of which was a revolution of transportation, no-

tably in the creation of railway networks. More than ever, trade and commerce crossed national frontiers, not only into traditional markets in neighboring countries, but also much further afield. The trademark increasingly became a vital protection for producers and retailers against counterfeiters, and in a world where demand and consumption grew, it was worthwhile, in terms of profits and the safeguarding of the good name of their products, for these producers and retailers to secure legal recognition and protection of their trademarks beyond the boundaries of the country where they lived or operated commercially.

In the absence of any international system permitting a single registration valid for several countries by an established procedure, the applicant for the registration of a trademark had to ensure that it was correctly registered in accordance with the laws and procedures in force in *each* of the countries where his goods or services were traded. There were essentially two ways of doing this effectively. One was for the owner or his representative to undertake the journeys to the countries concerned; this was clearly too cumbersome and expensive. The alternative was to use the services of trademark agents or agencies as intermediaries, but this, as a Swiss delegate pointed out in the Rome Conference in 1886, was somewhat expensive also.



The delegate of the Netherlands argued that the use of trademark agencies could be avoided by sending the trademark directly to governmental administrations, in accordance with the laws of different States. But the very use by applicants of such agencies showed this argument to presuppose a utopian clarity and procedural efficiency, which an applicant could not in practice expect. Indeed, at the international level, both governments and international meetings generally recognized as much: to give but one example of such governmental recognition, in 1879, the Belgian Government passed a law enabling trademark holders in Belgium to deposit and register their trademarks through Belgian consulates abroad, thus obviating the need to go through agencies abroad. As for action in international meetings, once again, an industrial property Congress in Paris in 1889 passed a resolution declaring the need for "an international trademarks régime, so that a trademark deposited in one country which is a member of an international Union is protected in all the member States, by means of deposit with the International Bureau of that Union."

Why Madrid, why Spain? Some sectors of Spanish opinion were among the most doubtful about the choice made by the Rome Conference in 1886 for the place of the next international conference. The newspaper *El País*, in a critical article in the edition of April 7, 1890, opined gloomily,

"There are some who expect from this Conference resolutions of importance for Spain and considerable practical results for our industry. We believe, on the contrary, that we will remain as we were. We hope we are wrong." The article ended caustically, "We consider that other countries, which a few years ago had no law on [industrial] privileges, are today more prosperous than we are, because, quite unlike us, before legislating on inventions, they managed to set up factories and industries." This was an exaggeratedly critical view, but it raises certain questions.

For it was in many ways remarkable that such an international Conference—the first of its kind in Spain—should be held in Madrid, in the context of European history in the nineteenth century. Spain was among the European countries which had suffered the most tragically from foreign and domestic political crises of that century.

Institutions in Spain were in a period of transition. Alfonso XII, the father of King Alfonso XIII (the latter was a minor under a Regency when the Madrid Conferences were held), was the first Spanish monarch of the century to be able to reign uninterruptedly from the year of his return to Spain, in 1875, until his death in 1885. All the others were at some point forced to leave the throne or abdicated. At the beginning of the century, Charles IV and Ferdinand VII gave place to the Napoleonic conquest and

718 - MADRID.—Gran Vía



the imposition of the French Emperor's brother as sovereign; Ferdinand VII was subsequently restored to the throne. His daughter, Isabella II, survived the enforced abdication in 1840 of her mother, Maria Cristina of Naples, as Queen Regent, only to be forced into exile in France herself in 1868. Yet the attempt to create a constitutional monarchy with a new constitution in 1869, and a specially chosen foreign King, Amadeo of Savoy, in 1870, fared no better: Amadeo abdicated in 1873. A Republic set up in 1873 soon collapsed. The restoration of the Bourbon monarchy under Alfonso XII, proclaimed in 1874, lasted until 1931.

If Spanish history shows that the monarchy still had a role to play in political life, the pressures that monarchs were subject to illustrate the importance of other forces, which, in a period of transition, were still to find their rightful place. The Cortes was not yet exactly a Parliament or broadly-based National Assembly: legislation introducing universal suffrage in 1869 did not radically alter electoral management by a system of metropolitan, provincial and local patronage—"Caciquismo" as it was called, using a chain of influence extending from Madrid politicians and provincial governors to "caciques" or powerful local figures.

Individuals gained political power in Madrid by their standing with the Crown, which still appointed ministers.

Although these individuals belonged to, or actually formed, "groupings," neither were the latter wholly political parties with established programs and objectives: personal rivalries, tactically realistic alignments, and more strictly political splits within groups made cohesion difficult within political groupings, and often the sole common denominator was fear of revolution and anarchy. In addition, there was the Army, which was a political factor with its own strength.

When the Rome Conference in 1886 settled on Madrid as the place to hold the next international Conference, Spain had enjoyed, for some 11 years, an unprecedented period of political stability, which, however relative, was in stark contrast to the strife of international and civil war, disputed royal successions, and the ambitions of groups and individuals which had ravaged the country for three-quarters of a century.

A major architect of this later Bourbon restoration, Cánovas del Castillo, kept in place, with other politicians, the most stable political structure erected by nineteenth-century liberalism. The new Constitution of 1876 lasted until 1923. The worst evils of faction and attempts by a single group to capture and monopolize Crown favor were averted until the 1890s by a system of "*turno pacífico*," or peaceful rotation of power, between different parties. This



rotation was for much of the period 1875 to 1896 assured by Cánovas himself as leader of the Liberal-Conservatives, and by Sagasta as leader of the Liberals. Moreover, Queen María Cristina (an Austrian Hapsburg), acting as Regent for her infant son Alfonso, a posthumous child, from 1886 to 1902, showed a personal and political discretion which soon cut short comparisons with her Neapolitan namesake in the same role earlier in the century. Whether or not this political structure could make deep-seated changes in Spain, it created a situation where Spain could actively participate in legal and economic debates such as the international registration of trademarks, and at the foremost international level, as host of the international Conference.

The decision of the Rome Conference in favor of Madrid not only coincided with a politically appropriate period but also with an economic situation which, more than merely propitious, made it necessary for Spanish commerce and industry to advance on an international scale.

Agriculture remained the predominant economic activity in Spain, and was the key to her overall prosperity: it was not only important for internal consumption and certain traditional export markets, but also greatly affected Spain's industrial prosperity, which ultimately depended on the purchasing power of the majority of Spaniards. Cereals, fruits, olive oil, wines (including specialized export wines

such as sherry from the South) and brandies, were among the main agricultural products of Spain. As elsewhere, agricultural prosperity was subject to internal crises and price fluctuations in internal and external markets. But the outbreak of phylloxera in French vineyards enabled Spain progressively to gain pre-eminence in the world wine market for over a decade, through to the 1880s: in 1886, the year when Madrid was chosen by the Rome Conference to host the next international industrial property conference, Spain was still benefiting from this agricultural boom, and did not yet feel the full weight of falling prices and the spread of phylloxera to Spain.

Spain's industrial development suffered from insufficient Spanish capital, making foreign investment inevitable. An illustration of this was the communications industry, which in the nineteenth century meant railways. The Spanish railway network was largely made possible by French capital. But this very pattern of foreign investment created the situation where the more industrialized Western European nations had a stake in Spain and where Spain in turn needed them. There is no surer way for a nation to be an integral part of international cooperation. Moreover, there was no question that foreign investment, whatever its disadvantages, was indispensable for Spain's industrial development. To give but one example, the coach service established in the restoration of Ferdinand VII (1814-1833) between



Madrid and Barcelona took eight days, and was estimated to cost a year's wages for a prosperous artisan. Here again, the 1880s were among the peak years for railway construction.

What an initial absence of phylloxera did for Spanish wine, the discovery of the Bessemer process for steel manufacture could be said to have achieved for Spanish iron ore. The period 1880-1900 saw the apogee of mining industries in Spain, in many cases not so much for domestic use, it must be said, but for export, and with strong foreign investment by the interested countries. Thus Basque iron ore became an essential part of British imports and manufacturing processes, with British financial backing and technical expertise. Also largely financed and operated by the British were copper at the Rio Tinto mine, and pyrites (exploited for sulphur and copper) in the region of Huelva. The Royal Company of the Asturias, originally established with Belgian financing and control, had been exploiting zinc since 1853. Spain was the leading producer in the world of mercury and lead; French companies were particularly active in the latter industry, notably with the creation in 1880 of the Société Minière Métallurgique de Peñarroya.

The major industrial centre in Spain was Catalonia. The Catalan industrial economy rested on the textile industry—based on imported cotton, and a growing woollen industry—and on colonial commerce. Although politically the Spanish colonial Empire in the 1880s was reduced to Cuba, Puerto Rico and the Philippines, all of which would be lost by Spain in 1898, right through the 1880s and well into the 1890s Cuba, in particular, remained of great importance as a market for Catalan manufacturers: the major Catalan exports to Cuba were cotton manufactures, shoes and other leather goods, paper and soap.

It is not appropriate here to examine how far Spanish agriculture and industry were developing in the long term in the context of nineteenth century Europe as a whole. Suffice it to say that in a century of exceptional international and civil strife, Spanish Governments from 1875 created the longest period of internal political stability experienced in that century. Also, the second half of the century in particular saw a sustained effort to develop the country both internally and in its international relations. The national legal framework developed considerably. Laws concerning banks, companies, railway and other communications, as well as mining were passed in the 1850s as a basis for progress.





Thus, the conditions existed in Spain for interest in the protection of industrial property at an international level: Spanish interests sought protection abroad, and foreign interests sought protection in Spain. In Spanish registers, along with the majority of trademarks registered by Spanish nationals in the early 1880s, were foreign trademarks registered by nationals and companies of France, the United States of America, Britain, Germany and Switzerland. Here, too, the development of a legal framework is apparent. In 1824, the Royal Conservatory of Arts was founded in Madrid to maintain a register and record of privileges granted to inventors. As early as 1850, a decree regulating trademarks was promulgated, and the Royal Conservatory of Arts began to examine and report on trademarks before entering them in the official registers. These measures were reinforced by a new Patent Law in 1878. In 1890 and 1891, although Spain's leaders may not have had the same optimism as in the previous decade, they still had, in the interests of the country's progress, the sense of purpose which made Madrid the birthplace of an international Union for the international registration of trademarks.

Madrid at the time of the Conference bore the imprint of the architectural and artistic changes introduced by the first Bourbon King of Spain, Philip V, who had reigned from 1700 to 1746. In addition to Spanish talent, he used foreign architects and artists—French, Italian and others—to embellish the city. Under him, two Italian architects, Juvara and Sacchetti, began work on the new Royal Palace in the 1730s. Progressively through the eighteenth century, the elaborately ornate, even florid, Baroque and Rococo styles were displaced by the more austere, massive, but dignified grandeur of Neoclassicism. The reign of Charles III (1759-1788) set the seal on these trends. His arrival from Naples (he succeeded his half-brother, Ferdinand VI, when the latter died without an heir) brought a fresh injection of Italian or Italian-trained architects and artists, such as the Bohemian-born Anton Raphael Mengs, and no less than the Venetian master of interiors, Giambattista Tiepolo.

The reign of Charles III saw the creation or completion of some of the most noble sights of nineteenth century Madrid. Sabatini added to the Royal Palace, and was responsible for other structures in Madrid, such as the Alcalá Gate. Juan de Villanueva, a friend of the painter of genius, Francisco de Goya, was the architect of the Prado Museum, originally intended to house Charles III's natural history collection and to serve as a temple of science.

The building in which the Madrid Conference was held was also intended to be a temple of learning. The San Fernando Royal Academy of Fine Arts moved to the site which today is No. 13 Calle Alcalá in 1774, to a building which had been designed by Churriguera earlier in the century, in the Baroque style. Its façade was transformed into a more austere and very elegant Neoclassicism by Diego de Villanueva, brother of the architect of the Prado; the building underwent further changes and restorations in the nineteenth and twentieth centuries. It is not inappropriate that an Academy dedicated to becoming the center

of instruction and taste in the fine arts, and later in music, of which men of genius (Goya among them) had been members, should be the place where the delegates of 15 countries of the globe were to debate how to protect and foster, on an international scale, the part of human productivity represented by trademarks.

The Conference

“Don Alfonso XIII, by the grace of God, Constitutional King of Spain, and in his name and during his minority Doña María Cristina Queen Regent of the Kingdom...” began the royal pronouncements of the infant King. He was three years old in 1889, the year fixed for the Madrid Conference in Article 14 of the Additional Articles to the Paris Convention agreed upon in Rome. In view of the amount of preparatory work to be done, two royal orders, of July 4 and August 1, 1889, respectively, postponed the Conference, the latter one fixing the date at April 1, 1890.



The Ministry for Development was the one concerned with the Conference, and made the necessary arrangements. The appointment of the four distinguished Spanish delegates had been by a royal order of July 20, 1889. They were, in the order of precedence given, Segismundo Moret y Prendergast, an ex-Minister for External Affairs and for the Interior and a deputy of the Cortes, the Count of San Bernardo, Director General of Agriculture, Industry and Commerce, also a deputy of the Cortes, Enrique Calleja y Madrid, agricultural counsellor, industrial engineer and Head of the Patent Office, and Luis Mariano de Larra, one of Spain's representatives to the Rome Conference, and Director of the “Official Bulletin of Intellectual Property” of the Ministry for Development.

All the countries which were members of the Paris Union at the time of the preliminary organization of the Conference were invited, as was appropriate for a Conference convened to create a Special Union which was to be a direct consequence of, and in conformity with, the provisions of the Paris Convention: the countries which were represented in Madrid were Belgium, Brazil, France, Great Britain, Guatemala, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Tunisia, and the United States of America. Germany, although not yet a member of the Paris Union, was also represented. The International Bureau, which grouped together the international secretariat of the two Unions of Paris and Berne, was headed by Henri Morel, its *de facto* Secretary General, and assisted by two of his staff, Mr. B. Frey-Godet and Mr. Ernest Röthlisberger, a future Director of that same Bureau; this secretariat was also joined by Mr. Luis Protá, an official in the office of the Spanish Minister for Development.

In fact it was found more convenient to begin the Conference on Wednesday, April 2, 1890, and it continued through until Monday, April 14, 1890, when its ninth and last session was held. This was a technical Conference, which had to debate in depth matters which the Rome Conference of 1886 had left for future conclusion. The documents prepared and distributed by the Spanish Administration and the International Bureau before and during the Conference were mainly on four subjects, namely, a draft agreement concerning the prevention of false indications of source, a draft protocol on the interpretation and application of the Paris Convention, a draft protocol on the definitive establishment of the International Bureau, and, most important for the scope of the present work, a draft agreement concerning the international registration of marks, together with draft Regulations applicable to it.

The preparatory meeting held on the afternoon of April 2 was a rapid preliminary, dispensed with in half an hour. It was provisionally chaired by Spain's second delegate, the Count of San Bernardo, in the absence of Spain's first delegate, Segismundo Moret. The latter was appointed Chairman of the Conference, as was thought fitting for a delegate of the host country. Similarly, the first delegate of Italy, as the host Country of the last Conference, was appointed to be Vice-Chairman of the Conference, and in the absence of Commander Puccioni, the Marquis Dalla Valle temporarily took his place. The Secretariat of the Conference was also appointed—Frey-Godet, Luis Protá, and Röthlisberger, as noted above.

Draft rules of procedure for the Conference, prepared by the Spanish Administration and the International Bureau, were adopted without any changes. They stated, notably, that the official language of the Conference was to be French, and that discussion would be based on the proposals made by participating countries and communicated to the delegates by the International Bureau. These proposals were to be examined by one or more Committees: in each case, the Conference would decide whether or not such examination was to precede a general

The First Hundred Years of the Madrid Agreement

ÉTATS	NOMS DES DÉLÉGUÉS	ÉTATS	NOMS DES DÉLÉGUÉS
Belgique	M. Charles MOBESSEUX , directeur de l'industrie au Ministère de l'agriculture, de l'industrie et des travaux publics.	Guatemala	M. José CARRERA , envoyé extraordinaire et ministre plénipotentiaire à Madrid.
	M. G. de BO , avocat à la Cour d'appel de Bruxelles.	Italie	M. le commandeur Emilio PUCCIONI , délégué.
Brésil	M. RÉGIS DE OLIVEIRA .		M. le professeur Giuseppe MAJORANA CALATABIANO , délégué adjoint.
Espagne	M. Segismundo MOLET Y PRENDERGAST , ex-ministre des affaires étrangères et de l'intérieur, député aux Cortès.	Pays-Bas	M. le Dr SNYDER DE WISSENKERKE , directeur au Ministère de la justice, chef du Bureau chargé du service spécial de la propriété industrielle.
	M. le comte de SAN BERNARDO , directeur général de l'agriculture, de l'industrie et du commerce, député aux Cortès.	Portugal	M. le baron de HORTEGA , consul à Madrid.
	M. Enrique CALLEJA Y MADRID , conseiller d'agriculture, ingénieur industriel et chef du Bureau des brevets.		M. Ernesto MADERA PINTO , directeur général du commerce et de l'industrie au Ministère des travaux publics.
	M. Luis Mariano de LARRA , représentant de l'Espagne à la Conférence internationale de Rome, directeur du <i>Bulletin officiel de la propriété intellectuelle</i> au Ministère du Fomento.		M. Joaquín Pedro de OLIVEIRA MARTINS , administrateur général des tabacs.
États-Unis	M. Thomas W. PALMER , envoyé extraordinaire et ministre plénipotentiaire à Madrid.	Serbie	Non représentée.
	M. Franklin A. SEELY , examinateur principal au Bureau des brevets.	Suède et Norvège	M. le comte HAMILTON .
	M. Francis FORBES , conseil à la Cour suprême des États-Unis.	Suisse	M. Henri MOREL , secrétaire général du Bureau international de la propriété industrielle.
France	M. NICOLAS , conseiller d'État, directeur au Ministère du commerce, de l'industrie et des colonies.		M. Charles SOLDAN , président du conseil d'État du canton de Vaud, chef du Département de justice et police.
	M. Michel PELLETIER , avocat à la Cour d'appel de Paris, conseil judiciaire du Ministère du commerce, de l'industrie et des colonies.	Tunisie	M. Charles CAVALLAOE , consul de France à Madrid.
Grande-Bretagne	M. Charles STUART WORTLEY , membre du Parlement, sous-secrétaire d'État au Ministère de l'intérieur.	Allemagne (État non contractant)	M. Victor de BOJANOWSKI , président du Bureau des brevets.
	Sir Henry BERGHE , K. C. M. G., chef du Protocole au Ministère des affaires étrangères.	Représentant du Bureau international	M. Henri MOREL , secrétaire général du Bureau.
	M. H. READER LAOK , contrôleur général du Bureau des brevets.	Secrétariat	M. B. FREY-GODET , secrétaire du Bureau international.
	M. Herbert HUGHES , adjoint technique.		M. Luis PROTA , attaché au secrétariat particulier de S. E. le Ministre du Fomento.
	M. H. FARNALL , attaché au Ministère des affaires étrangères, secrétaire des délégués britanniques.		M. Ernest RÖTHLISBERGER , secrétaire-traducteur du Bureau international.

debate. The Conference was then adjourned until Saturday, April 5, the intervening days being the break for Easter celebrations.

Saturday, April 5 saw the provisional appointment of a Committee to prepare the work of the Conference, comprising the delegates of France, Great Britain and Switzerland. On the following day, the Queen Regent, Maria Cristina, gave a reception to the delegates. The first plenary session of the Conference was held on the afternoon of Monday, April 7, 1890. The list of participants is shown on page 29.

It was, as could be expected from an opening session, an occasion of elegant speeches combined with practical arrangements. It was presided over by the Marquis de la Vega de Armijo, Minister for Foreign Affairs, who was assisted by the Duke of Veragua, Minister for Development. It is worthwhile to reproduce part of the inaugural address of the Marquis de la Vega de Armijo:

“The universal dissemination of education and technical knowledge make it daily more necessary to complete the work of the Union and to take more energetic steps to fight counterfeiting, one of the worst barriers to industry.

“Moreover, good communications, which have turned the whole world into a huge market of products from all nations, make it vital to protect everywhere those worthy interests of the inventor and the industrial artist.”

Segismundo Moret of Spain also spoke with eloquence, explaining that his satisfaction was “all the greater because

this Conference is being held in the capital of Spain, and this fact will prove to all that, even if we have been through difficult times and violent commotions before being able to enjoy the benefits of a constitutional and parliamentary form of government, we have already reached a degree of progress which enables us to guarantee not only the rights of Spaniards, but also those of foreigners in their economic and industrial relations with Spain.” The last of the opening speeches was from Commander Emilio Puccioni, first delegate of Italy, who graciously paid tribute to the host country.

Thereafter, the appointments of the Officers of the Conference made on April 2 were duly confirmed, as was the composition of the Working Committee decided upon in the meeting of April 5. Moret proposed, without opposition, that the Conference should hold its plenary sessions every morning from 10 a.m., and that the Committee should use the afternoons to prepare the next day’s work. But with so many substantive and administrative issues to address, it is not surprising that the Conference could not adhere strictly to this optimistic timetable.

It was in the fourth session of the Conference that discussion on the draft Agreement concerning the international registration of marks began, and in the fifth session, held on the afternoon of Thursday, April 10, 1890, more detailed discussion on the draft Agreement concerning the international registration of marks led to the adoption of an agreed text. The Working Committee had had at its disposal the substance of the proposals made at the Rome Conference in 1886—that is to say, the original Swiss proposal, as amended by the Italian Administration. The major contribution of the latter was to change the Swiss proposal of filing by the owners of trademarks duly registered in the country of origin directly with the International Bureau for international registration, into filing of such trademarks with the International Bureau *via the national Administration where they were first filed*. This change was partly necessitated by fears that individual signatory States would lose considerable revenues hitherto accruing to them from the registration of national trademarks abroad, or of foreign trademarks at home. Interestingly, some figures were collected for the year 1888, and submitted to the Conference:



COUNTRY (in French alphabetical order)	REGISTERED TRADEMARKS		
	National	Foreign	Total
Germany	1,247	304	1,551
Austria-Hungary	1,103	117	1,220
United States of America	1,220	166	1,386
France	6,175	361	6,536
Italy	63	117	180
Serbia	5	16	21
Switzerland	391	153	544
Total	10,204	1,234	11,438

The Italian amendment to the original Swiss proposal enabled national Administrations to fix and collect the fees that persons living in, or commercially based on, their territory would have to pay for the preliminary registration. The costs of the international administration of the Agreement had to be worked out in the form of supplementary payments by States to the International Bureau, proportionate to the number of applications for international registrations put forward by each member State; any surplus, after deducting the International Bureau's costs, would be redistributed to the member States.

This supplementary international payment was among the most contentious points of the entire debate. The delegate of the Netherlands strongly put forward the view that countries which were commercially and industrially less developed would compensate for the loss of fees formerly paid directly to them, under the old system, for international registration of applications from abroad (which were of a greater volume than national registrations), by charging prohibitively high fees for the international registration of the small number of marks applied for within those countries.

He therefore stuck out for a compulsory supplementary international fee of 200 Swiss francs. (The equivalent of this sum in US dollars was then roughly 38 dollars). Other delegates, such as those of Belgium and France, disagreed, and rather considered that one of the fundamental aims of the Agreement—moderate fees—would be defeated by such a high compulsory international fee. The figures of fees hitherto charged by an agent for the registration of a mark for a foreigner had been prepared for the year 1888 and included in the documentation of the Conference, and were as follows:

COUNTRY	FEES ¹ (in Swiss francs)	CHARGES ² (in Swiss francs)
Belgium	10	185
Spain	25 (100 réaux)	212
United States of America . .	130 (\$25)	318
France	15 (14 Fr. francs)	132
Great Britain	31 (£ 1/5/-)	79
Italy	41	265
Netherlands	21 (10 fl.)	238
Portugal	17 (4 milreís)	265
Norway	56 (40 Cr.)	238
Sweden	56 (40 Cr.)	265
Switzerland	20	238

¹ Fees laid down by national law.

² Charges of agency per registration including national fees opposite.

The delegate of the Netherlands insisted on maintaining his proposal, and held that the supplementary international fee was not excessive in the light of current conditions and agency fees. The proposal created divisions and abstentions during the vote on draft Article 8—five States for (Guatemala, Netherlands, Norway, Portugal and Sweden), three States against (Belgium, Spain and Switzerland) and six abstentions (Brazil, France, Great Britain, Italy, Tunisia and the United States of America). It was not until the delegate of the Netherlands subsequently proposed to add that the supplementary fee of 200 Swiss francs was a maximum which could be reduced when ratifications were exchanged, that there was unanimous agreement on this point.



The final text of the Madrid Agreement Concerning the International Registration of Marks, in its entirety and after due discussion and amendment, was adopted by nine votes for (Belgium, Guatemala, Italy, Netherlands, Norway, Portugal, Spain, Sweden and Switzerland) and five abstentions (Brazil, France, Great Britain, Tunisia and the United States of America). In the case of Great Britain, the reasons for abstention were not far to seek: at the end of the fourth session, the British delegation had declared openly that Great Britain could not at present adhere to the Agreement, since there was not yet an international classification of trademarks, and had requested that his country's place in the Working Committee, for matters concerning this Agreement only, should temporarily be filled by another country. Belgium was chosen as the temporary replacement on the Committee.

As for the draft Regulations of the Agreement, the Conference assigned to the International Bureau, under the supervision of the Swiss Government, the task of

harmonizing them with the newly adopted text of the Agreement. The Swiss delegate, although finding this a heavy responsibility and expressing his preference for the adoption of the Regulations within the sessions of the Conference, accepted the task, and stated that the new draft Regulations would be circulated in good time by the Swiss Government for the approval of the signatory States, before the Diplomatic Conference for the signature of the adopted texts.

For another, this time signatory, Conference was to be held, following which, in accordance with Article 12 of the Agreement, individual States were to ratify the Agreement, and the exchange of ratifications was to take place in Madrid, within a maximum period of six months. The Agreement was to enter into force a month after this exchange, and was to have the same force and duration as the Paris Convention.

The ninth and last session of this Conference, held on the afternoon of Monday, April 14, 1890, was as elegant an occasion as the opening, presided over this time by the Duke of Veragua, Minister for Development. He expressed pride in the role that Madrid had played “in advancing the system of the Union, by consolidating its base in such a way as to satisfy the industrial interests of most of the States represented.” Equally eloquent was the last speaker, Commander Puccioni of Italy, Vice-Chairman of the Conference, who, amidst the applause of the delegates, made the following poignant revelation about Veragua: “... I, as an Italian, cannot pronounce [a name] without emotion: Cristóbal Colón [Christopher Columbus], Duke of Veragua, is a direct descendant of the illustrious man from Genoa, who, in the fifteenth century, brought together in common glory two peoples of one race, who still continue to have reasons to remain on a path of the closest possible fraternity.”



In his summing up of the achievements of the Conference, Commander Puccioni called the Paris Conference of 1883 the basis of a "Confederation of different States for the reciprocal protection of industrial property rights," the Rome Conference of 1886 a consolidation of that basis, and a preparation for future progress, and the Madrid Conference "a new stone in the structure." He paid tribute to the hosts of the Conference, their country, their Queen Regent (who had received the delegates the evening before) and to their infant Sovereign. But above all, it must have delighted the Spaniards present to hear him conclude the last official session of the Conference with the words "*Vive l'Espagne*," words echoed in unison by all those present.

* * * * *

Exactly a year after the technical Conference, a Diplomatic Conference was convened in Madrid, for Tuesday, April 14, 1891. By that time, there were 16 member States of the Paris Union, all of which were invited: Belgium, Brazil, Dominican Republic, France, Great Britain, Guatemala, Italy, Netherlands, Norway, Portugal, Serbia, Spain, Sweden, Switzerland, Tunisia and the United States of America. All except the Dominican Republic and Serbia were represented. The list of participants is shown overleaf.

The meetings were once again held at the San Fernando Royal Academy of Fine Arts, lasting the two days of April 14 and 15, 1891, with the first Spanish delegate, Segismundo Moret, presiding. They were intended primarily for the signature by the representatives of contracting States of the texts adopted at the Madrid Conference of 1890. But it will be recalled that a technical point remained to be settled—the amount of the supplementary international fee for international registration of marks. The question was duly raised on April 14, the day on which the Agreement Concerning the International Registration of Marks was signed, and its Regulations, as drawn up and circulated by the International Bureau, were formally declared approved. The French proposal, to reduce the originally proposed international fee of 200 Swiss francs to 100 Swiss francs, was opposed only by Italy and the Netherlands, but they quickly rallied to those voting for it—Belgium, France, Portugal, Spain, Switzerland and Tunisia; this left five abstentions, those of Brazil, Great Britain, Norway, Sweden and the United States of America.

The Madrid Agreement Concerning the International Registration of Marks was signed during this session by the delegates of Belgium, France, Guatemala, Italy, the Netherlands, Portugal, Spain, Switzerland and Tunisia. The Brazilian delegate explained that the absence of his signature should not be interpreted as a rejection, but that it was delayed by the need for a legislative decision in his country.

There remained a draft Final Protocol put forward by the French delegation, to clarify any doubts on the meaning of Article 5 of the Agreement, which laid down the possibil-

ity and the modalities for national administrations to deny protection to trademarks communicated to them by the International Bureau. The Protocol explained that the above-mentioned Article 5 did not contradict Article 6 of the Paris Convention and paragraph 4 of the Final Protocol of the Paris Convention, but should rather be read with them, since they were applicable. It will be recalled that Article 6 of the Paris Convention required any trademark, duly filed in the country of origin, to be accepted and protected in its original form in the other countries of the Madrid Union, unless it were refused on the grounds of being contrary to morality or public order. Paragraph 4 of the Final Protocol of the Paris Convention further laid down that such denial of protection could not be solely on the grounds that the signs composing the mark did not comply with the laws of the refusing State with regard to form, that it sufficed that the mark complied, on this point, with the laws of the country of origin, and that it had been validly filed in the country of origin, and finally, that the use of public armorial bearings and decorations might be considered as contrary to public order, in the sense of Article 6 of the Convention. In the second session, held on the afternoon of Wednesday, April 15, 1891, this Final Protocol was signed by the same countries as had signed the Agreement itself.



The maximum six-month period foreseen for the exchange of definitive ratifications in Madrid proved to be too short for the completion of formalities in all the contracting States. The date had to be postponed, first to April 15, 1892, and finally to June 15, 1892, when five of the States, Belgium, France, Spain, Switzerland and Tunisia, were in a position to exchange instruments of ratification at the Ministry of State in Madrid. In the long history of the Agreement, others would follow in joining the Union.

The next chapter examines what this first Agreement of 1891 established and achieved, and how it developed in its application and in subsequent Diplomatic Conferences.

PREMIÈRE SÉANCE

(MARDI, 14 AVRIL 1891)

PRÉSIDENCE DE S. E. M. S. MORET, PRÉSIDENT

Sur seize États dont se compose l'Union, quatorze sont représentés comme suit :

- La Belgique : Par S. E. M. TH. DE BOUNDER DE MELSBRÖECK, envoyé extraordinaire et ministre plénipotentiaire à Madrid.
- Le Brésil : Par M. LOUIS F. D'ABRET, chargé d'affaires à Madrid.
- L'Espagne : Par S. E. M. S. MORET, ancien ministre des affaires étrangères, de l'intérieur, des finances et d'outre-mer, député aux Cortès.
S. E. le marquis D'AGUILAR, directeur général de l'agriculture, de l'industrie et du commerce, député aux Cortès.
M. HENRI CALLEJA, conseiller d'agriculture, ingénieur industriel et chef du Bureau des brevets.
S. E. M. LOUIS MARIANO DE LARRA, représentant de l'Espagne à la Conférence internationale de Rome, directeur du *Bulletin officiel de la propriété industrielle* au Ministère du Fomento.
- Les États-Unis d'Amérique : Par S. E. le général E. BURD GRUBB, envoyé extraordinaire et ministre plénipotentiaire à Madrid.
- La France : Par S. E. M. P. CAMBON, ambassadeur à Madrid.
- La Grande-Bretagne : Par S. E. Sir FRANCIS CLARE FORD, ambassadeur à Madrid.
- Le Guatemala : Par S. E. M. J. CARRERA, envoyé extraordinaire et ministre plénipotentiaire à Madrid.
- L'Italie : Par S. E. le marquis MAFFEI, ambassadeur à Madrid.
- Les Pays-Bas : Par M. le baron GERICKE D'HERWYNEN, ministre résident à Madrid.
- Le Portugal : Par S. E. le comte DE CASAL RIBEIRO, envoyé extraordinaire et ministre plénipotentiaire à Madrid.
- La Suède et la Norvège : Par S. E. M. ARILD DE HUITFELDT, ministre plénipotentiaire à Madrid.
- La Suisse : Par M. Ch. E. LARDET, consul général à Madrid.
M. HENRI MOREL, secrétaire général du Bureau international.
- La Tunisie : Par le Plénipotentiaire de la France.

Les États de l'Union non représentés sont la République Dominicaine et la Serbie.

Part II

The Legal Development of the System of International Trademark Registration

The first diplomatic conference that discussed detailed plans for a system of international registration of marks was the Rome Conference of 1886 (that revised the Paris Convention concluded in 1883). No agreement was reached on the plans at the Rome Conference and they were submitted, in revised form, to the Madrid Conference of 1891 at which the Madrid Agreement was adopted.

Since its adoption, the Madrid Agreement of 1891 has been revised on six occasions: at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Nice in 1957 and at Stockholm in 1967. Throughout those revisions, however, the essence of the system established in 1891 has remained constant. From its inception, the aim of that system has been to provide a legal mechanism whereby protection for a mark originating in one of the contracting countries could be obtained in all of the other contracting countries. The means of achieving that result was and still is the international registration of the mark following its registration in the national trademark registry of one of the contracting countries, the international registration having the same effect as a national registration in each of the other contracting countries. The effect may be refused—for reasons specified in its national law—by any of those countries, but such refusal only concerns the refusing country.

While the system established by the original Madrid Agreement has remained the same, the various revisions have added more detail, sophistication and clarity to the operation of the legal mechanism. This effect of the revisions can be seen by examining the development of each of the main elements of the present system of international registration under the latest (Stockholm 1967) Act of the Madrid Agreement.

Main Elements of the System of International Registration

The present system of international registration under the Madrid Agreement may be said to be constituted by seven main elements:

- (i) the existence of a basic right (a registered mark) in one contracting country—the basic mark—for which protection in the other contracting countries is sought;
- (ii) the entitlement on the part of the owner of the basic mark to take advantage of the benefits of the Madrid Agreement for obtaining the protection sought for the same mark in the other contracting countries;
- (iii) the filing of an application for the international registration of the basic mark and the subsequent international registration of the same mark;
- (iv) the designation of those of the other contracting countries in which protection of the mark is sought through the international registration;
- (v) the right on the part of the designated contracting parties to refuse, on certain grounds, to accord protection to the internationally registered mark;
- (vi) the dependency of the international registration and of the effects of that registration on the continuing existence of the registration of the basic mark, that is, the registration in its country of origin, throughout a limited initial period (five years);

BUREAU INTERNATIONAL DE LA PROPRIÉTÉ INDUSTRIELLE

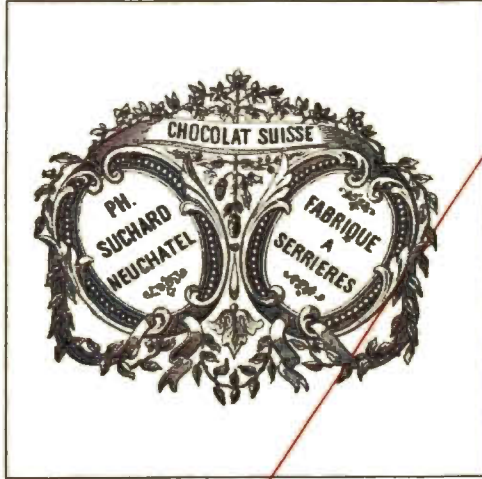
Enregistrement international des marques de fabrique ou de commerce

DEMANDE D'ENREGISTREMENT

PAYS D'ORIGINE DE LA MARQUE:

Suisse

Place où la marque doit être collée ou apposée:



Propriétaire de la marque

Les États faisant partie de l'Arrangement international du 14 mai 1883 (voir paragraphes au verso) au moment de l'enregistrement de la marque ont été: la BELGIQUE, l'ESPAGNE, la FRANCE, la SUISSE et la TUNISIE

- 1° Nom *Russ. Suchard & Co.*
- 2° Profession *fabricants*
- 3° Adresse *Neuchâtel*

Destination de la marque

- 4° Indication des produits: *Chocolats et cacao*

Enregistrement dans le pays d'origine

- 5° Numéro d'ordre *86*
- 6° Date *1 novembre 1880, 8 heures a.*

L'Administration soussignée certifie que la marque ci-dessus est régulièrement déposée en *Suisse*, et que les indications y relatives, sous chiffres 1 à 6, sont conformes au contenu du registre national des marques.

Elle prie le Bureau international de la propriété industrielle, à Berne, d'inscrire cette marque dans le registre international.

Berne le *23 janvier* 18*93*

Bureau fédéral de la propriété industrielle

Falley

Les conditions mentionnées au dos du présent formulaire ayant été remplies, la marque a été inscrite dans le registre international sous le numéro *1*, à la date de ce jour.

Berne, le *23 janvier* 18*93*

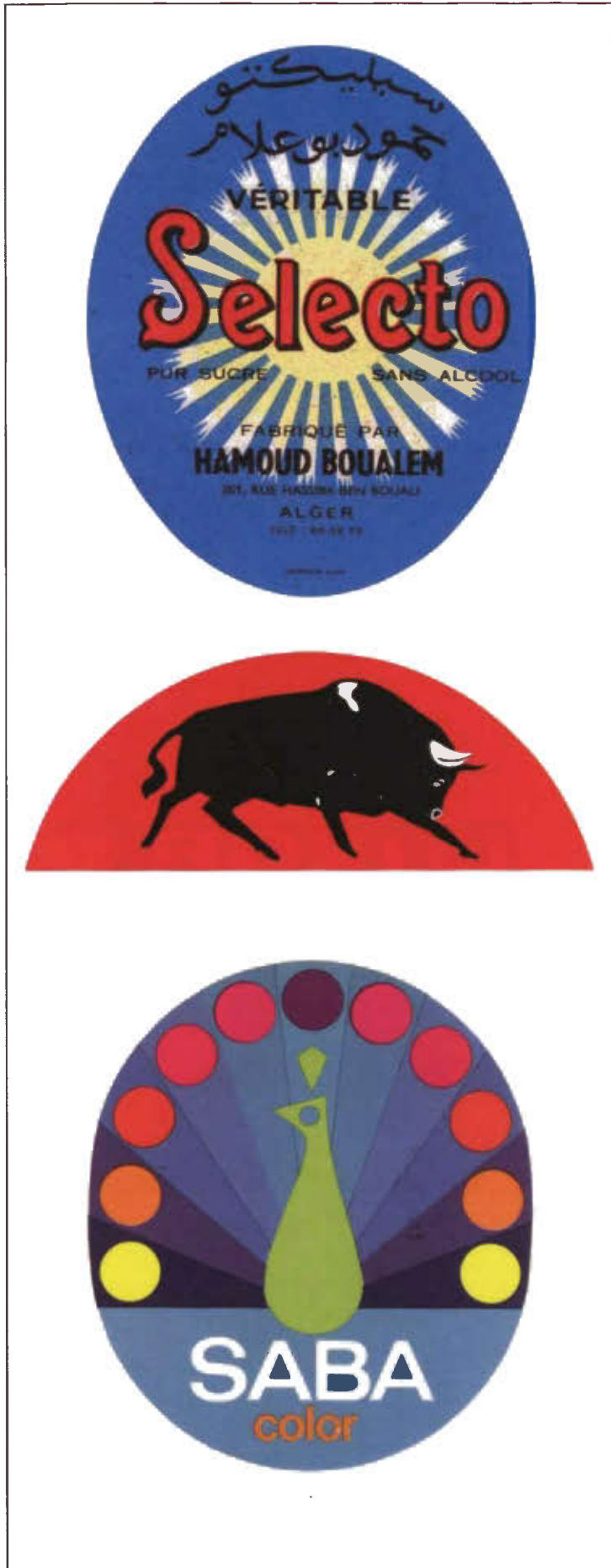
Bureau international de la propriété industrielle,

Le Directeur:

Morley



Voir au dos.



(vii) the possibility of an unlimited duration, through an initial term and subsequent renewals, of the international registration.

Each of the above-mentioned elements are separately considered in the paragraphs that follow.

EXISTENCE OF A BASIC RIGHT, THAT IS, A NATIONAL REGISTRATION IN THE COUNTRY OF ORIGIN

From the time of the first project for a system of international registration of marks, presented by the Delegation of Switzerland at the Rome Conference of 1886, the idea of a unitary system—namely, a system under which one and the same title of protection of a mark would have the same effect and be governed by the same law throughout the whole of the territory of all of the contracting countries—has been eschewed. The explanatory memorandum to the proposals of the Swiss Administration presented at the Rome Conference of 1886 opposed the adoption of a unitary system, this opposition being repeated at the Madrid Conference of 1890 in the following terms:

“Absolute unification of the system of trademarks, assuring protection throughout the whole territory of the Union to all marks regularly filed in one State of the Union, will perhaps be achieved one day; but the differences that presently exist between internal laws lead one to believe that that moment is still far off. Furthermore, the Swiss Administration does not see the need for such a complete unification of law on this matter: it even fears that marks used solely in the internal commerce of one country should be protected throughout the whole Union, since that would oblige persons seeking to choose a new trademark to consult beforehand the enormous collection of marks used in all the contracting States, in order not to become infringers without knowing it.” (*Procès-verbaux de la Conférence de Madrid de 1890 de l’Union pour la protection de la propriété industrielle*, p. 30.)

By rejecting the idea of a unitary system, the framers of the Madrid Agreement were required to develop a system which would preserve the separate national effects of the protection of a mark in each of the contracting countries, while at the same time creating the possibility for those separate national effects to be made available to any mark that originated in one of the contracting countries. Such a result required the starting point for the system of international registration to be a national registration which, through a subsequent international registration, could be given the effect of national registrations in the other contracting countries.

The proposal originally presented by the Swiss Administration at the Rome Conference of 1886 (which preceded by five years the Madrid Conference) envisaged the possibility of a direct filing with the International Bureau by the owner of the national registration. As stated in Part I above, however, the proposal was amended on the

initiative of the Delegation of Italy so as to provide for the international application to be made through the intermediary of the Office of the country of origin, the purpose of interposing the Administration of the country of origin being to compensate “contracting States for the loss of fees on foreign marks by the right to impose a fee on marks filed for international registration by their nationals.” (*Actes de la Conférence internationale de l’Union pour la protection de la propriété industrielle, Rome, 1886, p. 152.*)

ENTITLEMENT TO SEEK INTERNATIONAL REGISTRATION

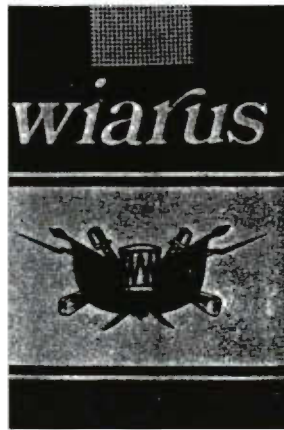
The Madrid Agreement of 1891 provided for two classes of persons to be entitled to use the system it established for obtaining international registration of their marks. One of the classes comprised the subjects or citizens of any of the contracting countries themselves (Article 1). The other class was rather generously defined and included the subjects or citizens of non-contracting countries who were domiciled or who had industrial or commercial establishments in the territory of one of the States of the *Paris Union* (Article 2).

As it became apparent that fewer countries would become members of the Madrid Union than of the Paris Union, the scope of the latter class of persons entitled to file and obtain international registrations underwent an important limitation at the Brussels Conference of 1900. The Brussels Act provided for entitlement to subjects or citizens of non-contracting countries only if they were domiciled or had real and effective industrial or commercial establishments in the territory of one of the countries members of the *Madrid Union*.

The definition of the range of persons entitled to file for international registration required a practical complement. Since it had been decided that direct filing by the owners of marks with the International Bureau was not to be allowed, it was necessary to specify the identity of the intermediary through which the filing should be made. The Madrid Agreement of 1891 used the notion of the “country of origin.” It did not, however, define the notion presumably because that notion was defined in Article 6(2) of the Paris Convention (original text). According to that Article, the country of origin is “the country in which the applicant has his principal establishment.” A formal connection was not, however, made between the definition of the term contained in the Paris Convention and the use of the term in the Madrid Agreement of 1891.

Predictably, by the time of the Hague Conference of 1925, problems had surfaced in relation to the identification of the country of origin. In the proposals and explanatory memoranda prepared by the Netherlands Administration and the International Bureau for the Hague Conference, it was noted that “On various occasions we have noticed that enterprises that have establishments in several countries have, and for very different reasons, deposited their international marks while choosing in an arbitrary manner the





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country through the intermediary of which they make their deposits.” (*Actes de la Conférence de La Haye de 1925*, p. 227.)

Not all of the cases of enterprises using different countries of origin were attributed to ignorance of the definition of “country of origin” in Article 6 of the Paris Convention. The same preliminary texts before the Hague Conference noted:

“...we know of countries where the true country of origin has been deliberately avoided, because the applicant considered that his filings there suffered from longer delays than in another, more efficient country, or because the Administration of the country of the principal establishment imposed for the deposit at Berne a national fee noticeably higher than that of the country where his secondary establishment was located. Finally, marks have been filed, or filed a second time internationally, through the intermediary of another Administration than that of the true country of origin because in the latter the national mark would have run the risk of being refused or annulled.” (*Ibid.*)

The text of the Hague Act of 1925 regulated the problem of multiple countries of origin by creating a formal and direct link with the definition of “country of origin” in what had become Article 6 of the Hague Act of the Paris Convention. That definition was in almost identical terms to the provision now contained in Article 1(3) of the Stockholm Act of the Madrid Agreement.

Article 1(3) of the Stockholm Act provides for the so-called “cascade” to determine a sole country of origin. It proceeds on the basis that the country of origin is the country of the Madrid Union where the applicant has a real and effective industrial or commercial establishment. If that criterion cannot be met because there is no such establishment, the country of origin is the country of the Madrid Union where the applicant has his domicile. If that further criterion also cannot be met, the country of origin is the country of the Madrid Union of which the applicant is a national.

The Madrid Agreement of 1891 dealt only with entitlement to benefit from the advantages of the international system of registration at the time of *filing* the international registration. The question of subsequent transfers of a mark which was the subject of the international registration was not treated. This question was taken up at the first revision conference, the Conference of Brussels of 1900. The Brussels Act added extensive provisions on the transfer of marks which were the subject of international registrations, including the rule that no transfer of a mark registered in the International Register could be effected for the benefit of a person not established in one of the “signatory countries.” In the Stockholm Act, the analogous provision is to be found in Article 9*bis*(2), with the more appropriate wording that no transfer of a mark registered in the International Register could be recorded for the benefit “of a person who is not entitled to file an international mark...”

FILING OF THE APPLICATION AND REGISTRATION

The Madrid Agreement of 1891 did not itself contain provisions concerning the procedure for application for international registration. It merely envisaged the filing of marks at the International Bureau (Article 1) followed by their immediate registration by the International Bureau (Article 3). The details concerning the application procedure were dealt with in the Regulations.

Throughout the various revisions, more of the details concerning the application procedure have been included in the text of the Agreement itself. Thus, for example, it was judged appropriate at the Hague Conference of 1925 to make provision in Article 3 for an indication, in summary form, of the procedure to be followed to obtain an international registration. In particular, it was stated that the Office of the country of origin of a mark had to certify that the particulars appearing in the international application were in accordance with the particulars in the national registration, this provision being considered opportune in order to make "the proprietors of marks more aware of the reason for which they are obliged to pass through the intermediary of the Administration of their country." (*Ibid.*, p. 278.)

Besides the addition of greater detail and sophistication in the provisions setting forth the requirements of the international application, the most significant change to have been adopted to the procedures for international application and international registration was the introduction, in Article 3(2) of the Nice Act of 1957, of the compulsory use of the classification of goods and services established by the Nice Agreement concerning the International Classification of Goods and Services to which Trademarks are Applied.

The introduction of a system of registration by class, and the use of the International Classification for that purpose, represented a major step forward. An attempt to introduce registration by class had been made with the original proposal formulated by the Delegation of Switzerland at the Rome Conference of the Paris Union of 1886, but had failed. By the time of the Nice Conference of 1957, however, it was clear that:

"In countries where registration suffices, in the absence of use, to create rights in respect of a mark, the custom spread of effecting deposits which applied not only to products made or sold by the applicant, but also to others which in no way entered into his normal field of activity. Transposed to the international level, that practice, highly prejudicial to the general interest of commerce and industry, became for the Administrations of countries conducting an examination as to prior rights the source of a useless and heavy increase of responsibility, since it required them to examine and, where applicable, to inscribe in their registers, for all the articles for which they were described, marks which, for certain of those articles, would never be used and which, in this respect, not only do not have any





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real economic interest, but even constitute veritable marks of obstruction." (*Actes de la Conférence de Nice de 1957*, p. 69.)

The adoption of the system of registration by class, with the levying of a supplementary fee for each class above the third, was directed at reducing, if not totally eliminating, those difficulties.

DESIGNATION OF CONTRACTING PARTIES IN WHICH PROTECTION IS SOUGHT

As originally adopted, the Madrid Agreement of 1891 provided for an international registration to have automatic effect in each of the contracting countries, regardless of whether the owner of the mark had, or had any intention of establishing, commercial operations in each of those countries.

By the time of the London Conference of 1934, certain disadvantages had been perceived in the system of giving automatic effect to the international registration in each contracting country. The Delegation of the Netherlands questioned whether the system should not be reconsidered. It pointed to two disadvantages, in particular, the first affecting national Administrations and the second affecting users. From the point of view of the national Administration, the fact that each international registration automatically had effect in each contracting country meant that the Administration was put to the work of examining and inscribing a number of marks in respect of which the territory of the Administration was of little or no interest to the applicant. Those Administrations which conducted an examination of marks on the grounds of registrability or prior rights, as well as those countries in which only a small part of the total number of international marks were exploited, were particularly disadvantaged. From the point of view of the users, the automatic effect produced by international registration imposed unnecessary burdens by requiring them to oppose the national effects of marks even in those countries in which the mark's protection was not desired.

In order to overcome those disadvantages, the Delegation of the Netherlands proposed during the London Conference that the applicant should be required to designate the countries in which he wished to claim protection and that the international fee should vary according to the number of countries designated. The proposal was considered, however, to be too radical to be adopted at that Conference, most delegations stating that they needed to consult with their interested circles before being able to subscribe to the proposal. It was decided, nevertheless, that the proposal should be remitted for further study.

In the period following the London Conference of 1934, four draft proposals were developed to revise the system of the automatic effect of the international registration. Each of those four draft proposals was based on the notion of the

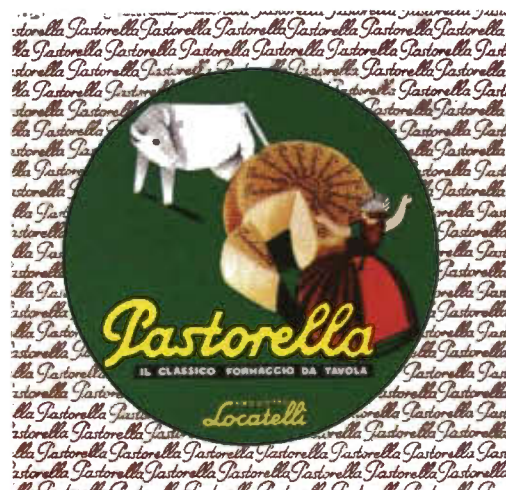
so-called territorial limitation of international registrations, according to which each international registration would be notified only to Administrations of those contracting countries in which the owner of the mark had declared that he wished to obtain protection. None of the four proposals, however, met with unanimous approval. A further proposal, accordingly, was devised, which was based on the notion of use of the mark. According to that proposal, each contracting country would be free to require, at the end of each period of five years commencing with the date of the international registration, the production of an affidavit establishing that the mark which was the subject of the registration had been utilized in its territory. In default of the production of such an affidavit, the authorities of the country concerned could annul the mark. Once again, however, the project failed to achieve unanimous approval.

In order to break the deadlock that had developed over the question, the Administration of France and the International Bureau reverted, during the preparations of the Nice Conference of 1957, to the principle of territorial limitation as the means of resolving the situation. This time, however, it was proposed to make that principle optional rather than compulsory:

“Rather than, on the one hand, imposing territorial limitation on Administrations that do not want it, or, on the other hand, prohibiting territorial limitation to those Administrations that were partisan to it, it appeared opportune to leave to each unionist State the faculty of choosing for its territory, if such were its desire, the application of territorial limitation.” (*Actes de la Conférence de Nice de 1957*, pp. 68-69.)

The new solution won acceptance at the Nice Conference of 1957. One of the major reasons for its acceptance was a fear that the system of automatic effect had been the cause of denunciation of the Madrid Agreement by several States (there were six such denunciations between 1934, when the Netherlands Delegation first proposed a system of designation, and 1957, when such a system was finally adopted) and might curtail future growth of the Madrid Union.

The new solution gave birth to Articles 3*bis* and 3*ter* of the Nice Act of 1957, which appear in substantially the same form in the corresponding Articles of the Stockholm Act of 1967. Article 3*bis* of the Stockholm Act allows any contracting country to notify the Director General of WIPO that the protection resulting from the international registration will extend to that country only at the express request of the proprietor of the mark. Article 3*ter* deals with the modalities of designating, in respect of a particular mark, a country which has chosen to adopt the principle of territorial limitation. Such a designation must be made either in the international application, that is, at the time at which the application is made (paragraph (1) of Article 3*ter*), or subsequent to the international registration by the presentation, through the intermediary of the Office of the country of origin, of a request on an official form (paragraph (2) of Article 3*ter*). The latter is usually called “later designation.”



MARTINI





REFUSAL OF PROTECTION
BY DESIGNATED CONTRACTING PARTIES

In the original proposal for the establishment of a system of international registration of marks submitted by the Swiss Delegation at the Rome Conference in 1886, the automatic effect given to an international registration was to be absolute. The Trademark Administration of the contracting countries were to have no right to refuse to accord protection. The only means of refusing protection was the invalidation of the protection by a court.

For as long as marks were not examined at the national level for conflicts with prior rights, it made sense not to accord contracting countries any right of refusal: the international scheme would mirror national practice. The idea of subjecting marks to examination for conflicts with prior rights was, however, starting to find some supporters. Sweden and Norway were such supporters. They felt unable to agree to the proposal of the Swiss Delegation, since "according to the recently adopted laws, no trademark could be accepted for legal protection before being submitted to an examination as to prior rights by the competent authority. The adoption of the Agreement proposed would oblige those countries to completely revise their legislation, and to introduce new principles." (*Actes de la Conférence internationale de l'Union pour la protection de la propriété industrielle, Rome, 1886, p. 151.*)

In consequence of such objections, the proposal put forward at the Madrid Conference of 1890 envisaged that each contracting country would have a period of one year in which to refuse to accord protection to any mark which was the subject of an international registration that had been notified to it by the International Bureau. The proposal was adopted, but the adopted text failed to state explicitly that the limitations imposed by the Paris Convention of 1883 on the right of member countries of the Paris Union to refuse registration for marks which had been duly filed in other member countries (naturally) applied in the context of the Madrid Agreement. In order to eliminate doubt, a Final Protocol to the Madrid Agreement of 1891 was adopted which made the requisite connection by specifying that the right of refusal envisaged in Article 5 of the Madrid Agreement was circumscribed by the pertinent provisions of the Paris Convention (namely, Article 6 of the Paris Convention of 1883 and paragraph 4 of the Final Protocol accompanying it).

At the time of the Brussels Conference of 1900, advantage was taken of the opportunity presented by the revision of the Madrid Agreement to insert the clarification contained in the Final Protocol to the Madrid Agreement of 1891 into the text of the Madrid Agreement itself. A sentence was added to the first paragraph of Article 5 of the Brussels Act of 1900 providing that "any such refusal can only be based on the grounds that would apply by virtue of the Convention of March 20, 1883, in the case of marks deposited for national registration."

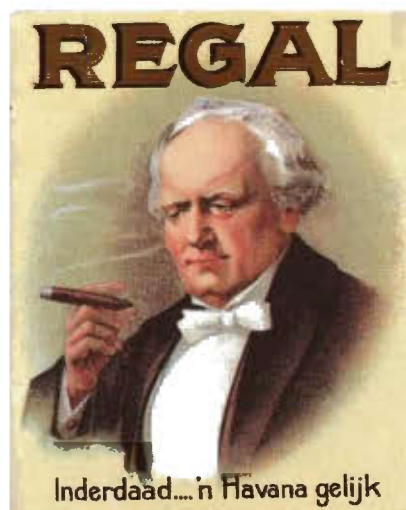
Most of the major modifications that have been made to the provisions concerning the right of contracting countries to refuse to accord protection were introduced at the London Conference of 1934. Two questions on the subject were treated at that Conference.

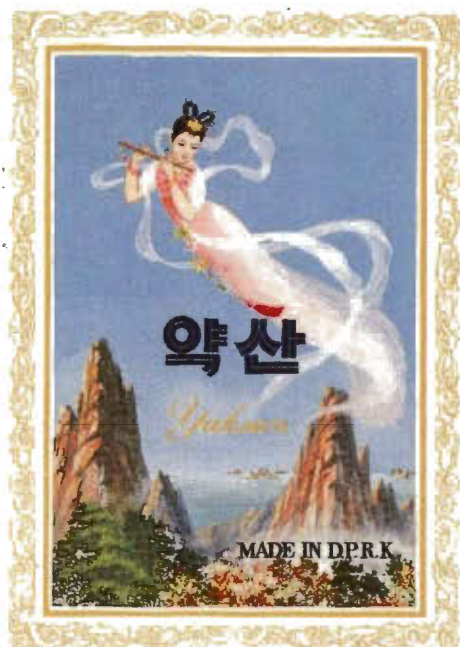
The first concerned the communication by the International Bureau to interested third parties of the grounds on which a particular contracting country may have refused protection to a mark that was the subject of an international registration. In the explanatory memorandum prepared by the United Kingdom Administration and the International Bureau for the Conference, it was observed that the International Bureau was increasingly receiving requests from third parties for the communication of such grounds of refusal. After weighing the arguments for and against making such communications, it was concluded that "industrialists and businessmen certainly had an ... interest in knowing the jurisprudence of the countries to which they wish to export their products and in knowing exactly what type of signs it would be better not to choose in order not to risk seeing protection refused in this or that country." (*Actes de la Conférence de Londres de 1934*, pp. 204-205.) A corresponding provision was, accordingly, adopted as paragraph (4) of Article 5 in the London Act of 1934.

The second question considered at the London Conference of 1934 concerned the fairness of the procedures adopted by national Administrations in respect of the invalidation of marks. The explanatory memorandum of the United Kingdom Administration and the International Bureau remarked that owners of international marks had often complained that the authorities of certain countries had invalidated marks without giving sufficient opportunity to the owners to defend their cases. The argument that the Agreement should not deal with such questions of procedure was dismissed on the basis that "registration, as a whole, constituted one administrative procedure and, if one did not assure that it had a certain security against arbitrary invalidations, it would singularly lose its value." (*Ibid.*, p. 205.) In consequence, paragraph (6) of Article 5 of the London Act of 1934, which is in substantially the same form as the corresponding provision in the Stockholm Act of 1967, was adopted and provided that an international mark could not be invalidated by the competent authorities without the proprietor of the mark having, in good time, been afforded the opportunity of proving his rights.

DEPENDENCY

An inevitable consequence of rejecting the notion of a unitary system during the initial preparation of the Madrid Agreement was the creation of a relationship of dependence between the international registration and the basic right or national registration on which the international registration was based. At first, the dependence was complete. Article 6 of the Madrid Agreement of 1891 provided that the protection resulting from the international registration "may not be invoked in favor of a mark that no longer enjoys legal





protection in the country of origin.” It thus resulted from Article 6 that the international registration had no “existence of its own.” (*Procès-verbaux de la Conférence de Madrid de 1890 de l’Union pour la protection de la propriété industrielle*, p. 33.)

The rule of total dependence of the international registration on the national registration on which it was based stayed in place until the Nice Act of 1957. In the proposals and explanatory memorandum prepared by the French Administration and the International Bureau for the Nice Conference, the desirability of such total dependence was questioned. In particular, it was argued that the total dependence of the international registration might not be entirely compatible with Article 6D of what was then the latest text of the Paris Convention, namely, the London Act of 1934. That provision, whose counterpart is now to be found in Article 6(3) of the Stockholm Act of the Paris Convention, provided, in its relevant part, that “when a trademark has been duly registered in the country of origin and then in one or more of the other countries of the Union, each of these national marks shall be considered, from the date of its registration, as independent of the mark in the country of origin....”

In order to overcome this alleged contradiction, it was proposed to delete the words “it [the protection resulting from registration at the International Bureau] may not be invoked in favor of a mark which no longer enjoys legal protection in the country of origin,” which originally appeared in Article 6 of the Madrid Agreement of 1891 and which were to be found in the London Act of 1934. The proposal was, however, considered to be too radical in that it went from a situation of total dependence to one of total independence. In particular, it was considered by the delegations attending the Nice Conference of 1957 that the total independence of the international registration would impair the principal benefit of the Madrid Agreement, namely, a single procedure. The single procedure made possible by the Madrid Agreement meant not only that there was one filing, a uniform duration, one renewal and one set of procedures for the transfer of the registration, but also that there was one procedure for attacking and bringing about the invalidation of an international registration. If the international registration was made totally independent, competitors would be put to the trouble of seeking the invalidation of the mark that was the subject of the registration in each contracting country. Amongst other things, such a result was perceived as likely to create an imbalance in the benefits made available by the Madrid Agreement since, as the Madrid Agreement had the objective of offering traders a relatively cheap means of obtaining the registration of their marks in several countries at a time, it followed “equitably that other businessmen, whose interests could be in conflict with the international registration of a mark and the national registration of which it was the consequence, could also take measures to obtain satisfaction for their interests through the means of one procedure and without great expense.” (*Actes de la Conférence de Nice de 1957*, p. 136.)

The concern to preserve the benefits of the single procedure which, in this context, has become known as the possibility of "central attack," resulted in the adoption of the compromise of a dependence limited in time. The international registration would become independent after a period of five years from the date of the international registration. That rule is now to be found in Article 6(2) of the Stockholm Act of 1967.

DURATION

From the Madrid Agreement of 1891 until the present time, the initial duration of the international registration has been 20 years. It has also been provided from the outset that the duration of the registration could be extended indefinitely.

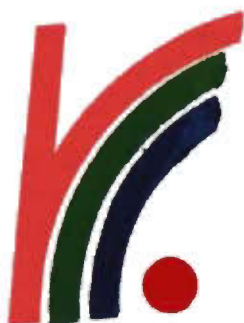
The principal changes that have occurred in the international system in relation to duration have concerned renewals. Under the Madrid Agreement of 1891, the renewal procedure was the same as the application procedure, so that the renewal was notified to each of the contracting countries which, in turn, had the possibility of refusing the renewal. In keeping with the notion of limited dependence established at the Nice Conference of 1957, the renewal procedure was revised at the same Conference so as to allow renewal to be effected "simply by the payment of the basic fee and, if necessary, of the supplementary and complementary fees" (Article 7(1) of the Act of Nice of 1957). The earlier requirements of a prior renewal in the country of origin and of the presentation of a national certification were eliminated. Renewal could be effected directly with the International Bureau since the international registration would have, by that stage, attained independence, thus obviating the need to pass by the national Administration.

Recent Developments—the Madrid Protocol of 1989

While the success of the Madrid Agreement is undoubted, the testimony of which is the number of approximately 280,000 international registrations that are in force in 1991, the geographical reach of the membership of the Madrid Union has never realized its full potential. The system has remained short of universal. Important markets have remained outside the system and, in a world in which national and regional markets are becoming increasingly integrated into one global market, attention has naturally turned to ways in which a truly universal international registration system for marks might be achieved.

The first attempt at establishing such a universal system in the relatively recent past was the Trademark Registration Treaty (TRT), which was adopted by the Vienna Diplomatic Conference on June 12, 1973. The attempt thus chose the strategic route of a completely new treaty, one which was outside the Madrid system, but which, at the same time, seeks to incorporate some of the advantageous features of the Madrid system.





Omne mundi trinum:
Mulier, tabacum, vinum.
Et qui curat de pluribus
Maximus est asinus!



Classic
THE GOLD OF NIŠ



Under the TRT, the international application does not need to be based on a mark that has already been registered at the national level. Thus, the international registration is independent in all of the countries in which it has effect from the commencement of the international registration. Like the Madrid Agreement, however, the effect of the international registration under the TRT in each of the designated States is the same as a national filing in that State. Similarly, each designated State has the right to refuse the effects of the international registration within a specified period of time.

While the TRT entered into force in 1980, the number of States that are party to it has not increased beyond the five whose accessions brought about the entry into force of the treaty. Thus, as an attempt to achieve a truly universal system of international registration of marks, the TRT did not succeed.

As it became clear that the TRT was not going to win widespread acceptance, the strategy shifted away from a completely new treaty, like the TRT, to the possibility of revising those features of the Madrid Agreement which seemed to be the cause of resistance on the part of non-contracting States to joining in the international system established by the Madrid Agreement. The difficulty with such an approach, however, was that the parties to the Madrid Agreement were satisfied with it in its present form and were not keen to risk a revision which might prejudice the benefits of the efficient functioning of the system that it created.

After lengthy discussions in committees of governmental experts convened in the years 1986 to 1989 by the International Bureau, the idea of a treaty in parallel to the Madrid Agreement was conceived. Pursuant to that idea a protocol would be concluded which would be based on the Madrid Agreement, but with the modifications considered necessary to attract certain non-members of the Madrid Union to the Madrid system. In order to benefit from the cooperation with those non-contracting countries that would become party to the new protocol, existing contracting parties to the Madrid Agreement could also become party to the protocol. At the same time, they would remain party to the Madrid Agreement which would continue to function on its present terms. For ease of administration and to provide a common forum for deliberations and decision-making, those countries which became party to the new protocol would also become members of the Special Union created by the Madrid Agreement.

The newly-conceived idea was born—like the original Madrid Agreement of 1891—in Madrid, on June 28, 1989, when what is called “the Madrid Protocol” was adopted. The features of the Madrid Agreement which were widely perceived as constituting impediments to the enlargement of the membership of the Madrid Union and which were modified in the Madrid Protocol were fourfold.

The first modification related to the basic right on which an international registration has to be based. Whereas the

Madrid Agreement requires the international application to be based on a national *registration*, the Madrid Protocol allows it to be based on a national *application*, as well as a national registration. The modification was introduced for the benefit of those countries whose Offices examine applications *ex officio* both on absolute grounds and as to conflict with earlier rights. In such cases, the processing of an application typically requires more than six months, so that it would be very difficult to file an application for international registration based on a national registration within the six-month priority period established by the Paris Convention.

The second modification was also introduced for the benefit of those countries in which the national Office carries out a full *ex officio* examination. In those cases, the time limit for refusing the effect of an international registration under the Madrid Agreement (one year) was perceived to be too short. To deal with that difficulty, the Madrid Protocol allows 18 months for refusals and an even longer period in the case of oppositions.

The third modification related to the fee structure of the Madrid Agreement. For those countries conducting a full *ex officio* examination of an application, the capacity to receive a fee as a result of a designation which was equivalent to the national fee was considered necessary in order to maintain the resources required for the examination system. The Madrid Protocol, accordingly, provides that the national Office of a designated country may, if it so desires, receive the full amount of the fee, or a substantial proportion thereof, that it would charge for a national registration.

The final feature concerned the system of central attack resulting from the relative dependence of the international registration on the national registration on which it is based. In circumstances where the reasons for cancellation were valid only in the country of the national registration forming the basis of the international registration, the effects of relative dependence (namely, the loss of effect of the international registration in all the designated countries) were considered to be unjust. To deal with this difficulty, the Madrid Protocol allows the transformation of a failed international registration into a national application in each designated country, such national applications having the filing or, where applicable, priority date of the international registration.

In addition to the above-mentioned modifications, the Madrid Protocol also establishes the possibility of a link between the Madrid system and regional trademark systems of which the future Community trade mark is expected to be a notable example.

The Madrid Protocol was signed by 28 States, including several States that are not party to the Madrid Agreement. It had not yet been ratified by any State or intergovernmental organization at the time of the one hundredth anniversary of the Madrid Agreement. Signs for the future of the Madrid Protocol and its coexistence with the Madrid Agreement are hopeful. But that future now remains to be made over the next 100 years of the Madrid Agreement.

N^o 14

27 mars 1889

ERNEST FRANCILLON & C^{ie},
FABRIQUE DES LONGINES, fabricants

ST-IMIER (Suisse)



Boîtes et mouvements de montres



La marque ci-dessus a été enregistrée en Suisse
le 27 mai 1889 sous le N^o 2684

Part III

The Development of the Administration of the Madrid Union

Membership

The membership of the Madrid Union developed in an interesting way: naturally, amongst the most important periods of membership was the beginning, from 1892, when ratifications were exchanged for the first time, until 1896. But there was also a significant number of new memberships (nine) between the adoption of the Washington Act in 1911 and the end of 1925, possibly partially indicating a delayed reaction after the First World War. More predictably, the third particularly fruitful period of membership came after the adoption of the Stockholm Act in 1967, through the 1970s and 1980s; this was a consequence of the creation of the World Intellectual Property Organization, henceforth administrator of the Madrid system, and its ever growing influence in international cooperation in the field of intellectual property.

The following States ratified or acceded to the various Acts of the Madrid Agreement in the last one hundred years:

Original 1891 texts: Belgium, Brazil (ceased to be a member in 1934), France, Italy, Netherlands, Portugal, Spain, Switzerland, Tunisia (9).

Brussels Act, 1900: *New members*: Austria, Cuba (ceased to be a member in 1932, but rejoined in 1989), Hungary, Mexico (ceased to be a member in 1943). *Others*: Belgium, Brazil, France, Italy, Netherlands, Portugal, Spain, Switzerland, Tunisia (total of 13).

Washington Act, 1911: *New members*: Czechoslovakia, Danzig (Free City of), Germany, Latvia (ceased to be a member in 1926), Luxembourg, Morocco, Romania, Serbia-Croatia-Slovenia, Turkey (ceased to be a member in

1956). *Others*: Austria, Cuba, France, Hungary, Italy, Mexico, Netherlands, Portugal, Spain, Switzerland, Tunisia (total of 20).

The Hague Act, 1925: *New members*: Liechtenstein, Slovakia, Tangier. *Others*: Austria, Belgium, Brazil, Czechoslovakia, France, Germany, Hungary, Italy, Mexico, Morocco, Netherlands, Portugal, Romania, Spain, Switzerland, Tunisia, Turkey, Yugoslavia (total of 21).

London Act, 1934: *New members*: Egypt, Monaco, San Marino, Viet Nam. *Others*: Austria, Belgium, Czechoslovakia, France, Germany, Hungary, Italy, Liechtenstein, Luxembourg, Morocco, Netherlands, Portugal, Romania, Spain, Switzerland, Tangier, Tunisia, Yugoslavia (total of 22).

Nice Act, 1957: *New member*: German Democratic Republic (ceased to be a member in 1990). *Others*: Austria, Belgium, Czechoslovakia, Egypt, France, Germany (Federal Republic of), Hungary, Italy, Liechtenstein, Luxembourg, Monaco, Morocco, Netherlands, Portugal, Romania, San Marino, Spain, Switzerland, Tunisia (ceased to be a member in 1988), Yugoslavia (total of 21).

Stockholm Act, 1967: *New members*: Algeria, Bulgaria, China, Democratic People's Republic of Korea, Mongolia, Poland, Soviet Union, Sudan. *Others*: Austria, Belgium, Cuba, Czechoslovakia, Egypt, France, German Democratic Republic (ceased to be a member in 1990), Germany (Federal Republic of), Hungary, Italy, Liechtenstein, Luxembourg, Monaco, Morocco, Netherlands, Portugal, Romania, San Marino, Spain, Switzerland, Viet Nam, Yugoslavia (total of 30 members having ratified or acceded to the Stockholm Act). Total membership: 29 States, after the unification of the two parts of Germany.

The First Hundred Years of the Madrid Agreement

Madrid Union Membership

The following list shows the present members of the Madrid Union in the order of the years in which they became members:

1892	Belgium, France, Spain, Switzerland
1893	Netherlands, Portugal
1894	Italy
1905	Cuba
1909	Austria, Hungary
1917	Morocco
1919	Czechoslovakia
1920	Romania
1922	Germany
1924	Luxembourg
1928	Yugoslavia
1930	Liechtenstein
1949	Viet Nam
1952	Egypt

1956	Monaco
1960	San Marino
1972	Algeria
1976	Soviet Union
1980	Democratic People's Republic of Korea
1984	Sudan
1985	Bulgaria, Mongolia
1989	China
1991	Poland

Use of the Madrid System

The facilities offered by the Madrid Agreement began to function on January 1, 1893. The tables and data below indicate the numbers of international registrations and renewals from the beginning until the end of 1990. It should be noted that until December 14, 1966, renewals of previous registrations were in the form of new registrations.

Registrations*

Year	Registrations	Year	Registrations	Year	Registrations
1893	76	1918	987	1943	5,612
1894	231	1919	1,575	1944	4,502
1895	229	1920	2,284	1945	3,682
1896	304	1921	2,562	1946	4,560
1897	409	1922	2,653	1947	4,616
Cumulative total	1,249		29,014		133,967
1898	451	1923	5,258	1948	5,981
1899	323	1924	5,487	1949	4,801
1900	368	1925	5,387	1950	6,309
1901	369	1926	4,888	1951	7,569
1902	435	1927	5,255	1952	7,552
Cumulative total	3,195		55,289		166,179
1903	577	1928	5,976	1953	7,572
1904	547	1929	5,917	1954	8,069
1905	691	1930	5,760	1955	7,955
1906	749	1931	4,482	1956	7,909
1907	789	1932	3,946	1957	8,501
Cumulative total	6,548		81,370		206,185
1908	908	1933	3,550	1958	9,873
1909	1,302	1934	3,453	1959	11,296
1910	1,409	1935	2,822	1960	11,662
1911	1,517	1936	3,204	1961	12,079
1912	1,553	1937	2,905	1962	12,872
Cumulative total	13,237		97,304		263,967
1913	1,934	1938	2,800	1963	14,193
1914	1,394	1939	2,476	1964	14,423
1915	658	1940	1,951	1965	14,596
1916	850	1941	2,913		307,179
1917	880	1942	3,551		
Cumulative total	18,953		110,995		

* Until December 14, 1966, renewals were in the form of new registrations.

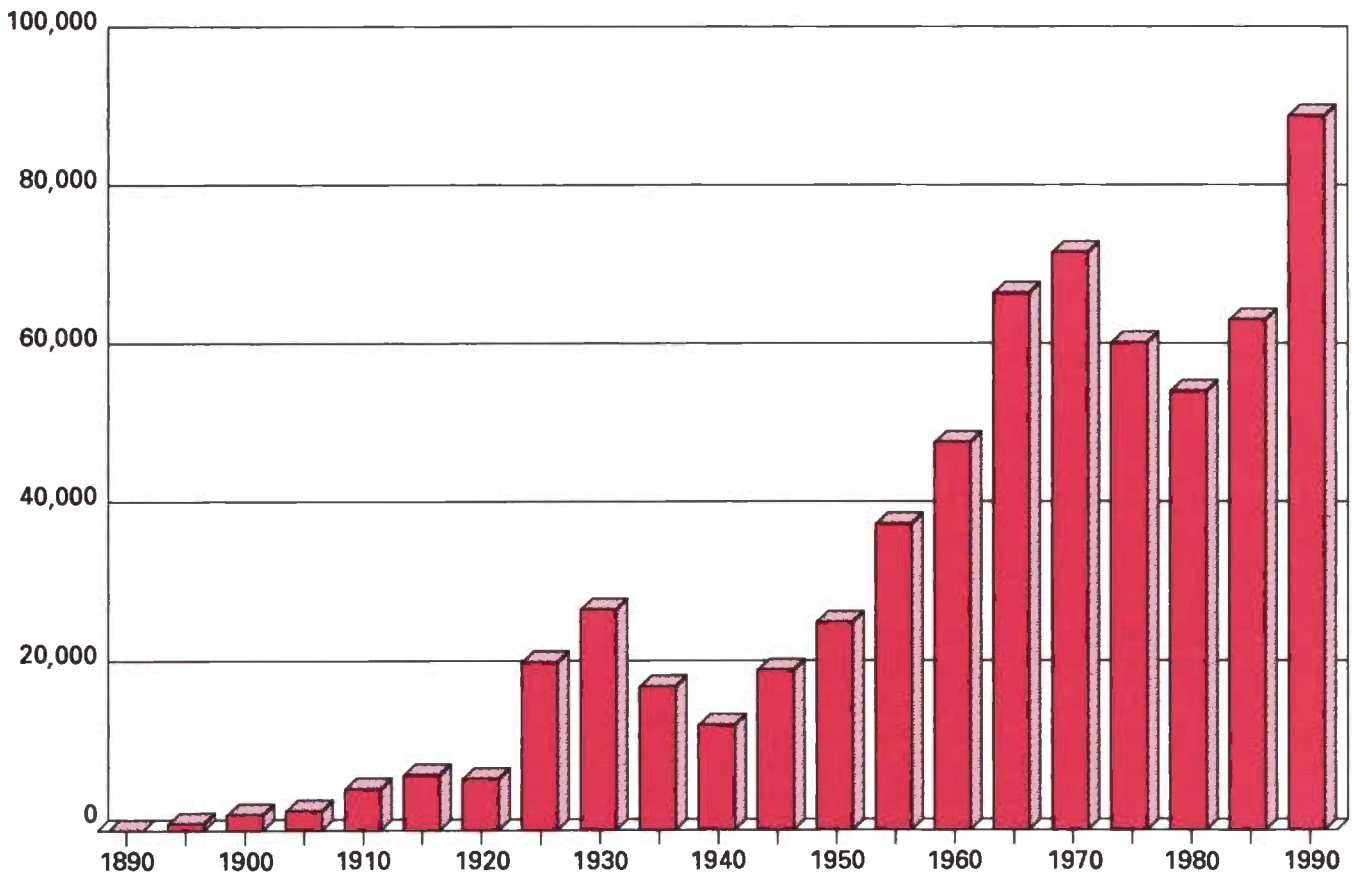
The First Hundred Years of the Madrid Agreement

Registrations and Renewals from 1966

Year	Registrations	Renewals	Total Registrations and Renewals
1966	24,258*	1**	24,259
1967	9,598	689	10,287
1968	11,024	1,713	12,737
1969	11,435	1,554	12,989
1970	10,731	2,328	<u>13,059</u>
Cumulative total			380,510
1971	9,583	3,204	12,787
1972	10,781	3,431	14,212
1973	8,942	3,112	12,054
1974	8,858	3,468	12,326
1975	7,203	3,190	<u>10,393</u>
Cumulative total			442,282
1976	7,393	3,002	10,395
1977	7,544	3,006	10,550
1978	7,307	3,724	11,031
1979	7,359	3,913	11,272
1980	8,028	4,310	<u>12,338</u>
Cumulative total			497,868
1981	8,269	4,249	12,518
1982	8,096	4,464	12,560
1983	8,047	4,882	12,929
1984	8,246	4,799	13,045
1985	8,961	4,735	<u>13,696</u>
Cumulative total			562,616
1986	9,167	8,242	17,409
1987	10,186	3,611	13,797
1988	13,016	4,538	17,554
1989	14,896	4,592	19,488
1990	17,157	4,854	<u>22,011</u>
Cumulative total			652,875

* Until December 14, 1966, renewals were in the form of new registrations. ** From December 15 to 31, 1966.

Registrations and Renewals by Five-Year Periods



The Finances of the Madrid Union

SOURCES OF THE UNION'S INCOME

Registration and Renewal Fees. The main source of the Madrid Union's income is the registration and renewal fees paid by the users of the international registration system.

The first of the major fees, and the only one to subsist in the same form from the very beginnings to the present day, is the basic fee for the registration or renewal of a single mark. It was established as the sole fee in 1891, as has been stated in Part I, at a flat rate of 100 Swiss francs. The Brussels Act of the Madrid Agreement, which came into force in 1902, made provision for a system of advantageous multiple deposits, whereby the same depositor could internationally register, simultaneously with a first mark (still at 100 Swiss francs), any additional marks at half price.

These fees remained unchanged until June 1, 1928, when the revision of the Madrid Agreement undertaken at The Hague in 1925 came into force. The basic fee for registration or renewal of a single mark then rose to 150 Swiss francs, and the cost of simultaneous additional registrations or renewals rose to 100 Swiss francs. The Hague Act also introduced an optional system of payment of the above-mentioned registration fees in two installments, each covering a 10-year period: the first installment was a payment of 100 Swiss francs for a single mark, and 75 Swiss francs per additional simultaneous registration, and the second installment 75 Swiss francs for the single mark, and 50 Swiss francs per additional simultaneous registration.

These fees, as revised at The Hague, remained stable until the entry into force, on December 15, 1966, of the Nice Act of the Madrid Agreement. In 1966, the basic fee for the registration or renewal of a single mark rose to 200 Swiss francs, and the fee for registration of any additional simultaneously registered or renewed mark rose to 150 Swiss francs. The two installments for registration per 10-year period also rose: the first installment became 125 Swiss francs for a single mark and 100 Swiss francs for any additional simultaneous one, and the second installment 100 Swiss francs for the single mark, and 75 Swiss francs for any additional simultaneously registered mark. It was the last occurrence of the lower rate for multiple deposits, which was discontinued in the Stockholm Act.

The increases of 1966 marked the end of an era of stable fees for long periods. Rising costs, notably caused by the phenomenon of worldwide inflation, necessitated more frequent increases in the fees, especially through the 1970s. The basic fee for a registration, for example, was raised some eight times after 1966, the last time as from April 1, 1990. It is at present 720 Swiss francs for a single payment; in installments, the first payment is 470 Swiss francs, and the second 600 Swiss francs. A table tracing the evolution of the amounts of the basic fee for the registration of a single mark or, at a certain period, for the first mark of a multiple deposit, is shown below.

Changes in the International Application Fee for a Single Trademark

	Amounts in Swiss francs	Approximate Equivalents in US dollars
1893	100	19
1928	150	28
1966	200	46
1968	250	58
1970	300	69
1973	400	129
1975	480	192
1976	530	212
1977	580	241
1984	670	291
1990	720	514

The income from the above-mentioned basic fees has always been credited to the Madrid Union's account for use by the International Bureau in running international registration services under the Madrid Agreement. The income from these basic fees in the 1988-89 biennium amounted to 24,043,730 Swiss francs.

Complementary and Supplementary Fees. In contrast to the basic fee, income from the Union's two other major types of fees complementary and supplementary fees are not part of the International Bureau's budget, but are distributed to member States of the Union. It is worthwhile first to outline the origin and evolution of complementary and supplementary fees.

Both of them originated in the Nice revision of the Madrid Agreement (1957), which came into force in 1966. The complementary fee arose from Articles 3*bis* and 3*ter* of the Agreement, whereby a member State could specify a "territorial limitation," namely, that it would extend protection to an international registration only at the express request of the proprietor of the mark. Article 8(2)(c) of the Nice Agreement laid down a complementary fee of 25 Swiss francs per country, for any request by an applicant for "territorial extension" of protection to a country which had opted for the territorial limitation referred to above.

Evolution of Complementary and Supplementary Fees

	Complementary Fees (in Swiss francs)	Approximate Equivalents in US dollars	Supplementary Fees (in Swiss francs)	Approximate Equivalents in US dollars
1966	25	5.80	25	5.80
1973	40	13	40	13
1975	48	19	48	19
1976	53	21	53	21
1977	58	24	58	24
1984	68	29	68	29
1989	80	50	68	42.50
1990	80	57	80	57

The supplementary fee arose from the introduction of the compulsory application of a new "International Classification of Goods and Services to which Trademarks are Applied," as established by the Nice Agreement. Applicants for international registration were now required to indicate the goods or services in respect of which protection of a mark was claimed, using the above-mentioned International Classification as far as possible.

The supplementary fee was a surcharge of 25 Swiss francs for each class over and above three into which the goods or services to which a mark was to be applied would be placed.

Since their inception, for most of the time these fees have both been of an identical amount; they, too, rose most perceptibly in the 1970s. For example, in 1973 they were both at the unitary rate of 40 Swiss francs, in 1975 at 48 Swiss francs, in 1976 at 53 Swiss francs, in 1977 at 58 Swiss francs, and in 1984 at 68 Swiss francs. In 1989, the supplementary fee was 68 Swiss francs, and the complementary fee at 80 Swiss francs, but by April 1, 1990, the date of the last change, both types of fees were again set at the same amount of 80 Swiss francs. A table tracing the evolution of the amounts of complementary and supplementary fees is shown above.

The income from complementary and supplementary fees is not part of the International Bureau's income. It is set aside for distribution to member States. The basis for their distribution established at Nice was something new: it was determined by taking into account the number of applications for international protection originating in the member State during each year. This factor was additionally weighted in favor of countries practicing preliminary examination, by multiplying it with a coefficient, which was fixed at three in the 1966 Regulations. There followed differentiation between member States practicing prior examination in varying degrees, in the Regulations which came into force on October 1, 1970: for countries examining only absolute causes of nullity, the coefficient would be two, for countries also examining anticipation following opposition by third parties, it would be three, and for countries also examining anticipation *ex officio*, it would be four. From 1974, a coefficient of four was also applied to countries carrying out anticipation searches *ex officio* with an indication of the most significant anticipations.

The complementary fees collected in 1990 amounted to 17,651,840 Swiss francs. The supplementary fees collected in 1990 amounted to 877,084 Swiss francs. The following table gives details of their distribution to member countries.

Other Fees. Various other fees have been a source of income for the Madrid Union. Amongst the first of them to be introduced, at the very beginning of this century, were fees for provision by the International Bureau of extracts from the International Register of Marks.

Distribution of Supplementary and Complementary Fees for 1990 (in Swiss francs)

(States in French Alphabetical Order)

	Supplementary Fees	Complementary Fees	Total
Algeria	8,236.48	168,022.24	176,258.72
Germany (Federal Republic of)*	48,578.65	897,819.99	946,398.64
German Democratic Republic*	49,418.83	1,366,469.74	1,415,888.57
Germany**	9,437.24	187,501.56	196,938.80
Austria	39,619.55	736,099.89	775,719.44
Benelux	91,138.48	1,673,868.13	1,765,006.61
Bulgaria	19,495.20	489,691.59	509,186.79
China	12,043.—	227,397.73	239,440.73
Cuba	6,389.21	120,626.01	127,015.22
Egypt	25,131.73	477,295.65	502,427.38
Spain	81,859.18	1,561,471.36	1,643,330.54
France	39,846.49	728,599.83	768,446.32
Hungary	48,367.34	1,063,967.21	1,112,334.55
Italy	42,687.75	790,110.76	832,798.51
Liechtenstein	11,454.07	211,538.22	222,992.29
Morocco	8,930.27	166,589.93	175,520.20
Monaco	19,434.87	362,971.78	382,406.65
Mongolia	8,193.40	152,917.94	161,111.34
Portugal	69,735.72	1,356,469.65	1,426,205.37
Democratic People's Republic of Korea	12,232.63	246,668.72	258,901.35
Romania	32,560.90	694,693.30	727,254.20
San Marino	5,310.47	100,026.88	105,337.35
Sudan	9,813.69	196,147.47	205,961.16
Switzerland	40,748.58	750,475.01	791,223.59
Czechoslovakia	46,724.03	1,024,696.05	1,071,420.08
Soviet Union	29,458.27	640,109.51	669,567.78
Viet Nam	11,255.86	243,231.20	254,487.06
Yugoslavia	48,982.11	1,016,362.65	1,065,344.76
	877,084.—	17,651,840.—	18,528,924.—

* Until October 2, 1990.

** As from October 3, 1990.

The Hague Act of the Madrid Agreement, which came into force in 1928, introduced new fees, most of which remain in their essence until today, particularly for changes made to existing entries in the International Register of Marks: these covered matters such as transfers, changes of name and domicile, correction of a depositor's mistakes, limitations of products after initial registration, or renunciations of protection after initial registration for one or more than one country.

The recent numerical and financial significance of these operations concerning the provision of extracts from the International Register, and the recording of changes in it, are apparent in the table given on page 54.

**Recordal of Changes in the International Register
1988-89**

	Nos. in 1988	Nos. in 1989	Total 1988-89	Income (in Swiss francs)	
Territorial extensions after first registration	2,490	2,069	4,559	} 2,535,995	
Transfers	4,713	5,669	10,382		
Partial assignment	196	190	386		
Cancellations (for all countries, products and services)	1,235	1,140	2,375		
Renunciations of protection for some countries	304	331	635		
Limitations in the list of products and services	573	789	1,362		
Change of name and/or address of owner	4,886	4,280	9,166		
Miscellaneous changes (e.g., regarding agent, corrections, etc.)	4,497	5,912	10,409		
Totals:	18,894	20,380	39,274		
Other Services					
Extracts from the International Register	5,648	5,727	11,375	630,936	

Surcharges. The system of surcharges, first introduced in the Nice Act of the Madrid Agreement, also brings a certain income to the Madrid Union. At present, surcharges cover the use of a period of grace for late payment of second installments for initial registration and late payment of renewal of registrations (the surcharge is 50% of the sums first due), the requirement by the mark owner of a figurative element or word mark in a special form of writing, except for those published in color (the unitary surcharge is 60 Swiss francs), marks published in color (the unitary surcharge is 400 Swiss francs), and certain services provided by the International Bureau in the field of classification of goods and services: the latter services are called for when the International Bureau has to group an applicant's goods and services into classes in accordance with the International Classification in the case of the applicant's failure to do so (the unitary surcharge is 60 Swiss francs), there being an additional surcharge of 4 Swiss francs for each word printed over and above 20 in the publication of the classification in classes, and another surcharge of 4 Swiss francs per word in the case of the International Bureau having to correct more than 19 words of incorrect classification by the applicant. The amount of income from these surcharges, for the 1988-89 biennium, was 1,055,728 Swiss francs.

Income from Publications. The remaining significant source of income (albeit a long way behind fees and charges) of the Madrid Union is from the Union's publications, and this very largely from the advertising within, and the sale of, *Les Marques internationales*. In the 1988-89 biennium, some 44,280 copies of the *Les Marques interna-*

tionales were printed, and they brought to the Union an income of 883,652 Swiss francs in that same period. All the Union's publications in that biennium brought an income of 1,077,316 Swiss francs.

ESTABLISHMENT OF FEES

Over 88% of the Madrid Union's budgetary income of 31,893,346 Swiss francs in the 1988-89 biennium came from the fees the International Bureau was empowered to charge, and this well reflects their financial significance throughout the history of the Madrid Union.

The major items of the Union's income, the fees and charges mentioned above, were at first fixed in the Diplomatic Conferences which established, then revised, the Madrid Agreement. This meant that fees could only be increased at the next revision of the Madrid Agreement, or alternatively between Diplomatic Conferences by the International Bureau's correspondence with all the member States, seeking their acceptance of any increases proposed.

The Nice Act for the first time modified that procedure, when it came into force in 1966. Article 10(4) of the Nice Act enabled the Director of the International Bureau to make proposals to an administrative organ of the Madrid Union, then the Committee of Directors of the National Industrial Property Offices of the Madrid Union; that Committee was empowered to approve the Director's proposals, and to confer on him, with the unanimous consent of the countries represented, the authority to raise fees and charges in both the Agreement and its Regulations.

The process of delegating the authority to modify fees was continued and improved in the Stockholm Act of the Madrid Agreement, which, moreover, differentiated, in the procedures established, between the major and other fees of the Madrid Union. In accordance with Article 12, the new administrative organ created by the Stockholm Act, the Assembly of the Madrid Union, was to fix the major fees related to international registration and renewal (registration fees, and supplementary and complementary fees, under Article 8) on the Director General's proposal, whilst other fees and charges were to be fixed by the Director General and reported to the Assembly.

It was the Nice revision that removed the need for a Diplomatic Conference, or alternatively for extraordinary correspondence procedures, in order to make changes in the Union's finances. The Committee of Directors of the National Industrial Property Offices of the Madrid Union, as established in the Nice Act, could be convened by the Director of the International Bureau or at the request of five member States, but in any case had to meet at least every five years.

The Assembly, as established at Stockholm, was initially required to hold its ordinary sessions every three years, but in 1979, the periodicity of the ordinary sessions of the administrative organs of the Madrid Union was established as every two years.

EXPENDITURE OF THE UNION

The Madrid Union's major single items of budgetary expenditure are staff costs and the printing costs of its publications. In the 1988-89 biennium, the staff costs were 14,476,150 Swiss francs, and the printing costs 2,845,301 Swiss francs. The other items of budgetary expenditure (for example, conferences, communications, expenditure on buildings and materials) in the same biennium came to 7,395,117 Swiss francs. The total budgetary expenditure for the last biennium was therefore 24,716,568 Swiss francs.

SURPLUS AFTER COMPARISON OF INCOME AND EXPENDITURE

Surpluses of income over expenditure are in part distributed to member States. The 1988-89 biennium showed a surplus of 7,176,778.07 Swiss francs. The percentage of the surplus for distribution to member States, which is at present fixed at 40% of it, came to 2,870,712 Swiss francs for the last biennium; this sum, halved, came to 1,435,356 Swiss francs for each of the years 1988 and 1989. The remaining 60% of the Union's surplus income was paid into the Union's Reserve Fund.

THE RESERVE FUND

The creation of reserves out of a part of the annual surplus of the Union's income was institutionalized in 1963; the interest earned by sums in the Reserve Fund was, and continues to be, credited to that Fund. Its purpose is to provide a general safeguard and guarantee for the continuing solvency of the Madrid Union. At the end of 1989, the Union's Reserve Fund stood at 21,345,148.53 Swiss francs. The resources of this Reserve Fund in turn contributed, by transfer of its funds, to the establishment of a Working Capital Fund.

THE WORKING CAPITAL FUND

The creation of this Fund was provided for in the Stockholm Act of the Madrid Agreement, and the Working Capital Fund was established in 1979. Its purpose is to provide greater day-to-day liquidity, to cover running expenses of the Madrid Union during the year for which funds are assured and expected but not immediately available. At the end of 1989, it stood at 2,000,000 Swiss francs.

THE ACCOUNTS OF THE MADRID UNION

Full financial statements, showing the accounts of the Madrid Union, have always been submitted to the Union's member States for information and approval. In the earlier history of the Union, since the International Bureau and the activities of its Unions were initially placed under the supervision of the "High Administration of the Swiss Confederation," the Swiss Administration had the responsibility for auditing the Madrid Union's accounts, and submitting its findings to member States. The International Bureau, from the very beginnings of the Registrations Service in 1893, prepared annual "Management Reports" covering the Madrid Union, under the supervision of the Swiss Administration, for presentation to the member States, and these reports reflected the results of the Swiss Government's auditing of the accounts.

When the World Intellectual Property Organization, established at the Stockholm Diplomatic Conference, came into being in 1970, initiating a new administrative structure, the Government of the Swiss Confederation continued to audit the Madrid Union's accounts, not automatically as before, but by designation of the appropriate Governing Bodies—the WIPO General Assembly and the Madrid Union Assembly, which now have vested in them the authority to appoint the auditors of the Union's accounts. Following WIPO's entry into the United Nations system in 1974, and the subsequent adoption of a biennial budgeting cycle in 1979, WIPO's Management Reports also became biennial, as from the 1982-83 biennium. Once the accounts of the Union are audited, they are reflected in the "Financial Management Report" and sent for information to the member States. The auditor's report is also sent to them and is presented to the Governing Bodies for their information and approval at their ordinary sessions.

THE MADRID UNION'S BUDGET

The budgeting procedures of the Madrid Union—that is to say, the process in which its finances are estimated and planned for in advance—are of more recent date. For many years, the Madrid Union functioned without forward planning, by simply spending its income as necessary, and as we have seen above, by accounting for income, expenditure and any remainder at the end of each year. The creation of a reserve (first established in 1951, and the forerunner of the Reserve Fund established in 1963) from surplus revenues, to meet ongoing needs and possible deficits, was the only financial safety mechanism in the period before budgetary planning.

The establishment of the World Intellectual Property Organization, at the Stockholm Diplomatic Conference, meant that the Madrid Union became one of the Unions administered by WIPO as from 1970, and was to plan its finances in the framework of a global triennial budget. Annual draft budgets were drawn up by the International Bureau and submitted to the WIPO Coordination Committee for approval, whilst the triennial budget of the Union

was adopted by the Assembly of the Madrid Union in its corresponding triennial ordinary sessions. This budget cycle was reviewed and modified following the entry of WIPO (in 1974) into the United Nations system, within which medium-term planning and biennial budget cycles were generally practiced. In their third ordinary sessions in 1979, the Assembly and Committee of Directors of the Madrid Union approved the abolition of yearly programs and budgets within triennial cycles, substituting biennial programs and budget cycles; the periodicity of the ordinary sessions of the administrative organs of the Madrid Union therefore also became biennial.

The budgeting process now begins with the International Bureau's estimates and proposals for the coming biennium, taking into account a program of activities for the Madrid Union, and balancing these with the expected income and expenditure of the Union. Projections are made, considering factors such as the numbers of international registrations and renewals, and of actions related to them, and the expected level of inflation; naturally, increases in fees and other charges may be proposed in the light of these projections.

These estimates and proposals are submitted to a Budget Committee, early in the year of the ordinary session of the Governing Bodies. This Committee (a select body of representatives of Member States of WIPO, appointed by the WIPO General Assembly and the Assemblies of the appropriate Unions) adopts a report on the proposed program and budget, which, together with the observations of the Director General of WIPO, are put before the Governing Bodies later in the year, for their final decision and for their adoption of a final program and budget for the coming biennium.

"Les Marques internationales"

The Madrid Union's publication, *Les Marques Internationales*, was a statutory obligation laid on the International Bureau from the very beginning, in Article 3 of the Madrid Act of the Agreement, with details elaborated in the Regulations, and intended to be an integral part of the process of international registration.

Les Marques internationales has always been published only in French, the official language of the Madrid Union, and on a monthly basis. In 1891, it was decided that the forthcoming publication, *Les Marques internationales*, would be a supplement to the journal of the International Bureau—in this case, *La Propriété industrielle*—and was to contain either a reproduction or a written description of every internationally registered mark, together with indications of the date of international registration, the serial number of the mark, the name and address of the applicant, the goods to which the mark applied and the mark's country of origin, as well as its date of registration and its serial number in that country. The International Bureau was also to publish, at the beginning of each year, in respect of each member State and in alphabetical order, the names of the owners of the marks published during the preceding year.

From 1895 onwards, annual tables and the monthly issues also progressively came to show other data, such as transfers, cancellations, changes and corrections affecting marks, as well as tables by categories of products to which marks applied, using a kind of classification system not yet formalized. By 1912, limitations of products to which marks applied were also notified. Very important for future years were the statistical tables published in the January issue of 1907, concerning the registrations, refusals, transfers and cancellations of marks from the very beginning (1893) to the end of 1906; this set a trend which was never discontinued.

The Washington revision in 1911 took due account of the growing volume of the publication: for the first time, *Les Marques internationales* was not referred to in an Act of the Madrid Agreement as an appendage of another publication, but as a periodical journal in its own right. The Washington Act also reinforced the publicity value of *Les Marques internationales*, by stating that publication of international marks within its pages was sufficient in itself for the purposes of disseminating information, and that no other publicity measures could be required of the applicant.

The Diplomatic Conferences held in The Hague (1925) and London (1934), besides tightening up on the precision

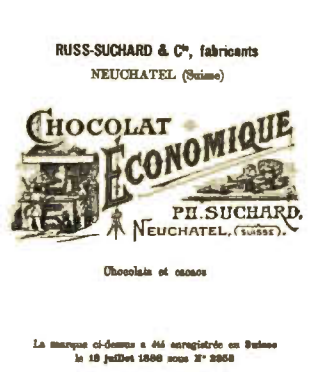
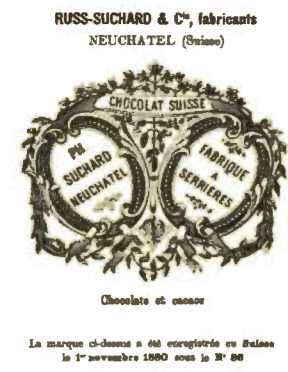
LES
MARQUES INTERNATIONALES

SUPPLÉMENT DE LA « PROPRIÉTÉ INDUSTRIELLE »
Organe officiel du Bureau de l'Union internationale pour la protection de la propriété industrielle
Première année. — N° 1 Mercredi, 1^{er} Février 1900 Marques N° 1 à 8

ENREGISTREMENTS
affectés au Bureau international en vertu de l'Arrangement du 14 avril 1891 concernant l'enregistrement international des marques de fabrique ou de commerce

L'enregistrement international des marques se fait par l'intermédiaire de l'Administration du pays d'origine (article 1^{er} de l'Arrangement). Il est étendu automatiquement sur les autres pays de l'Union internationale par l'intermédiaire de l'Administration du pays d'origine et du propriétaire de la marque, lequel sera tenu de déclarer que si cette dernière avait été déposée dans le pays où la protection est réclamée (art. 5). La protection résultant de l'enregistrement international dure vingt ans, mais ne peut être invoquée en faveur d'une marque qui ne jouit pas de la protection légale dans le pays d'origine (art. 6).

MARQUES ENREGISTRÉES
N° 1 22 Janvier 1900 N° 8 23 Janvier 1900



of the information on the international registrations contained in the periodical (which was to be taken from the international application and the applicant's printing block), began to address the question of free copies to member States: from the outset, in 1893, member States could obtain from the International Bureau, free of charge, as many copies of *Les Marques internationales* as they requested. This became expensive for the International Bureau as the volume of the publication grew steadily (200 pages for the full year of 1911, 679 pages for 1923, and 772 for 1930, as compared with 30 pages for the whole of 1893), and printing and distribution costs also increased.

In the Diplomatic Conference at Nice, in 1957, it was decided (Article 3(5) of the Nice Act) that the appropriate Administrations of member States would receive a number of copies free and at a reduced price, the precise number being in proportion to the number of units determining a country's financial contribution under Article 13(8) of the Paris Convention. In the Regulations applicable when the Nice Act came into force in 1966, this amounted to two free copies and two copies at half price in respect of each unit corresponding to the class of contributions selected in accordance with Article 13(8) of the Paris Convention. The

Stockholm revision in 1967 confirmed this system. Monthly figures for 1990 show some 342 free copies, and some 1,258 partially or wholly paid for copies sent to some 44 countries, of which 15 were not member States and 29 were at that time member States. Some 1,820 copies a month were printed in 1990.

In its earliest days in the 1890s, as a supplement appended and in addition to *La Propriété industrielle*, the annual subscription was 5 Swiss francs within Switzerland, and 5.60 Swiss francs for other countries within the Universal Postal Union, whereas the annual subscription for *Les Marques internationales* alone was 3 Swiss francs and 3.60 Swiss francs, respectively; a single issue of *Les Marques internationales* cost 50 centimes.

The current prices are 410 Swiss francs for the annual edition, as well as for the annual edition on microfiches (instituted in 1982), 720 Swiss francs for the combined annual ordinary and microfiches editions, and 51 Swiss francs for a single issue of the ordinary edition.

From 1893 to the present day without interruption, and still progressing in content and volume, is an outstanding history for any publication. From barely three pages in the first issue in February 1893, it has come to 567 pages in the January issue of 1991; from 30 pages for the full year of 1893, the publication contained some 7,816 pages in the year 1990. From 1893 to the end of 1990, over 132,461 pages were printed in *Les Marques internationales*, and it is estimated that by the end of 1991, the total number of pages printed since the very beginning will exceed 140,000.

In the 97 years from 1893 to the end of 1990, there have been some 1,175 issues of *Les Marques internationales*. Those issues have given publicity to and basic information about 652,875 international registrations and renewals of marks, as well as about related actions which affected their status. On January 1, 1991, some 280,000 international registrations and renewals were valid. These figures speak eloquently for the value of *Les Marques internationales*.

The Staff of the International Registration Service

From 1888 to 1892, the Paris Union for the Protection of Industrial Property (set up by the Paris Convention in 1883) and the Berne Union for the Protection of Literary and Artistic Works (set up by the Berne Convention in 1886) were grouped together in Berne, under the "high authority" of the Administration of the Swiss Confederation, to form the "Bureaux internationaux réunis pour la protection de la propriété intellectuelle"—translated as the United International Bureaux for the Protection of Intellectual Property. Interestingly enough, it was the creation of the Madrid Union which proved to be a catalyst in what was called the "definitive organization" of the International Bureau on January 1, 1893, which was also the date of the official beginning of the International Registration Service. At the time there was to be a total of seven staff members.

Les Marques internationales

Publication mensuelle
du Bureau international
de l'Organisation Mondiale
de la Propriété Intellectuelle

Enregistrements Nos 567 288 à 568 736,
renouvellements et modifications
faits au registre international
en avril 1991,

publiés le 17 juin 1991



Genève
99^e année
N° 4/1991



The First Hundred Years of the Madrid Agreement

Heads of the International Bureau and Their Terms of Office

Henri Morel	(1893-1912)
Robert Comtesse	(1912-1921)
Ernest Röthlisberger	(1922-1926)
Fritz Ostertag	(1926-1938)
Bénigne Mentha	(1938-1953)
Jacques Secretan	(1953-1963)
George H.C. Bodenhausen	(1963-1973)

Division and Section Heads of the International Registration Service with their Nationalities

	<i>Division Head:</i>	L. Egger (Switzerland)
	<i>Section Heads:</i>	E. Margot (Switzerland) R. Walther (Switzerland)
Arpad Bogsch (1973-)	<i>Division Heads:</i>	L. Egger (Switzerland) P. Maugué (France) S. Di Palma (Italy)
	<i>Section Heads:</i>	R. Walther (Switzerland) C. Werkman (Netherlands) P. Maugué (France) I. Vedernikova (Soviet Union) E. Rezounenko (Soviet Union) R. Unterkircher (Austria) J.-P. Hoebreck (Belgium)

* * * *

STAFF LIST AS OF APRIL 1, 1991

Name	Title	Grade	Nationality	Sex
INTERNATIONAL TRADEMARK AND INDUSTRIAL DESIGN REGISTRIES				
Di Palma, Salvatore	Head	P5	IT	M
Unterkircher, Rudolf	Automation Officer	P3	AT	M
Spagnolo, Henri	Computer-assisted Publications Technician	G5	CH	M
Walt, Patrick	Digital Optical Disc Technician	G4	FR	M
Aziza, Myriam	Secretary I	G4	FR	F
Fort, Madeleine	Secretary I	G4	FR	F
Rosedel, Franciane	Secretary I	G4	FR	F
INTERNATIONAL TRADEMARK REGISTRY				
Hoebreck, Jean-Paul	Head	P3	BE	M
UNIT A — RECEPTION, PRELIMINARY EXAMINATION, SECRETARIAT				
Bernard, Christian	Clerk	G4	FR	M
Capelli, Michèle	Clerk	G4	FR	F
Guette, Marie-Thérèse	Clerk	G4	FR	F
UNIT B — DATA ENTRY, CONTROL, VALIDATION				
Pierre, Marie-Caroline	Senior Data Entry Clerk	G5	FR	F
UNIT C — CLASSIFICATION AND EXAMINATION				
Corvaro, Pietro	Senior Examiner	G7	CH	M
Stassin, Thérèse	Examiner-Classifier	G7	BE	F
Albanesi, Huguette	Examiner	G6	CH	F
Cartant, Patrick	Examiner	G6	FR	M
Heitz, Gisèle	Examiner	G6	FR	F
Ianna, Rita	Examiner	G6	FR	F
Maisonneuve, Jean-Luc	Examiner	G6	FR	M
Riond, Eliane	Examiner	G6	CH	F
Charron-Chiche, Anny	Examiner	G5	FR	F
Morel, Michel	Examiner	G5	FR	M
Schwab, Caroline	Examiner	G5	CH	F
Maschio, Daniela	Clerk	G4	FR	F
UNIT D — NOTIFICATIONS, ADVICE, PUBLICATIONS, TRAINING, INFORMATION				
Berthelet, Maryvonne	Administrative Assistant	G6	CH	F
Moelijker, Geertje	Administrative Assistant	G6	NL	F
Baroni, Monique	Clerk	G5	FR	F
Belaich, Nicole	Clerk	G4	FR	F
Brousse, Catherine	Clerk	G4	FR	F
Jordan-Meille, Evelyne	Clerk	G4	FR	F
Kotalawala, Munidasa	Clerk	G4	LK	M



The “high authority” exercised by the Swiss Government in the administration of the International Bureau continued after the Organization’s move to Geneva in 1960, and remained until 1970, when the new administrative structure established at the Stockholm Diplomatic Conference came into force. The total number of staff members in the Organization was 383 on April 1, 1991, of whom the Registration Service (marks only, excluding industrial designs) numbered 31.

A modern staffing structure was already discernible at the end of 1966. In that year, registration activities were first placed in a Registration Services Division concerned uniquely with those activities, under a Head, who supervised Sections dealing with the international registration of marks, as well as with the registration of industrial designs. A management structure of an overall head of Division, who had under him a head of the registrations service or services, has remained. The chart on page 59 indicates the persons holding those two positions since the 1960s.

The last important reorganization of the Division was in 1986. By then it was called the Trademark and Industrial Design Registries, with one overall Head. The two distinct sectors within it were the International Trademark Registry and the International Industrial Design Registry. The International Trademark Registry was subdivided into four

units: Unit A, called Reception, Preliminary Examination, Secretariat; Unit B, called Data Entry, Control, Validation; Unit C, named Classification and Examination; and Unit D, named Notifications, Advice, Publications, Training, Information. The International Industrial Design Registry formed another Section.

That basic staffing structure of 1986 still remains today, and the marks sector remains a crucial part of an expanding World Intellectual Property Organization. The International Trademark Registry continues to widen its contacts and cooperation with other parts of the Organization. It is linked to the Director General and his Office via a Deputy Director General. On pages 60 and 61 are photographs taken in the summer of 1990 showing most of the staff working in the marks sector, together with staff from other services who cooperate with them. A complete list of the staff currently working in the marks sector is also given on page 59.

As we advance into the 1990s, the activities of the Madrid Union continue to reflect the national and international movements and changes that are taking place. The staff of today are the adaptable successors of staff who, since 1893, have provided a unique international service in the field of marks, and there is every sign that they will witness and contribute to the Madrid Union’s increasing international importance and future potential.





MESSAGES

from the Heads of Trademark Administrations
of Member States
of the Madrid Union to
the Director General of WIPO
on the Occasion of the
Centenary of the Madrid Agreement



الجمهورية الجزائرية الديمقراطية الشعبية

وزارة التجارة

المركز الوطني
للسجل التجاري



23 SEP. 1990

الجرائد في :

CNRC/DG/DPIC/N° 3511 /90

Objet : Centenaire de
l'Arrangement de Madrid

Monsieur Arpad BOGSCH
Directeur Général
Organisation Mondiale
de la Propriété Intellectuelle
34 Chemin des Colombettes
1211 - GENEVE 20 - SUISSE

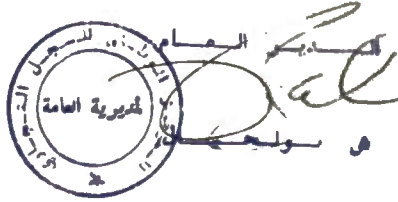
Monsieur le Directeur Général,

A l'occasion du Centenaire de l'Arrangement de Madrid concernant l'enregistrement international des marques, j'ai le plaisir de vous adresser mes plus vives félicitations pour les efforts entrepris par vous-même, Monsieur le Directeur Général, et vos proches collaborateurs, en vue d'améliorer le système de l'enregistrement international des marques.

Ces efforts ont été couronnés de succès par l'adoption, en 1989, du Protocole de Madrid.

Au nom du Centre National du Registre de Commerce et en mon nom personnel, je formule le voeu que les pays viennent nombreux, contribuer au développement de ce système, et par être dès lors le rapprochement et la coopération entre eux.

Veillez agréer, Monsieur le Directeur Général, l'expression de ma haute considération.



العنوان : الطريق الوطني 24 ليدو ، المحمدية برج الكيفان الهاتف : 28.10.80 / 16.72.75 / 27.83.75 / 17.84.75 : التلكس : 64262
موسسات الجزائر حساب جاري بريدي رقم 390806 - الخزينة رقم 61 / 99 الجزائر

Algiers, September 23, 1990

Dear Mr. Director General,

On the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks, I have pleasure in conveying to you my warmest congratulations for the efforts made by yourself, Mr. Director General, and by your close collaborators, with a view to improving the system for the international registration of marks.

Those efforts were crowned with success with the adoption in 1989 of the Madrid Protocol.

On behalf of the National Center of the Registry of Commerce, and in my own name, I express the wish that countries may be numerous in coming forward to contribute to the development of the system, and thereby to permit closer relations and cooperation between themselves.

Sincerely yours,
CHERIF BOULAHBAL
Director General



Vienna, September 21, 1990

Dear Mr. Director General,

I am particularly honored, and personally very pleased, to be able to convey our best wishes on the occasion of the hundredth anniversary of the existence of the Madrid Agreement Concerning the International Registration of Marks.

Since the conclusion of the Agreement on April 14, 1891, the Madrid Trademark Union has more than fulfilled expectations. The steadily growing number of international registrations affords a striking illustration of the great economic importance that is attributed to this system of trademark registration, which transcends the frontiers of political groupings.

The centenary comes at a time of worldwide political and economic upheaval. Not least as a result of the Protocol adopted last year in the historical setting of Madrid, and the broadening of the system to be effected through it by the creation of new conditions, there is good reason to hope that additional economically important countries and international organizations will through their accession benefit from the advantages of its proven institutions. Moreover, in anticipation of future developments, advance provision has been made for the legal possibility of drawing currently emerging or planned regional trademark systems into the Madrid system, which has now proved its worth for a hundred years.

Austria has belonged to the Madrid Union for more than 80 years. The growing importance of the Agreement to the Austrian economy, too, is apparent from the growing numbers of international registrations in which Austria appears as the country of origin or in which protection is extended to Austria.

Convinced of the continuation of the already effective cooperation with the International Bureau of WIPO in connection with the international trademark registration procedure, I take the liberty of conveying my assurances that Austria is willing in the future, as in the past, to make its contribution to the support of WIPO activities put in hand in connection with the Madrid Union.

Sincerely yours,
DR. JOSEF FICHTE

DER PRÄSIDENT
DES ÖSTERREICHISCHEN PATENTAMTES

Wien, am 21. September 1990
I, Kohlmarkt 8-10
Postanschrift: Postfach 95, A-1014 Wien
Tel. (0222) 534 24 Telex 136847 OEPA A

Sehr geehrter Herr Generaldirektor!

Es ist mir eine besondere Ehre und persönliche Freude, anlässlich des 100-jährigen Bestehens des Madrider Abkommens über die internationale Registrierung von Marken die besten Glückwünsche übermitteln zu dürfen.

Seit Abschluß des Vertrages am 14. April 1891 hat die Madrider Markenunion die in sie gesetzten Erwartungen mehr als erfüllt. Die ständig steigende Zahl an internationalen Registrierungen untermauert nachdrücklich die große wirtschaftliche Bedeutung, die diesem System der Markenregistrierung über die Grenzen der politischen Blöcke hinausgehend beigemessen wird.

Das Jubiläum fällt in eine Zeit weltweiten politischen und wirtschaftlichen Umbruchs. Nicht zuletzt durch das im vergangenen Jahr in Madrid auf historischem Boden angenommene Protokoll und die dadurch angestrebte Öffnung des Systems durch Schaffung neuer Voraussetzungen besteht berechtigte Hoffnung, daß weitere wirtschaftlich wichtige Länder und internationale Organisationen durch ihren Beitritt die Vorteile der erprobten Einrichtungen nutzen werden. Um auch zukünftigen Entwicklungen Rechnung zu tragen, wurde derüberhinaus vor-ausblickend die rechtliche Möglichkeit einer Einbeziehung von in Entstehung begriffenen bzw. geplanten regionalen Merksystemen in das seit 100 Jahren altbewährte Madrider System eingeräumt.

Österreich gehört seit mehr als 80 Jahren der Madrider Union an. Die wachsende Bedeutung dieses Vertragsinstrumentes auch für die österreichische Wirtschaft zeigt sich in den steigenden Zahlen hinsichtlich der internationalen Registrierung, bei welchen Österreich als Ursprungsland aufscheint bzw. der Schutz auf Österreich ausgedehnt wird.

Überzeugt von der Fortsetzung der bisher guten Kooperation mit dem Internationalen Büro der WIPO im Rahmen des internationalen Markenregistrierungsverfahrens darf ich meiner Versicherung Ausdruck geben, daß Österreich auch in Zukunft zur Unterstützung der im Rahmen der Madrider Union gesetzten Aktivitäten der WIPO seinen Beitrag zu leisten bereit ist.

Empfangen Sie, sehr geehrter Herr Generaldirektor, den Ausdruck meiner vorzüglichsten Hochachtung

Dr. Josef FICHTE

Dr. Arpad Bogsch,
Director General
World Intellectual Property Organization
GENEVA





Administration du Commerce
Office de la Propriété Industrielle

1040 BRUXELLES, le
Rue J.-A. De Mot 24-26
Tél. 02/233.61.11
Télex : 20.627 COM-HAN
Téléfax : 02/231.02.56

Monsieur Arpad Bogsch
Directeur Général de l'OMPI



Votre lettre de Vos références Nos références Annexes

Objet

Monsieur le Directeur Général,

A l'occasion de la célébration du centenaire de l'Arrangement de Madrid concernant l'enregistrement international des marques, je tiens à vous présenter mes vives félicitations pour les efforts que n'a cessé de déployer votre Organisation en vue de promouvoir le système international d'enregistrement de marques que l'Arrangement a instauré.

Que ces efforts inlassables continuent à porter des fruits, les dernières années en offrent un témoignage éclatant, en ce qu'elles ont vu non seulement un accroissement spectaculaire des marques enregistrées ainsi que l'adhésion de nouveaux pays mais, en plus, l'adoption d'un nouveau protocole, élargissant le socle sur lequel le système s'est construit.

Lors des travaux de la Conférence de Madrid de 1890 la délégation de mon pays, qui s'honore d'avoir été parmi les 9 signataires originels de l'acte de 1891, avait chaleureusement accueilli le projet d'Arrangement en déclarant "le meilleur moyen de combattre les fraudes est de mettre les industriels et les commerçants à même d'obtenir facilement et à peu de frais la protection pour leurs marques dans les divers pays".

L'essor actuel de l'Arrangement prouve le bien-fondé de cette appréciation. Je ne doute pas que l'oeuvre conçue à Madrid soit encore appelée à un grand avenir.

Le Directeur,

Leopold Wuyts.

Dear Mr. Director General,

On the occasion of the celebration of the centenary of the Madrid Agreement Concerning the International Registration of Marks, I wish to address to you my warmest congratulations for the efforts that your Organization has unceasingly made with a view to promoting the international registration system for marks established by the Agreement.

The events of recent years are a striking testimony to the fact that these untiring efforts still bear fruit, in that they have seen not only a spectacular increase in registered marks and also the accession of new countries, but also the adoption of a new Protocol which broadens the base on which the system has been built up.

During the proceedings of the 1890 Madrid Conference the Delegation of my country, which is proud to have been one of the nine original signatories of the 1891 instrument, had warmly welcomed the then draft Agreement by stating that "the best means of combating fraud is to place industrialists and traders in a position readily and inexpensively to secure protection for their marks in the various countries."

The current success of the Agreement proves the soundness of this assessment. I have no doubt that the work which originated at Madrid still has a great future before it.

Sincerely yours,
LEOPOLD WUYTS
Director



Dear Mr. Director General,

In 1991, it will be 100 years since the Madrid Agreement Concerning the International Registration of Marks was concluded, time enough to convince ourselves of the insight and wisdom of the initiators of this international act which is being applied so successfully today as well.

Making an impartial assessment of the economic role of trademarks and their legal protection as a stabilizing operator on the international markets, the Madrid Agreement Concerning the International Registration of Marks became a unique tool for stimulating and developing the economic, scientific and technical cooperation between nations.

Only five years have passed since the People's Republic of Bulgaria became party to this Agreement, but its advantages are already becoming obvious on our territory. The number of applications for registration of marks in our country, filed by foreign applicants, has sharply increased. Now, their average annual number is over 10 times greater than that in the period before our country acceded to the Agreement. The interest of the Bulgarian applicants in the Madrid Agreement has considerably increased too.

The sweeping positive changes taking place in Europe and in the world will undoubtedly contribute to expanding the territorial range of the Madrid Agreement. The Protocol Relating to the Madrid Agreement, signed in 1989, will be of an extreme help to this process. It is our profound conviction that this Protocol is imbued with an innovatory spirit and cooperation and goodwill.

The Protocol signed is a further proof of the eternal vigor of the Madrid Agreement. We believe it will soon win new members and sympathizers.

Sincerely yours,
DR. K. ILIEV
Director General, INRA

ДО
ГЕНЕРАЛНИЯ ДИРЕКТОР НА ВОИС
д-р АРПАД БОГШ

УВАЖАЕМИ Г-Н ГЕНЕРАЛЕН ДИРЕКТОР,

През 1991 година се навършват 100 години от приемането на Мадридската спогодба за международна регистрация на марките, време достатъчно, за да се убедим в прозорливостта и мъдростта на инициаторите за приемането на този международен акт, който така успешно и сполучливо се прилага и днес.

Оценявайки обективно икономическата роля на търговските марки и тяхната правна закрила като стабилизиращ фактор на международните пазари, с Мадридската спогодба за международна регистрация и правна закрила на марките се създаде уникален инструмент за стимулиране и развитие на икономическото и научно-техническото сътрудничество между народите.

Народна република България участва в тази спогодба едва от пет години, но нейните предимства се проявяват вече и на нашата територия. Броят на исканията за регистрация на марки у нас, подадени от чуждестранни заявители рязко нарасна, за да надхвърли повече от 10 пъти средногодишния брой в сравнение с периода преди присъединяването ни към Мадридската спогодба. Значително нарасна интересът към спогодбата и сред българските заявители.

Дълбоките положителни промени, които настъпват в Европа и света несъмнено ще съдействуват за разширяване териториалния обхват на Мадридската спогодба. За това извънредно много ще спомогне и приетият през 1989 година Протокол към Мадридската спогодба, който по наше дълбоко убеждение е проникан от новаторски дух и добра воля за сътрудничество.

Приетият Протокол е ново доказателство за жизнената и непреходна сила на Мадридската спогодба, която вярваме, че в скоро време ще спечели нови членове и симпатизанти.

ГЕНЕРАЛЕН ДИРЕКТОР НА ИНРА:

K. Iliev
/ Кр. Илиев /





贺 辞

尊敬的总干事：

值此《商标国际注册马德里协定》一百周年之际，我谨致以热烈的祝贺和最美好的祝愿。

《协定》建立的商标国际注册制度是国际工业产权史上的成功尝试。一百年来，《协定》为促进商标国际合作和国际经济贸易的发展作出了杰出的贡献，马德里联盟也在不断发展壮大，显露着无限生机。

我深信，《协定》必将为人类的进步和世界经济的繁荣作出更大的贡献。

中华人民共和国国家工商行政管理局

商标局局长

一九九零年九月五日 于北京



September 5, 1990

Dear Mr. Director General,

On the occasion of the 100th anniversary of the Madrid Agreement Concerning the International Registration of Marks, I would like to extend my warm congratulations and best wishes for the future.

The system of the international registration of marks established under the Madrid Agreement is a successful attempt in the history of international industrial property. In the past one hundred years, the Madrid Agreement has made an outstanding contribution to the promotion of international cooperation in the field of marks and the development of international

trade and economy. And during those years, the Madrid Union is expanding and growing steadily, which shows its infinite vigor and vitality.

I am firmly convinced that the Madrid Agreement will surely make an even greater contribution to the progress of mankind and the prosperity of world economy.

Yours sincerely,
LI JIZHONG
Director
Trademark Office
State Administration for Industry
and Commerce
People's Republic of China





OFICINA NACIONAL DE INVENCIONES, INFORMACION TECNICA Y MARCAS  Calle 13 No. 409
Vedado.
Ciudad de La Habana
Cuba

Ciudad de La Habana, 10 de septiembre de 1990

Estimado Sr. Bogsch:

El Arreglo de Madrid de 14 de abril de 1891 relativo al Registro Internacional de Marcas fue el primer Arreglo particular que vió la luz después del Convenio de la Unión de París.

Dicho Arreglo, que este año cumple su centenario, ha contribuido de manera importante a la creación de las bases jurídicas para la protección internacional de las marcas, al progreso y bienestar de los estados miembros y a una mejor cooperación internacional.

Este Tratado no sólo aporta beneficios económicos a los países en desarrollo sino que también coadyuva al desarrollo de la actividad marcaria.

En esta ocasión, permítame felicitar a la OMPI y formular votos porque el Arreglo de Madrid continúe en el futuro fortaleciendo las relaciones entre los estados miembros.

Le reitero Sr. Bogsch las seguridades de mi más alta consideración.

Ing. Mario Fernández Finalé
Director

Dr. Arpad Bogsch
Director General
Organización Mundial
de la Propiedad Intelectual
Ginebra, Suiza.

Havana, September 10, 1990

Dear Dr. Bogsch,

The Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, was the first Special Agreement to come into existence after the Paris Union Convention.

This Agreement, which this year celebrates its centenary, has contributed substantially to the laying of the legal foundations for the international protection of marks, to the progress and well-being of member States and to improved international cooperation.

It is a treaty that not only affords economic benefits to developing countries, but also contributes to the development of trademark activity.

On this occasion I take the liberty of congratulating WIPO and expressing the wish that the Madrid Agreement may continue in the future to strengthen relations between its member States.

Sincerely yours,
MARIO FERNÁNDEZ FINALÉ
Director

Czechoslovakia

PREDESDA
FEDERÁLNÍHO ÚRADU PRO VYNÁLEZY
Ing. Ladislav Jakl

V Praze dne

Dear Mr. Director General,

the Czech and Slovak Federative Republic, which has been member country of the Madrid Agreement since 1919 already, has always considered this Agreement as being one of the most effective instruments of international economic cooperation.

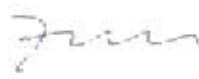
The whole history of the Madrid Agreement, the general satisfaction which its faultless function gives to the users, the growing number of member countries, the recently accepted Protocol creating prerequisites of further widening of the territorial scope of the Agreement, as well as the development of international trade of which it is a positive factor, give evidence of the fact, that the mentioned Agreement can be ranged with full right among the most important international legal instruments of protection of industrial property.

Allow me, Mr. Director General, to congratulate you most heartily on the occasion of 100. anniversary of the Madrid Agreement Concerning the International Registration of Marks and to express my belief that also in future it will continue to be an important contribution to the common progress of mankind.

I can assure you, Mr. Director General, that from our side we are ready to contribute actively to such a development henceforth too.

Yours very truly

Dr. Arpad Bogsch
Director General
World Intellectual Property Organization
G e n e v a





Pyongyang, April 14, 1991

Dear Mr. Director General,

The celebration of the centenary of the Madrid Agreement adopted on April 14, 1891, gives me the gratifying opportunity of addressing to you my sincere and warm congratulations for the considerable success achieved in the work of the Madrid Union, and the progress that has brought it to a high level.

During the past hundred years, in my opinion, this Agreement has contributed greatly to the promotion of international trade and cooperation in the industrial property field.

I am convinced that this Agreement will in the future, as it did in the past, make a contribution to the well-being of mankind and to the strengthening of the bonds of international friendship.

Sincerely yours,
KIM EUNG HO
 Chairman
 of the Invention Committee of the
 Democratic People's Republic of Korea

세계발명 및 리장소유권기구
 총국장 아르바르 보그슈
 귀하께
 나는 1891년 4월 14일에 채택된 마드리드조약 체결 기념 100년이 되었는데
 마드리드 조약 체결 100년이 되는 날은 심하게 축하하며, 동맹국으로 오를 수 있도록
 발명 시켜온 양친에게 열렬한 축하를 보냅니다.
 지난 100년 동안 이 위원회는 국제 무역과 용역소유권 분야에서 국제적
 협조가 더욱 긴밀해 지도록 하는데 크게 기여하였다고 봅니다.
 나는 이번 시기와 마찬가지로 앞으로 이 위원회가 인류의 행복을 위한
 고귀한 사업과 국제적 협조의 유대를 강화하는 사업에 이바지할 것을
 믿으면서 전심으로 최선의 노력을 하자는 바입니다.
 조선민주주의인민공화국 발명위원회 위원장 김응호
 1991년 4월 14일

Pyongyang, le 14 avril 1991

Son Excellence Monsieur Arpad Bogsch
 Directeur général de l'Organisation
 Mondiale de la Propriété Intellectuelle
 Geneve

La célébration du Centenaire de l'Arrangement de Madrid adopté le 14 avril 1891 m'offre l'agréable occasion de vous adresser mes vives et chaleureuses félicitations pour le succès considérable obtenu dans les travaux de l'Union de Madrid et son progrès porté au niveau élevé.

J'estime que durant 100 ans passés, cet Arrangement a grandement contribué à la promotion du commerce international et de la coopération internationale dans le domaine de la propriété industrielle.

Convaincu qu'à l'avenir aussi comme par le passé, cet Arrangement apportera une contribution au bien-être de l'humanité et au raffermissement des liens d'amitié internationale, je vous prie d'agréer, Monsieur le directeur général, les assurances de ma très haute considération.

Kim Eung Ho

Président du Comité pour les inventions
 de la République Populaire Démocratique
 de Corée





السيد / آرنياد بوكث
المدير العام
للمنظمة العالمية للملكية الفكرية

34, chemin des Colombettes
1211 Genève 20
Suisse

القاهرة ، في ١٦ أبريل ١٩٩١

السيد المدير العام ،

تحية طيبة وبعد ،

بمناسبة الاحتفال بالعيد المئوي لاتفاق مدريد بشأن التسجيل الدولي
للعلامات ، يسرني أن أرسل اليكم بملفتكم المدير العام للمنظمة العالمية للملكية
الفكرية أخلص التهاني بالجميل المنجز بفضل هذه الوثيقة الدولية .

إن جمهورية مصر العربية ، كما تعلمون ، طرف في اتفاق مدريد منذ سنة
١٩٥٢ ، وقد انتفعت بمزايا اتحاد مدريد خير انتفاع . إننا نعيش في عالم تزايد
فيه ترابط الأمم الواحدة بالآخرى وأصبحت فيه العلاقات الحياضية والاقتصادية أكثر
تمقيداً . لذا ، أخص من الضروري ضمان نظام للمعاملة بالممثل على الصعيد الدولي
في مجال العلامات من أجل تشجيع أصحاب العلامات في كل البلدان على توسيع نطاق
انشطتهم ونشر مبادراتهم خارج الحدود الوطنية .

وإنه ليسرني أن أعرب لكم ولمنظمتكم عن تقديري لما أبديتموه من إخلاص
وفعالية في أداء هذه الرمانة الجديرة بالشناء .

وتفعلوا ، سيدي المدير العام ، بقبول تمنياتي الحارة لاستمرار نجاح
منظمتكم .

محمود يوسف صايدة
نائب رئيس
أكاديمية البحث العلمي والتكنولوجيا
القاهرة - جمهورية مصر العربية

Cairo, April 16, 1991

Dear Mr. Director General,

On the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks, allow me to convey to you, in your capacity as Director General of the World Intellectual Property Organization, my sincere congratulations on the work accomplished by means of this international instrument.

As you know, Egypt has been party to the Agreement since 1952, and has been able to appreciate the benefits of the Madrid Union. We live in a world in which nations are becoming more and more interdependent, and political and economic relations between them more and more complex; it is therefore

essential, in the field of marks, to provide, on an international level, a system of reciprocity which encourages the mark owners of all countries to broaden their area of activity, and to extend their initiatives beyond national frontiers.

It is with great pleasure that I pay tribute to you and to your Organization for the dedication and efficiency that you have shown in this praiseworthy task.

Please accept, Mr. Director General, my warmest good wishes for your Organization's continuing success.

Sincerely yours,
MAHMOUD Y. SAADA
Deputy President
Academy of Scientific Research
and Technology



RÉPUBLIQUE FRANÇAISE

INSTITUT NATIONAL DE LA PROPRIÉTÉ INDUSTRIELLE

Le Directeur général

Paris, le 25 Mai 1990

Monsieur le Directeur Général,

La célébration du centenaire de l'Arrangement de Madrid du 14 avril 1891 concernant l'enregistrement international des marques me donne l'occasion de vous féliciter pour le rôle central que votre Organisation occupe dans le cadre du fonctionnement et du développement de l'Union de Madrid.

Premier Arrangement particulier de procédure se situant dans le cadre de la Convention de Paris du 20 mars 1883 sur la protection de la propriété industrielle, cette Union - parfois qualifiée de restreinte - a su faire preuve de la pérennité de ses principes et de sa vitalité si l'on en juge par le nombre d'enregistrements internationaux inscrits au registre international des marques par les soins de votre Organisation.

Je formule le voeu que cette Union s'enrichisse encore de nouveaux membres démontrant, s'il en était encore besoin, l'utilité de cet instrument dans la protection des marques et le développement du commerce international.

Je vous prie de bien vouloir, Monsieur le Directeur Général, agréer les assurances de ma haute considération.

[Handwritten signature]

Jean-Claude COMBALDIEU

Monsieur Arpad BOGSCH
Directeur Général de l'OMPI
34, chemin des Colombettes
CH 1211 GENEVE 20
SUISSE

Paris, May 25, 1990

Dear Mr. Director General,

The celebration of the centenary of the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, gives me the opportunity to congratulate you for the central role that your Organization plays in the operation and development of the Madrid Union.

Created by the first Special Agreement on procedure within the framework of the Paris Convention for the Protection of Industrial Property of March 20, 1883, this Union - which is sometimes described as a restricted Union - has proved the lasting quality of its principles and its vitality, if one judges by the number of international registrations entered by your Organization in the International Register of Marks.

It is my wish that this Union may be further enriched by new members, which would show, if that were still necessary, the usefulness of this instrument to trademark protection and to the development of international trade.

Sincerely yours,
JEAN-CLAUDE COMBALDIEU



26bis, rue de Léningrad - 75800 PARIS Cédex 08 - Tél. : (1) 42 94 52 52 - Télécopie : (1) 42 93 59 30
Etablissement public national créé par la loi n° 51-444 du 19 avril 1951



DER PRÄSIDENT
DES DEUTSCHEN PATENTAMTS

MÜNCHEN 18. Sept. 1990
Königsplatz 12

An den
Generaldirektor der Weltorganisation
für geistiges Eigentum
Herrn Dr. Arpad Bogsch
34, chemin des Colombettes

CH-1211 Genf 20

Sehr geehrter Herr Generaldirektor,

das hundertjährige Jubiläum des Madrider Markenabkommens gibt Anlaß, über Geschichte und Bedeutung des internationalen Markenschutzes nachzudenken.

Seit dem Beitritt Deutschlands im Jahre 1922 gilt für das deutsche Territorium das Markenrecht des Abkommens ohne Unterbrechung durch die Wirren des zweiten Weltkriegs oder die politischen Nachkriegsentwicklungen. In der Wiederaufbauphase der 50er Jahre trug der internationale Markenschutz dazu bei, daß die deutsche Markenartikel-Industrie sich auf dem Weltmarkt wieder erfolgreich einführen konnte. Er wird auch für die in den wirtschaftlich schwachen Gebieten des geeinten Deutschlands entstehenden jungen Betriebe eine wichtige Hilfe bei der Überwindung ihrer Anlaufschwierigkeiten darstellen.

Der Weltorganisation für geistiges Eigentum und dem Internationalen Büro gebührt für die bei der praktischen Realisierung des Abkommens stets mit großem Engagement geleistete wertvolle Arbeit hohe Anerkennung und aufrichtiger Dank. Das Deutsche Patentamt

- 2 -

- 2 -

wird auch in Zukunft gerne an der Weiterentwicklung des Abkommens mitarbeiten und die Weltorganisation bei ihren dem Wohl der Mitgliedsstaaten des Abkommens dienenden Initiativen tatkräftig unterstützen.

Ich beglückwünsche Sie, sehr geehrter Herr Generaldirektor, die Weltorganisation für geistiges Eigentum und das Internationale Büro zu dem bevorstehenden Jubiläum von ganzem Herzen und wünsche dem Madrider Markenabkommen eine die Interessen aller Mitgliedsstaaten stets wahrende und fördernde erfolgreiche Fortentwicklung, die durch das Protokoll vom 28. Juni 1989, das eine Brücke zum künftigen Recht der Gemeinschaftsmarke schlägt, in ein neues Stadium eingetreten ist. Daß ich diese Glückwünsche zu einem Zeitpunkt Überbringen darf, zu dem ich für das Patentamt eines geeinten Deutschlands sprechen kann, erfüllt mich mit besonderer Freude.

Mit freundlichen Grüßen

Dr. Häußler

Munich, September 18, 1990

Dear Mr. Director General,

The hundredth anniversary of the Madrid Agreement Concerning Trademarks affords an opportunity to reflect on the history and significance of international trademark protection.

Since Germany's accession in 1922, the treaty law established by the Agreement has applied on German territory without interruption throughout the confusion of the Second World War and the political developments of the postwar period. During the period of reconstruction in the 1950s, international trademark protection contributed to the successful reintroduction of German branded goods to the world market. It will moreover afford important assistance to new undertakings emerging in the economically weaker areas of the united Germany in overcoming their initial difficulties.

The World Intellectual Property Organization and the International Bureau deserve high esteem and sincere thanks for the invaluable work performed by them with such great commitment in the practical implementation of this Agreement. The German Patent Office will be pleased in the future to maintain its collaboration in the further development of the Agreement and its active support for the action of WIPO in the interest of the well-being of the States party to the Agreement.

I heartily congratulate you, Director General, the World Intellectual Property Organization and the International Bureau on the forthcoming centenary, and wish the

Madrid Agreement Concerning Trademarks success in its continuing development for the protection and furtherance of the interests of all member States, which development has entered a new phase with the Protocol of June 28, 1989, which created links with the future Community trademark law. It gives me particular pleasure to be able to convey these wishes at a time when I speak on behalf of the Patent Office of a united Germany.

Sincerely yours,
Dr. HAEUSSER





ORSZÁGOS TALÁLMÁNYI HIVATAL
ELNÖK

PRESIDENT NATIONAL OFFICE OF INVENTIONS OF THE REPUBLIC OF HUNGARY PRÁSIÖENT LÁNÖSERFINÖUNGSAMT ÖER REPUBLIK UNGARN PRESIOENT OFFICE NATIONAL D'INVENTIONS DE LA RÉPUBLIQUE DE LA HONGRIE

Dr. Arpad Bogsch
Director General
World Intellectual Property Organization
Geneva

Budapest, 20th September 1990
500-MM/229

Dear Mr. Director General,

On the occasion of the centenary of the signature on 14 April 1891 of The Madrid Agreement Concerning the International Registration of Marks I am pleased to acknowledge the good effect the Agreement has had on the international cooperation in the field of industrial property and on the commercial relations of the member-States.

The establishment of the first specialized Agreement expressing the universal interest of countries at different stages of development was of great importance not only because it created favourable conditions for the international registration of marks, but also because the experiences of its application contributed in a large measure to the conclusion of other specialized agreements concerning the protection of patents, industrial designs and appellations of origin.

The accession of Hungary to the Madrid Agreement in 1909 and the application thereof for about 8 decades have greatly promoted the development of our international relations in the fields of trade and industrial property.

In our country, celebrating the centenary of its independent trademark system, the importance of trademarks is increasing as a result of the establishment of a market economy and a more active participation in the international cooperation.

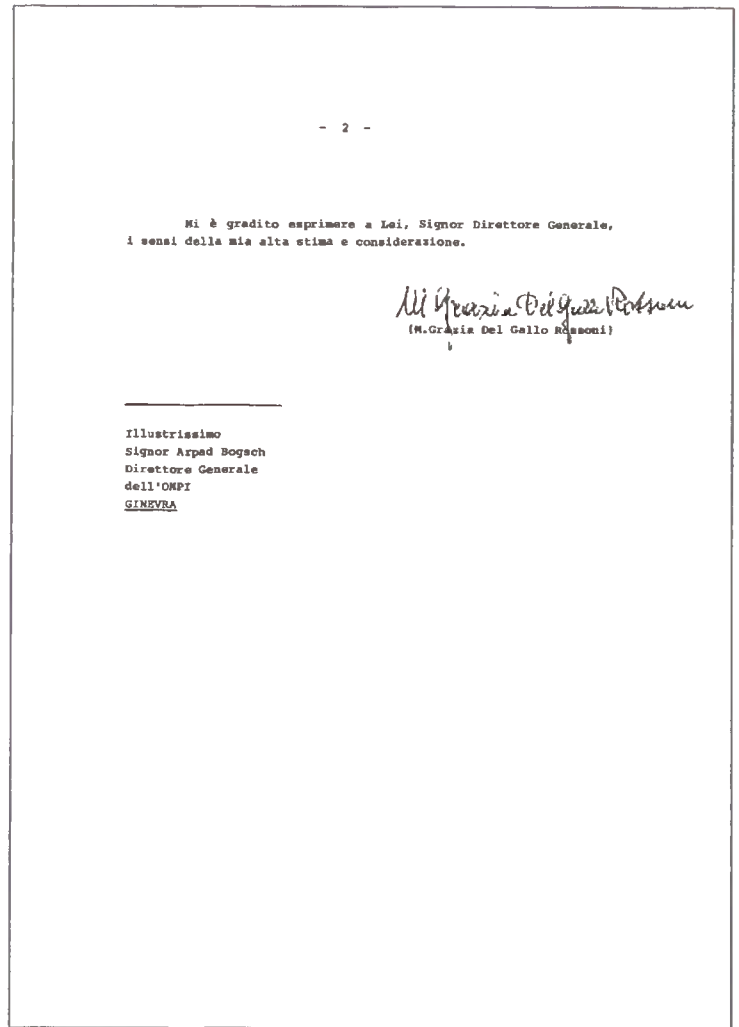
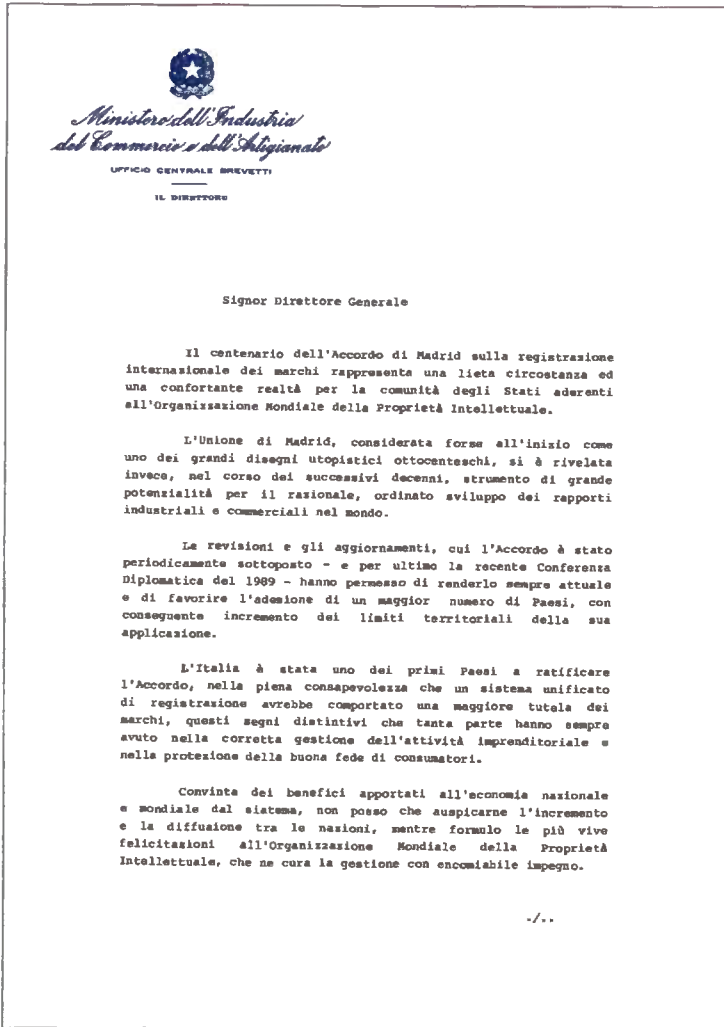
I am convinced that the recent widening of the Madrid system will create even more favourable conditions for the trademark protection and thus, for the development of international industrial and commercial relations.

On the occasion of the centenary of the Agreement please accept, Mr. Director General, the assurance of my highest consideration.

Yours sincerely,

István Iványi
President





Italy was one of the first countries to ratify the Agreement, being fully aware of the fact that a unified system of registration would make it possible to afford better protection to marks, those distinctive signs that have always played such an important part in good corporate management and consumer protection.

Convinced as I am of the advantages of the system for the national and world economies, I am bound to express the wish that it may grow and spread among nations, and at the same time to congratulate the World Intellectual Property Organization very warmly for assuring its administration with such praiseworthy zeal.

Sincerely yours,
MARIA GRAZIA DEL GALLO ROSSONI

Dear Mr. Director General,

The centenary of the Madrid Agreement Concerning the International Registration of Marks is a happy event and at the same time an encouraging reality for the community of Member States of the World Intellectual Property Organization.

The Madrid Union, which perhaps was considered at first to be just another great Utopian plan of the nineteenth century, has on the contrary proved, in the course of passing decades, to be a very powerful instrument for the ordered and rational development of industrial and commercial relations throughout the world.

The Agreement has periodically been revised and brought up to date—most recently at the 1989 Diplomatic Conference—and this has made it possible to preserve its relevance and promote the accession of a large number of countries, thereby broadening the area of its territorial application.





Fürstentum
Liechtenstein



Amt für
Volkswirtschaft

Vaduz, 4. Oktober 1990

Herrn
Arpad Bogsch
Generaldirektor der
Weltorganisation für
Geistiges Eigentum

1211 Genf

Sehr geehrter Herr Generaldirektor

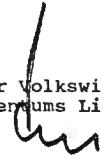
Das hundertjährige Bestehen des Abkommens von Madrid über die internationale Registrierung von Marken bietet uns willkommenen Anlass, den bedeutungsvollen Beitrag dieser Vereinbarung für die internationale Zusammenarbeit auf dem Gebiete des Geistigen Eigentums zu würdigen.

Die Liechtensteiner Volkswirtschaft ist in höchstem Masse aussenwirtschaftlich orientiert. Die in Liechtenstein tätigen Unternehmen zeichnen sich durch einen im internationalen Vergleich sehr hohen technischen Stand aus. Die Weltorganisation für Geistiges Eigentum ist damit auch für den Kleinstaat Liechtenstein von besonderer Bedeutung.

Wir möchten an dieser Stelle der Weltorganisation für Geistiges Eigentum unseren besonderen Dank und unsere Anerkennung für die wertvolle Arbeit aussprechen.

Genehmigen Sie, sehr geehrter Herr Generaldirektor, die Versicherung unserer vorzüglichsten Hochachtung.

Amt für Volkswirtschaft
des Fürstentums Liechtenstein


Dr. Benno Beck
Botschafter

Vaduz, October 4, 1990

Dear Mr. Director General,

The hundred-year existence of the Madrid Agreement Concerning the International Registration of Marks affords us a welcome opportunity to honor the significant contribution made by that instrument to international cooperation in the field of intellectual property.

The Liechtenstein economy is to a very large extent oriented towards foreign economic concerns. Businesses operating in Liechtenstein are characterized by their very high technological standards when compared internationally. The World Intellectual Property Organization is therefore of particular importance even for a State as small as Liechtenstein.

We should like at this point to address to the World Intellectual Property Organization our special thanks and our appreciation of the valuable work that it does.

Sincerely yours,
DR. BENNO BECK
Ambassador
Office of the National Economy
of the Principality of Liechtenstein





MINISTÈRE
DE L'ÉCONOMIE
GRAND-DUCHÉ DE LUXEMBOURG
SERVICE DE LA
PROPRIÉTÉ INTELLECTUELLE

Luxembourg, le 27 novembre 1990



Réf. :

Message

à l'attention de Monsieur le Directeur Général, Arpad Bogsch

L'Union particulière créée par l'Arrangement de Madrid du 14 avril 1891 s'apprête à fêter son centenaire à un moment où l'utilisation de la voie internationale pour l'enregistrement des marques connaît un succès remarquable. Le but de l'Arrangement de Madrid est d'offrir au déposant la possibilité d'obtenir la protection de sa marque à un coût raisonnable dans un plus ou moins grand nombre de pays étrangers, moyennant une formalité unique, notwithstanding la multiplicité et la diversité des conditions de fond que prévoient les législations nationales. A l'époque de l'intégration et de l'harmonisation des régimes de protection, le concept consistant dans la simple interconnexion de ceux-ci, n'a assurément rien perdu de son attrait.

F. Schlessler
Inspecteur principal
chef du service luxembourgeois
de la propriété intellectuelle

Bureaux:
19-21, boulevard Royal
L-2449 Luxembourg

Tél.: 479-1/4794-1 ou 4794-315 à 319
Télex: 3464 ECO LU

Adresse postale:
L-2914 Luxembourg
Fax: 460448

A 6802

Luxembourg, November 27, 1990

Message
to the Director General, Arpad Bogsch

The Special Union created by the Madrid Agreement of April 14, 1891, is preparing to celebrate its centenary at a time when use of the international procedure for the registration of marks is enjoying remarkable popularity. The purpose of the Madrid Agreement is to offer the applicant the possibility of securing protection for his mark at reasonable cost in a number of foreign countries by complying with one set of formalities, notwithstanding the range and diversity of substantive conditions imposed by national legislation. At a time of integration and harmonization of protection systems, the conception of those systems as being simply interconnected has clearly lost none of its attractiveness.

F. SCHLESSER
Principal Inspector
Director, Intellectual Property Office





November 1990

Dear Mr. Director General,

The year 1991 marks the hundredth anniversary of the Madrid Agreement Concerning the International Registration of Marks.

This international agreement is particularly important in the industrial property field, and its importance has grown unceasingly with the increased competition associated with the globalization of exchanges. For it affords protection, in the form of exclusive exploitation rights, to individuals and businesses that have designed a mark and filed it for registration.

By organizing this protection, notably through the simplification of administrative procedures at both national and international levels, and through reductions in the costs associated with it, the Madrid Agreement contributes to the development of businesses and enables human creativity to assert itself more effectively.

My wish is that the Madrid Agreement, and the recent Protocol that has extended its international scope and created a link with the Community trade mark, may remain the indispensable instrument serving the interests of businesses and individuals that it has never ceased to be for a hundred years.

Sincerely yours,
J.P. CAMPANA
Director of Commerce,
Industry and Industrial Property

DEPARTEMENT DES FINANCES ET DE L'ECONOMIE

PRINCIPAUTÉ DE MONACO

DIRECTION DU COMMERCE, DE L'INDUSTRIE
ET DE LA PROPRIÉTÉ INDUSTRIELLE

SERVICE DE LA PROPRIÉTÉ INDUSTRIELLE

Novembre 1990

Monsieur le Directeur Général,

L'Année 1991 marque le centième anniversaire de l'Arrangement de Madrid concernant l'enregistrement international des marques.

Cet accord international est particulièrement important en matière de propriété industrielle et cette importance n'a cessé de croître avec l'intensification de la concurrence liée à la planétarisation des échanges. En effet il accorde, sous forme de droits exclusifs d'exploitation, une protection aux agents économiques ayant mis au point et déposé une marque de fabrique ou de commerce.

En organisant cette protection notamment par une simplification des procédures administratives tant nationales qu'internationales et par un abaissement du coût y afférent, l'Arrangement de Madrid contribue au développement des entreprises et permet à la créativité humaine de s'exprimer plus efficacement.

Je forme le vœux que l'Arrangement de Madrid, dont le récent protocole a étendu la portée internationale et créé un lien avec la marque communautaire, reste l'outil indispensable au service des entreprises et des hommes qu'il n'a cessé d'être depuis cent années.

Je vous prie d'agréer, Monsieur le Directeur Général, l'assurance de ma haute considération.

J.P. CAMPANA
Directeur du Commerce, de l'Industrie
et de la Propriété Industrielle





БНМАУ
ҮНДЭСНИЙ ХӨГЖЛИЙН ЯАМ

1990 оны 12 сарын 27

№ 5/290

Улаанбаатар хот
Утас

ЭРХЭМ ХҮНДЭТ ЕРӨНХИЙ ЗАХИРАЛ
АРПАД БОГШ ТАНАА

БНМАУ-ын Засгийн газар, БНМАУ-ын Үндэсний хөгжлийн яамны нэрийн өмнөөс Барааны тэмдгийн олон улсын бүртгэлийн тухай Мадридын хэлэлцээрийн 100 жилийн ойг тохиолдуулан Дэлхийн Оюуны Өмчийн Байгууллагын Олон улсын товчоонд болон Ерөнхий Захирал Танд чин сэтгэлийн баяр хүргэе.

Барааны тэмдгийн эрхийг олон улсын хэмжээнд хамгаалах зорилгоор байгуулагдсан энэхүү Хэлэлцээр нь аж үйлдвэрийн өмчийн олон улсын хамтын ажиллагаа тодийгүй, худалдаа, эдийн засаг, шинжлэх ухаан, техникийн харилцааг хөгжүүлэхэд Аж үйлдвэрийн өмчийг хамгаалах тухай Парисын конвенцтой зэрэгцэхүйц ач холбогдолтой гэж БНМАУ зүй ёсоор үнэлдэг юм.

ДОӨБ-ын Олон улсын товчооны хүчин чармайлтын дүнд байгуулагдсан 1989 оны Мадридын Протоколыг хэрэгжүүлэх нь 100 жилийн өмнө Мадридын хэлэлцээрээр байгуулагдсан барааны тэмдгийн олон улсын бүртгэлийн системийн цар хүрээг өргөжүүлэн цаашид хөгжүүлэх чиглэл гэж үзэж байна.

Олон улсын худалдаа - эдийн засаг, техник-технологийн хамтын ажиллагаа, хөгжлийг хөхүүлэн дэмжихэд чиглэгдсэн ДОӨБ-ын наандын үйл ажиллагаанд БНМАУ улам бүр идэвхтэй оролцох эрмэлзэлтэй байгааг нотлон хэлэхэд баяртай байна.

БНМАУ ДОӨБ-ын дэмжлэг туслалцааны үр шимийг амсаж байгаадаа их баяртай байдаг бөгөөд манай улсын цэцэглэн хөгжилтөд ДОӨБ-ын үнэтэй хувь нэмэр нэн үр нөлөөтэйг энэ ялдамд илэрхийлэхэд таатай байна.

ДОӨБ-ын Олон улсын товчоо болон Ноён Ерөнхий Захирал Таны цаашдын үйл ажиллагаанд амжилт хүсье.

БНМАУ-ын Үндэсний хөгжлийн
сайд

 Ж. БАТСУУРЬ



In the name of the Government of the Mongolian People's Republic and the Ministry for National Development of the MPR, I convey my sincere congratulations to you and to the International Bureau of the World Intellectual Property Organization on the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks.

The Mongolian People's Republic greatly appreciates the contribution made by the Madrid Agreement, concluded in order to protect trademarks at the international level, equally with the Paris Convention for the Protection of Industrial Property, to development of international cooperation in the field of industrial property, thus, international trade, economic, scientific and technological relations.

I consider that the implementation of the Madrid Protocol of 1989 will promote further expansion and development of the present system for the international registration of marks established by the Madrid Agreement 100 years ago.

It gives me pleasure to assure that the MPR will continue its efforts to participate actively in WIPO's activities in encouraging international trade, economic, scientific and technological cooperation and development.

I would like to confirm that the MPR, enjoying the fruits of WIPO's assistance, highly appreciates the esteemed contribution of WIPO to the prosperity of our country.

I wish you, Mr. Director General, and the International Bureau of WIPO, every success for your future activity.

J. BATSUUR
Minister for National Development



Royaume du Maroc
**MINISTÈRE DU COMMERCE
 ET DE L'INDUSTRIE**

المملكة المغربية
 بسم الله الرحمن الرحيم
 Casablanca, le 18 Sep. 1990
 وزارة التجارة والصناعة

ن° 257 DGI/RN/P.
 RÉFÉRENCE À RAPPELER

رقم
 البريد الإلكتروني

OFFICE MAROCAIN DE LA
 PROPRIÉTÉ INDUSTRIELLE

Dr. ARPAD BOGSCH
 Directeur Général
 Organisation Mondiale de la
 Propriété Intellectuelle .
 -----GENÈVE-----

Monsieur le Directeur Général,

Il m'est agréable au moment où l'Organisation Mondiale de la Propriété Intellectuelle s'apprête à célébrer le centenaire de la signature de l'Arrangement de Madrid pour l'enregistrement international des marques, de rendre hommage à la contribution que cet instrument juridique apporte à la promotion des échanges commerciaux entre pays.

La croissance continue du nombre des marques enregistrées par le biais de cet arrangement est la meilleure preuve de son utilité et de son efficacité.

Comme vous le savez, le Maroc est membre de l'Union de Madrid depuis 1917. Il est pleinement satisfait de son fonctionnement et suit avec beaucoup d'intérêt son évolution .


.../..

- 2 -

Aussi je souhaite que les efforts déployés par l'OMPI en vue d'améliorer le système institué par l'Arrangement de Madrid et d'élargir son champ d'application soient couronnés de succès, et puissent ainsi renforcer le rôle que ce système joue dans la promotion du commerce international.

Je saisis l'occasion de ce centenaire pour adresser mes sincères félicitations à votre organisation pour le travail de haute valeur qu'elle accomplit.

Veuillez agréer, Monsieur le Directeur Général, les assurances de ma haute considération .



Mohamed SAID ABDERRAZIK
 Directeur de l'Office Marocain
 de la Propriété Industrielle .

Casablanca, September 18, 1990

Dear Mr. Director General,

I have pleasure, as the World Intellectual Property Organization prepares to celebrate the centenary of the signature of the Madrid Agreement Concerning the International Registration of Marks, to pay tribute to the contribution that this legal instrument makes to the furtherance of commercial exchanges between countries.

The continuing growth in the number of marks registered under the provisions of this Agreement is the best proof of its usefulness and efficacy.

As you know, Morocco has been a member of the Madrid Union since 1917. It is fully satisfied with the operation of the Union, and follows its development with great interest.

I therefore wish that the efforts made by WIPO with a view to improving the system established by the Madrid Agreement, and broadening its area of application, may be crowned with success, and may thus strengthen the part that the system plays in the promotion of international trade.

I take the opportunity of this centenary to address my sincere congratulations to your Organization for the very valuable work that it performs.

Sincerely yours,
MOHAMED SAID ABDERRAZIK
 Director
 Moroccan Industrial Property Office



VOORZITTER VAN DE OCTROOIRAAD



Rijswijk, 31 augustus 1990

Mijnheer de Directeur-Generaal,

Op 14 april 1891 werd de Schikking van Madrid betreffende de internationale inschrijving van merken ondertekend namens negen landen waaronder reeds twee van de drie Benelux-landen, Nederland en België, die thans samen met Luxemburg door de oprichting van een gemeenschappelijk Benelux-Merkenbureau als één land voor de uitvoering van de Schikking zorg dragen.

Nu, honderd jaar later bedraagt het aantal deelnemende landen meer dan een drievoud daarvan: deze stijging weerspiegelt het belang dat wordt gehecht aan het mede dankzij Uw inspanning zo succesvolle internationale merkensysteem.

Het is mij een voorrecht U geluk te wensen met deze ontwikkeling, die binnen een aantal jaren in een versnelling kan geraken door het Protocol van Madrid en die wellicht ooit zal uitmonden in de wereldomvattende organisatie die U altijd voor ogen heeft gestaan.

Nederland en ook het Benelux-Merkenbureau zullen zich blijven inzetten om de door ons bedrijfsleven zo zeer gewaardeerde Schikking verder uit te bouwen.

Max A.J. Engels

Dr. Arpad Bogsch
Directeur Generaal
Wereld Organisatie voor de
Intellectuele Eigendom
Genève, Zwitserland

PATENTLAAN 2, POSTBUS 9820, 2260 HV RIJSWIJK, NEDERLAND, TELEFOON 070-988655 / 986300



Rijswijk, August 31, 1990

Dear Mr. Director General,

On April 14, 1891, the Madrid Agreement Concerning the International Registration of Marks was signed by nine countries. Among them were already two of the three Benelux countries, namely the Netherlands and Belgium, which, as a result of the establishment of a Benelux Trademark Office, are today, with Luxembourg, considered a single country for the purposes of the application of the Agreement.

Now, 100 years later, the number of contracting States has more than tripled. This increase reflects the importance attached nowadays to the international trademark system, to the success of which you have contributed by your efforts.

It is a privilege for me to convey to you our congratulations on this development, which may well accelerate in the years to come under the

influence of the Madrid Protocol, and which one day perhaps will culminate in that truly universal organization that you have always had in mind.

The Netherlands and the Benelux Trademark Office will continue to work for the expansion of this Agreement, which is so highly appreciated by our industrial circles.

Sincerely yours,
MAX A.J. ENGELS



Warsaw, January 29, 1991

Dear Mr. Director General,

On the occasion of the centenary of the signature of the Madrid Agreement Concerning the International Registration of Marks, I convey the best wishes of the Republic of Poland to you and to the World Intellectual Property Organization.

We greatly appreciate the Organization's activity in connection with the development of the international system for the protection of intellectual property of which our country is pleased to form a part; it intends to increase its participation in the operation and extension of the Madrid system.

We hope that Poland's accession to the Madrid Agreement, which almost coincides with the date of this anniversary, will be symbolic of its intentions.

I wish you, Mr. Director General, and your staff, the best results and the utmost satisfaction in your professional activity.

Sincerely yours,
WIESLAW KOTARBA



PREZES
URZĘDU PATENTOWEGO RZECZYPOSPOLITEJ POLSKIEJ

Panie Dyrektorze Generalny

W związku ze 100-leciem podpisania Porozumienia Madryckiego o międzynarodowej rejestracji znaków, pragnę przekazać na Pańskie ręce pozdrowienia z Rzeczypospolitej Polskiej dla Światowej Organizacji Własności Intelektualnej.

Niezmiernie wysoko cenimy sobie działalność Organizacji na rzecz rozwoju międzynarodowego systemu ochrony własności intelektualnej. Kraj nasz pragnie w pełni nawiązać do tego systemu powiększając swój udział i zaangażowanie w jego doskonaleniu i upowszechnianiu.

Żywnym nadzieję, że zbiegające się z tą doniosłą rocznicą przystąpienie Polski do Porozumienia Madryckiego zostanie przyjęte jako potwierdzenie naszych intencji.

Przekazując Panu i Pańskim współpracownikom serdeczne życzenia dalszych osiągnięć i satysfakcji w życiu zawodowym, proszę jednocześnie o przyjęcie wyrazów mego głębokiego szacunku i poważania.

Wiesław Kotarba

Warszawa, dn. 29 stycznia 1991

Pan Dr Arpad Bogsch
Dyrektor Generalny
Światowej Organizacji
Własności Intelektualnej



MINISTÉRIO DA INDÚSTRIA E ENERGIA

 INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL

Cabinete do Presidente

Excelentíssimo Senhor
 Dr. Arpad Bogsch
 Director-Geral da Organização Mundial
 da Propriedade Intelectual

[-----]

Data referida	Data da comunicação de	Processo referido	Data
		GD/271/90	LISBOA, 90.08.22

ASSUNTO

Em 14 de Abril de 1991, o Acordo de Madrid relativo ao registo internacional das marcas atingirá um século de existência. Assim, por ocasião das comemorações do centenário do Acordo parece-nos oportuno manifestar junto de Vossa Excelência a nossa grande satisfação pelo facto de Portugal ser membro do Acordo desde 31 de Outubro de 1893.

O Acordo de Madrid para o registo internacional de marcas constituiu o primeiro movimento tendente à internacionalização do sistema processual para a protecção da propriedade industrial.

Pelo Acordo de Madrid um só pedido de registo, formulado numa única língua e depositado uma só vez num mesmo organismo internacional produz efeitos em todos os Estados membros.

No entanto, o Acordo de Madrid não pretendeu substituir-se aos Estados na sua capacidade de decisão sobre a concessão ou recusa do registo nem interferir com o princípio fundamental que limita o âmbito de aplicação dos direitos de propriedade industrial aos territórios dos Estados Membros.

MINISTÉRIO DA INDÚSTRIA E ENERGIA

 INSTITUTO NACIONAL DA PROPRIEDADE INDUSTRIAL

2.

Cabinete do Presidente

Não obstante a sua simplicidade e eficácia, o Acordo de Madrid, por razões imputadas a alguns aspectos da sua estrutura jurídica, englobava, em 1 de Janeiro de 1990, apenas 29 Estados.

Para obviar a esses inconvenientes jurídicos que pareciam inibir alguns Estados de aderir ao sistema, foi adoptado em Madrid em 27 de Junho de 1989 o Protocolo relativo ao Acordo de Madrid sobre o registo internacional de marcas.

Desejo muito sinceramente que o referido Protocolo atinja plenamente os objectivos para que foi concebido e que, em consequência, o sistema do registo internacional de marcas seja valorizado com a adesão de grande número de Estados.

Apresento a Vossa Excelência, os meus melhores cumprimentos.

Presidente,

 (Eng.º José Mota Maia)

JMM/ML

Ref 516 A

Campo das Cobelas - 1100 LISBOA - Telef. 86 36 72/87 11 01/87 61 51/2/3

Ref 517 A

Lisbon, August 22, 1990



Dear Mr. Director General,

On April 14, 1991, the Madrid Agreement Concerning the International Registration of Marks will be a century old.

The celebration of the Agreement's centenary seems an appropriate time to convey to you the great pride which we derive from the fact that Portugal has been party to it since October 31, 1893.

The Madrid Agreement Concerning the International Registration of Marks was the first instrument to establish the industrial property protection system at the international level.

Under the Agreement, one application for registration drawn up in one language and filed with one international body, produces its effects in all the States party to it.

However, the Madrid Agreement has never claimed to substitute itself for States regarding the exercise of the right to decide whether or not to grant registration, or to go against the fundamental principle that limits the scope of industrial property rights to the territories of member States.

In spite of its simplicity and effectiveness, and for reasons that had to do with certain elements of its legal structure, only 29 States were party to the Agreement on January 1, 1990.

In order to mitigate those legal shortcomings, which seemed to be preventing certain States from adhering to the system, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks was adopted in Madrid on June 27, 1989.

It is my very sincere wish that the above Protocol may fully achieve the objectives that have been assigned to it, and that the efficiency of the system for the international registration of marks may thereby be strengthened by the accession of a large number of States.

Sincerely yours,
JOSÉ MOTA MAIA
 President



R O U M A N I E
L'Office d'Etat pour les
Inventions et Marques

Dr. Arpad Bogach
DIRECTEUR GENERAL
Organisation Mondiale de la
Propriété Intellectuelle
Genève - Suisse

Monsieur le Directeur Général,

L'Arrangement de Madrid concernant l'enregistrement international des marques, qui en 1991 célébrera son centenaire, est l'un de premiers grands accords internationaux, qui a pleinement fait la preuve de sa viabilité et de son efficacité. Il a eu une contribution particulière à la promotion du commerce et de la coopération entre les états.

A cette occasion, Monsieur le Directeur Général, je suis très honorée d'exprimer - tant de ma part et aussi de la part de notre Office - de chaleureuses félicitations à l'Organisation Mondiale de la Propriété Intellectuelle (OMPI) et à vous personnellement, pour votre intense et continue activité déployée dans l'esprit de la création de meilleures conditions en vue de l'adhésion d'un nombre accru d'états, à l'Union de Madrid, activité finalisée par un remarquable succès, en 1989, par la signature du Protocole de Madrid.

Je vous assure, Monsieur le Directeur Général, que la Roumanie, dans sa qualité d'état membre de l'Arrangement depuis 1920, continuera à apporter sa contribution à la promotion des programmes de l'OMPI concernant la coopération internationale pour le développement et la prospérité de l'humanité.

Ma considération distinguée,

Mioara Rădulescu
Mioara Rădulescu
D I R E C T E U R

Dear Mr. Director General,

The Madrid Agreement Concerning the International Registration of Marks, which in 1991 celebrates its centenary, is one of the first great international agreements, and one that has fully proved its viability and effectiveness. It has made a special contribution to the promotion of trade and cooperation between States.

On this occasion, Mr. Director General, I am very honored to address - both in my own name and on behalf of our Office - warm congratulations to the World Intellectual Property Organization (WIPO) and to you personally, for the intense and constant work that you do on the creation of better conditions for the accession of more States to the Madrid Union, work that culminated in 1989 in a remarkable success, namely the signature of the Madrid Protocol.

I assure you, Mr. Director General, that Romania, as a member State of the Union since 1920, will continue to make its contribution to the promotion of the WIPO programs of international cooperation in the interest of the development and prosperity of mankind.

Sincerely yours,
MIOARA RĂDULESCU
Director



REPUBBLICA DI SAN MARINO
SEGRETARIA DI STATO PER GLI AFFARI ESTERI

Saint-Marino, le 13 novembre 1990

OFFICE DES AFFAIRES
ECONOMIQUES ET SOCIALES

Réf. 5450/AA/48

Monsieur le Directeur Général,

Le 100^e Anniversaire de l'Arrangement de Madrid concernant l'enregistrement international des marques, que l'Organisation Mondiale de la Propriété Intellectuelle célébrera l'année prochaine, voit l'administration de Saint-Marino engagée dans l'approfondissement et l'intensification des liens avec l'O.M.P.I. et avec ses traités.

Le Gouvernement de la République de Saint-Marino a en effet autorisé récemment le début de la procédure parlementaire pour l'adhésion aux textes mis à jour des traités, auxquels notre République avait adhéré depuis longtemps et à la Convention instituant l'O.M.P.I. Il est fort probable que le Parlement complétera cette procédure dans les mois prochains.

La République de Saint-Marino est en train de se doter d'une législation moderne et exhaustive dans le domaine des droits d'auteur ainsi que dans celui de la propriété intellectuelle, dont l'adoption définitive avant la fin de 1991 constituerait sans doute une manière concrète et adéquate de participer à la célébration du 100^e Anniversaire de l'Arrangement de Madrid sur l'enregistrement international des marques.

C'est dans cet esprit que je vous félicite pour les buts atteints par votre Organisation et vous présente, Monsieur le Directeur Général, l'assurance de ma très haute considération.

Pietro GIACOMINI

Directeur

Monsieur Arpad BOGSCH
Directeur Général de l'Organisation
Mondiale de la Propriété Intellectuelle

GENEVE



San Marino, November 13, 1990

Dear Mr. Director General,

The hundredth anniversary of the Madrid Agreement Concerning the International Registration of Marks, which the World Intellectual Property Organization will be celebrating next year, takes place at a time when the San Marino Administration is engaged in the broadening and intensification of its association with WIPO and the WIPO treaties.

The Government of the Republic of San Marino indeed recently authorized the start of the parliamentary procedure for accession to the most recent texts of the treaties to which the Republic has long been party, and to the Convention establishing WIPO. It is very probable that Parliament will complete this procedure in the next few months.

The Republic of San Marino is in the process of enacting modern, comprehensive legislation in the field of copyright and also in that of

intellectual property in general, the final adoption of which before the end of 1991 would no doubt be a positive and fitting way of participating in the celebration of the hundredth anniversary of the Madrid Agreement Concerning the International Registration of Marks.

It is in this spirit that I congratulate you on the achievements of your Organization.

Sincerely yours,
PIETRO GIACOMINI
Director



ГОСУДАРСТВЕННЫЙ КОМИТЕТ
ПО ИЗОБРЕТЕНИЯМ И ОТКРЫТИЯМ
ПРИ ГОСУДАРСТВЕННОМ КОМИТЕТЕ СССР ПО НАУКЕ И ТЕХНИКЕ

State Committee for Inventions and Discoveries
attached to the USSR State Committee for Science
and Technology
Comité d'Etat pour les inventions et les découvertes
auprès du Comité d'Etat de l'URSS pour la science et
la technique
Staatliches Komitee für Erfindungen und Entdeckungen
beim Staatlichen Komitee der UdSSR für Wissenschaft
und Technik

Address: USSR
Moscow, Centre
M. Cherkassky per. 2/6
Tel. 206-89-06
206-82-03
Telex: 411248

Москва,
21 сентября 1990 года

Доктору А.Богшу
Генеральному директору Всемирной
организации интеллектуальной
собственности
Женева, Швейцария

Уважаемый господин Генеральный директор!

По случаю 100-летия Мадридского соглашения о международной регистрации знаков позвольте мне поздравить Международное бюро Всемирной организации интеллектуальной собственности и лично Вас с этой знаменательной датой.

Созданное с ориентацией на долгосрочное и динамичное торгово-экономическое сотрудничество между странами Мадридское соглашение за 100 лет существования доказало свою жизнеспособность и эффективность.

Советский Союз высоко оценивает преимущества Мадридского соглашения, значительно упрощающего процедуру зарубежной регистрации товарных знаков и тем самым способствующего обеспечению правовой охраны экспорта товаров.

Благодаря усилиям ВОИС международная система регистрации знаков получила свое дальнейшее развитие на основе Протокола к Мадридскому соглашению, подписанного в июне 1989 г.

Выражаю уверенность, что Мадридское соглашение о международной регистрации знаков и впредь будет успешно функционировать на благо многих стран и способствовать развитию мировой торговли.

Ю.А. Беспалов
Председатель Комитета



Moscow, September 21, 1990

Dear Mr. Director General,

On the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks, allow me to address my best wishes to the International Bureau of the World Intellectual Property Organization and to yourself.

Having been devised as a means of promoting dynamic commercial and economic cooperation between countries in the long term, the Madrid Agreement has proved its vitality and its effectiveness throughout its hundred-year existence.

The Soviet Union greatly values the advantages of the Madrid Agreement, which considerably simplifies the procedure for the registration of marks abroad, and thereby contributes to the provision of legal protection for the export of goods.

Thanks to the efforts of WIPO, the international registration system for marks has entered a new phase in its development on the basis of the Protocol Relating to the Madrid Agreement, signed in June 1989.

I am certain that the Madrid Agreement Concerning the International Registration of Marks will continue to benefit a great many countries, and to contribute to the development of international trade.

Y. A. BESPALOV
Chairman of the State Committee



Querido Director General:

Es una gran satisfacción para mi y para mi país que el Arreglo de Madrid relativo al Registro Internacional de Marcas, firmado en nuestra capital el 14 de abril de 1891 haya cumplido su primer centenario y no sólo eso, sino que se haya convertido a lo largo de estos cien años en uno de los Convenios de Propiedad Industrial más intensamente utilizados y represente al mismo tiempo un paso más en el camino de la protección de la Propiedad Industrial, como ya predijo en el discurso de bienvenida a la Conferencia de Madrid nuestro Ministro de Estado, el Marqués de la Vega de Armijo.

Aquellos momentos han sido revividos en la Conferencia Diplomática de 1989 para la adopción del Protocolo del Arreglo, pues Madrid ha vuelto a ser el escenario de este gran acontecimiento en la historia de la Unión Particular, que permitirá la entrada en la misma de gran número de Estados. De igual forma que en la Conferencia de Madrid del Siglo pasado la más alta Magistratura del país -la Reina Regente Doña María Cristina- ofreció una recepción a los conferenciantes, asimismo nuestro actual Rey Don Juan Carlos I recibió en audiencia a algunos de los representantes en esta última Conferencia de Madrid, la cual, además, tuve el honor de presidir.

Con los mejores deseos, Sr. Director General, de que la Unión de Madrid siga adelante con iguales éxitos a los hasta ahora conseguidos, reciba un afectuoso saludo,

Julio Delicado Montero-Ríos
Director General del Registro
de la Propiedad Industrial. España



Dear Mr. Director General,

It gives me and my country great pleasure that the Madrid Agreement Concerning the International Registration of Marks, signed in our capital on April 14, 1891, has now completed its first century, and apart from this that it has become, throughout those hundred years, one of the most intensely-used industrial property treaties, at the same time representing a further step along the path of industrial property protection, as was indeed predicted in his welcoming address to the Madrid Conference by our Minister of State, the Marquis de la Vega de Armijo.

Those events were relived at the 1989 Diplomatic Conference for the Conclusion of the Protocol Relating to the Agreement, as Madrid once again provided the setting for a great occasion in the history of the Special Union, which will enable a large number of States to accede to it. In the same way as at the Madrid Conference of the last century, when

our country's highest authority—the Queen Regent Doña María Cristina—gave a reception for the Conference participants, our present King, Don Carlos I, granted an audience to some of the representatives present at this latest Madrid Conference, over which in addition I had the honor to preside.

I convey to you, Director General, my heartfelt wishes that the Madrid Union may continue to go forward with the same success as it has achieved hitherto.

Sincerely yours,
JULIO DELICADO MONTERO-RÍOS
Director General of the
Registry of Industrial Property, Spain



REPUBLIC
of the SUDAN
Permanent Mission to U.N. Office
GENEVA



البعثة الدائمة
لجمهورية السودان
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التاريخ

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CH-1211 GENÈVE 19
TEL.: (022) 733 26 80 / 88 / 68
TELEX: 414 124 SUDN CH
FAX: 734 48 87
Ref. 19.41/156.91

April 25, 1991

Dear Mr Director General,

It is a very great pleasure for me to convey to you my Government's congratulations and good wishes, on the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks.

The Republic of the Sudan promulgated a law on Marks in 1969, which was based on the principles established in the Madrid Agreement, and joined the Madrid Union in 1984. It is fitting, in this centenary year, to pay tribute to the work done by the World Intellectual Property Organization in the field of marks. The Madrid Agreement, administered by your Organization, has fostered international relations by creating a Union of countries within which the enterprise of owners of marks of different nationalities has been promoted on a basis of reciprocal treatment.

Once again, I extend to you, Mr Director General, my Government's warmest good wishes on this important occasion.

Sincerely yours,

Omar ALIN
Ambassador

Permanent Representative

Dr. Arpad Bogsch
Director General
World Intellectual Property Organization
1211 Geneva 20



LE DIRECTEUR
DE L'OFFICE FÉDÉRAL DE LA
PROPRIÉTÉ INTELLECTUELLE
3003 BERNE

Berne, le 24 septembre 1990
Einsteinstrasse 2

Monsieur
Arpad Bogsch
Directeur général
Organisation mondiale de
la propriété intellectuelle
34, chemin des Colombettes

1211 G e n è v e 20

Monsieur le Directeur général,

Les espoirs que nous avons placés dans l'Arrangement de Madrid, il y a juste cent ans, n'ont pas été déçus. L'occasion m'est aujourd'hui donnée de relever l'attachement de la Suisse à ce prestigieux instrument.

Gage de simplicité et d'efficacité, l'Arrangement de Madrid donne naissance à un nombre croissant de marques internationales, ce que nous considérons comme une consécration et un encouragement. La simplification des procédures sert les intérêts de tous, autorités et administrés confondus.

La commémoration de ce centenaire doit aussi nous inciter à réfléchir sur l'avenir de l'Arrangement de Madrid. Il convient de poursuivre les efforts entrepris en vue d'élargir le cercle des adhérents sans mettre en péril les fondements de l'institution. L'informatisation offre de nouveaux horizons dans la collaboration entre partenaires de l'institution.

Je ne doute pas que l'Union de Madrid saura relever avec clairvoyance les défis de cette fin de siècle.

Veuillez agréer, Monsieur le Directeur général, l'assurance de ma considération distinguée.



Roland Grossenbacher



Berne, September 24, 1990

Dear Mr. Director General,

The hopes that we placed in the Madrid Agreement just 100 years ago have not been disappointed. Today, I am given the opportunity to highlight Switzerland's attachment to this distinguished instrument.

With its promise of simplicity and effectiveness, the Madrid Agreement is giving rise to an ever-growing number of international marks, which we consider to be a recognition of it and also an encouragement. Its simplification of procedures is in the interest of all, authorities and individuals alike.

The commemoration of this centenary should also be an occasion for reflection on the future of the Madrid Agreement. The efforts made with a view to the broadening of the circle of adherents without endangering the foundations of this institution should continue. Computerization affords new prospects for collaboration among the partners in that institution.

I have no doubt that the Madrid Union will be able to look ahead and take up the challenges of this last decade of the century.

Sincerely yours,
ROLAND GROSSENBACHER





CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM

Độc lập - Tự do - Hạnh phúc

Hà Nội, ngày 12 tháng 9 năm 1990.

Ngài Tổng giám đốc kính mến,

Nhân dịp kỷ niệm 100 năm ngày ký Thỏa ước Madrid về đăng ký quốc tế nhãn hiệu, tôi xin gửi đến Ngài lời chúc mừng nhiệt liệt nhất. Là quốc gia thành viên của Thỏa ước Madrid, Việt nam khẳng định những ưu việt của việc đăng ký nhãn hiệu hàng hóa theo Thỏa ước này đối với người đăng ký cũng như đối với cơ quan đăng ký nhãn hiệu hàng hóa của Việt nam. Hiện nay đất nước chúng tôi đang tiến hành một cuộc đổi mới kinh tế sâu sắc và cởi mở, do đó việc đăng ký quốc tế nhãn hiệu theo Thỏa ước Madrid lại càng có ý nghĩa thiết thực.

Thưa Ngài Tổng giám đốc, với tư cách là nước thành viên, Việt nam sẽ thực hiện đầy đủ nghĩa vụ của mình đối với Hiệp hội Madrid, góp phần tích cực vào việc củng cố và phát triển Hiệp hội này. Việt nam cũng sẽ xem xét với tinh thần xây dựng, khả năng tham gia Protocole liên quan đến Thỏa ước Madrid về đăng ký quốc tế nhãn hiệu.

Nhân dịp này tôi xin chân thành chúc Ngài Tổng giám đốc và toàn thể cán bộ, nhân viên OMPI nhiều sức khỏe và hạnh phúc, nhiều kết quả trong hoạt động đầy trọng trách của mình.

Gửi: Tiến sĩ Arpad Bogsch
Tổng giám đốc
Tổ chức thế giới về sở hữu trí tuệ
34 Chemin des Colombettes
1211 Genève 20(SUISSE)

Cục trưởng
Cục Sáng chế
Nước CHXHCN Việt nam

Phuong
Đoàn Phương

Hanoi, September 12, 1990

Dear Mr. Director General,


On the occasion of the centenary of the Madrid Agreement Concerning the International Registration of Marks, I address my warmest congratulations to you. As a country party to the Madrid Agreement, Viet Nam reaffirms the advantages of the registration of marks under the provisions of this Agreement, both for users and for the Administration of Viet Nam. As our country is currently engaged in a far-reaching economic reform, the importance of the registration of marks under the Madrid Agreement is still greater.

Viet Nam undertakes, Mr. Director General, to implement fully its commitments towards the Madrid Union, and to contribute actively to the strengthening and development of the Union. Viet Nam will give

constructive consideration to the possibility of accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

On this occasion, Mr. Director General, I wish you health and happiness and much success in your highly responsible work.

Sincerely yours,
Dr. ĐOÀN PHƯƠNG
Director
Socialist Republic of Viet Nam
National Office of Inventions



S.F.R. OF YUGOSLAVIA
 FEDERAL SECRETARIAT FOR DEVELOPMENT
 FEDERAL PATENT OFFICE
 DIRECTOR

R.F.F. DE YOUGOSLAVIE
 SECRETARIAT FEDERAL AU DEVELOPPEMENT
 OFFICE FEDERAL DES BREVETS
 DIRECTEUR

Monsieur le Directeur Général

La civilisation nous a appris de nous comporter avec respect envers des fragments de l'esprit humain qui ont été, dans une époque lointaine, gravés dans la pierre ou coulés dans le bronze et laissés en tant que témoignage de ces temps, comme ces écritures minuscules ou ces lois, par exemple la Loi sur les douze plaquettes. D'après ce même principe, nous sommes tenus, selon les préceptes de la civilisation, de tenir compte du fait que dans notre époque aussi il existe des prescriptions qui régissent pendant tout un siècle certains rapports entre les Etats, les peuples et les individus, comme ce sont la Convention de Paris sur la protection de la propriété industrielle (1883) et l'Arrangement de Madrid concernant l'enregistrement international des marques (1891).

En rapport avec ce dernier texte, je suis heureux de pouvoir vous adresser mes félicitations à l'occasion du centenaire de l'Arrangement de Madrid, ainsi qu'à l'Organisation Mondiale de la Propriété Intellectuelle qui assure, d'office, la vitalité permanente, grâce aussi aux révisions périodiques, de cette œuvre législative internationale.

Nous sommes conscients en Yougoslavie de l'importance historique et actuelle de l'Arrangement de Madrid et nous sommes fiers d'être membres de la "Famille madrilène", des pays qui participent étroitement dans le domaine de la protection des marques, dans l'intérêt du commerce international libre et loyal.

Du point de vue historique, l'Arrangement de Madrid représente la première convention internationale dans laquelle il a été fait un pas décisif dans le chemin de réduction de nombre de limitations découlant du principe de protection territoriale de la propriété industrielle par la création de la possibilité d'obtenir la protection de la marque dans plusieurs pays sur la base d'un enregistrement international auprès de l'Organisation Mondiale de la Propriété Intellectuelle. Sur les acquiescements de l'Arrangement de Madrid d'autres solutions analogues ont été adoptées à la suite dans l'Arrangement de la Haye concernant le dépôt international des dessins et modèles industriels (1925), dans la Traité de coopération en matière de brevets (1970) et dans la Convention sur la délivrance de brevets européens (1973).

De même, l'Arrangement de Madrid a été et il est de plus en plus un des instruments efficaces de l'affirmation du principe de commerce libre dans les rapports internationaux, ce qui a été toujours très important pour l'amélioration des conditions de vie des gens.

Il m'est agréable de mentionner au cours de la présente rétrospective de création de la politique internationale l'apport qu'a donné mon pays.

La première loi sur les marques sur le territoire de la Yougoslavie d'aujourd'hui a été adoptée en Serbie en 1884, donc avant l'adoption de l'Arrangement de Madrid et à l'époque où un nombre très restreint de pays développés a eu des lois particulières sur les marques.

Monsieur Arpad Bogach
 Directeur Général
 Organisation Mondiale de la
 Propriété Intellectuelle
 GENEVE

SAVENI ZAVOD ZA PATEENTE, Ulica 15. NOV 1, 11000 BELGRADE, YUGOSLAVIA
 Telephone (011) 661-62; Telex: 2216 BESPAT YU; Telex: 2211 66-31

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La Serbie a été, comme c'est connu, un parmi les douze fondateurs de l'Union de Paris, qui a créé à la suite l'Union de Madrid.

Avant l'adoption de la loi particulière, la Serbie avait réglé le problème des marques et d'autres droits de propriété industrielle par les contrats sur le commerce et par les conventions consulaires passées avec l'Empire Austro-Hongrois, la Grande Bretagne, les Etats-Unis d'Amérique, la Grèce, l'Allemagne et la France. En effet encore plus dans le passé, il faut souligner que le principe de commerce libre a été proclamé en Serbie dans sa Constitution de 1838 (article 45) et que le prince Miloš avait refusé déjà en 1824 de donner son approbation aux statuts d'une corporation à Belgrade vu qu'ils prescrivaient que ses membres devaient, afin d'assurer leur existence, éviter toute concurrence entre eux.

En jugeant d'après les chansons populaires serbes, la tradition de marquer les produits par des signes spéciaux remonte au moyen âge. Par exemple, le plus grand héros serbe du XIV^{ème} siècle Marko Kraljević d'après le chanson épique porte le sabre sur laquelle sont gravés les signes du forgeron Novak, tandis qu'un autre héros, Dojčilo, possède le sabre avec les yeux, d'origine turc, avec ce dessin caractéristique etc.


Au cours des dernières cent années beaucoup de changements ont eu lieu sur le plan mondial et local, mais c'est un fait incontestable que le temps travaille en faveur de l'Arrangement de Madrid. Le progrès technique a favorisé au maximum la collaboration entre les pays de différents continents, de la sorte qu'il est créé l'équilibre du marché international sur lequel le marché s'affirme de plus en plus en tant que moyen légal dans la lutte concurrentielle, ce qui est dans l'intérêt des producteurs, des commerçants et des consommateurs. Mentionnons que dans ce cadre il a été essayé la possibilité grâce au montage, que les acheteurs qui sont à Tokio choisissent les marchandises dans les grands magasins de New York.

Mais, la concurrence n'est pas la seule raison d'une telle diversité des marques et de design sur le marché mondial. Tout homme est génétiquement prédestiné de manifester dans tous ses actes sa particularité, son caractère unique, son individualité et c'est aussi lors de la création de la forme et de marquage des marchandises. Tout ce qui a une valeur dans l'envergure nationale, régionale, continentale ou universelle est fondé sur la créativité des individus. Pour cette raison la civilisation doit motiver, par une efficace protection des droits moraux et matériels, les gens talentueux à créer et, d'une part, lutter contre la piraterie de toute sorte, y compris le marquage fautiveux des marchandises en circulation sur le marché mondial.

L'Arrangement de Madrid est une des conventions internationales qui, révisées par le Protocole de 1989, augmente la sécurité juridique des propriétaires des marchandises et des acheteurs sur le marché mondial et pour cette raison il a une perspective du très bon avenir.

Monsieur le Directeur général, je veux vous assurer aussi que dans mon pays il est hautement apprécié votre apport personnel au développement de la collaboration internationale dans le domaine de la propriété industrielle et que la Yougoslavie sera également dans le futur, dans le cadre de ses possibilités, facteur actif et constructif dans le processus de rapprochement des Etats par voie des conventions internationales adoptées sous l'égide de l'Organisation Mondiale de la Propriété Intellectuelle.

Je vous prie, Monsieur le Directeur Général, d'agréer les assurances de ma haute considération.


 Directeur
 Blagota Žarković



Dear Mr. Director General,

Civilization has taught us to behave with respect towards those parts of the human intellect that, in far-off times, have been carved in stone or cast in bronze and left as a testimony of those times, like memorial inscriptions or laws such as the Twelve Tables. According to the same principle we are bound, under the precepts of civilization, to take account of the fact that in our time too there are prescribed rules that for a whole century have governed certain relations between States, peoples and individuals, like the Paris Convention for the Protection of Industrial Property (1883) and the Madrid Agreement Concerning the International Registration of Marks (1891).

With reference to the latter text, I am pleased to be able to address to you my congratulations on the occasion of the centenary of the Madrid Agreement, and also to the World Intellectual Property Organization, which provides, *ex officio*, for the continuing vitality, ensured also by means of periodical revisions, of this international legal work.

We are aware in Yugoslavia of the historical and current importance of the Madrid Agreement, and we are proud to be members of the "Madrid family" of countries that participate closely in the field of trademark protection, in the interest of free and fair international trade.

From a historical point of view, the Madrid Agreement is the first international treaty to take a bold step towards reducing the number of limitations arising from the principle of territorial protection of industrial property, which it did by making it possible to secure protection for a mark in several countries on the basis of an international registration with the World Intellectual Property Organization. In the wake of the achievements of the Madrid Agreement, other comparable solutions were subsequently adopted in the Hague Agreement Concerning the International Deposit of Industrial Designs (1925), the Patent Cooperation Treaty (1970) and the Convention on the Grant of European Patents (1973).

Similarly, the Madrid Agreement has been and is more and more an effective instrument for the assertion of the principle of free trade in international relations, which has always been very important to the improvement of the living standards of peoples.

I am pleased to take the opportunity of this retrospective account of the creation of international policies to speak of the contributions made by my country.

The first trademark law on the territory of what today is Yugoslavia was adopted in Serbia in 1884, in other words before the adoption of the Madrid Agreement and at a time when very few developed countries had specific laws on marks.

Serbia was, as we know, one of the 12 founders of the Paris Union, within which the Madrid Union was subsequently created.

Before the enactment of that specific legislation, Serbia had dealt with the question of marks and other industrial property rights by means of trade contracts and consular conventions entered into with the Austro-Hungarian Empire, Great Britain, the United States of America, Greece, Germany and France. Going further back into the past, it should be emphasized that the principle of free trade was proclaimed in Serbia in its 1838 Constitution (Article 45), and that Prince Miloš Obrenović had refused already in 1824 to give his approval to the statutes of a corporation in Belgrade, in view of the fact that they required its members to avoid all competition between themselves in order to ensure their continuing existence.

Judging by Serbian folk songs, the tradition of marking goods with special signs goes back to the Middle Ages. For instance, the greatest Serbian hero of the fourteenth century, Marko Kraljević, according to an epic song, carried a sword on which was engraved "the signs of Novak the blacksmith," while another hero, Dojčilo, had "a sword with eyes," of Turkish origin, with this as a characteristic design, and so on.

During the last hundred years many changes have taken place both worldwide and locally, but it is an indisputable fact that time is on the side of the Madrid Agreement. Technological progress has to the utmost extent promoted collaboration between the countries of different continents, in such a way that an international market atmosphere has evolved in which trademarks are asserting themselves more and more as legal weapons in the competitive struggle, which is in the interest of producers, traders and consumers. We would mention in this connection that experiments have been conducted in which purchasers in Tokyo have used the possibilities of a monitor to select goods in the large stores of New York.

Yet competition is not the sole reason for such a diversity of trademarks and designs on the world market. Mankind is genetically programmed to manifest his specificity, his uniqueness and his individuality in all his actions, including the creation and the marking of goods. Anything of value in the national, regional, continental or universal sphere relies on the creativeness of individuals. For that reason, civilization should, by means of the effective protection of moral and material rights, motivate talented people to create and, at the same time, combat piracy of all kinds, including the false marking of goods in circulation on the world market.

The Madrid Agreement is one of the international conventions which, having been brought up to date by the 1989 Protocol, enhances the legal security of the owners and purchasers of goods on the world market, and for that reason it takes on the nature of a universal text.

I also wish to assure you, Mr. Director General, that in my country your personal contribution to the development of international cooperation in the industrial property field is greatly appreciated, and that Yugoslavia will continue in the future, as far as it is able, to be an active and constructive participant in the process of bringing States closer together through the international treaties adopted under the auspices of the World Intellectual Property Organization.

Sincerely yours,
 BLAGOTA ŽARKOVIĆ
 Director

Excerpts from the
PARIS CONVENTION
for the Protection of
Industrial Property, 1883





Article 2. The subjects or citizens of each of the contracting States shall, as regards patents, industrial designs, trade marks and trade names, enjoy the advantages that their respective laws now grant, or many hereafter grant, to nationals. Consequently, they shall have the same protection as the latter and the same legal remedy against any infringement of their rights, provided they observe the formalities and conditions imposed upon nationals by the domestic legislation of each State.

Article 3. Subjects or citizens of States not forming part of the Union, who are domiciled or who have industrial or commercial establishments in the territory of one of the States of the Union, are treated in the same manner as subjects or citizens of the contracting States.

Article 4. [1] A person who has duly filed an application for a patent, or for the registration of an industrial design, or of a trade mark, in one of the contracting States, shall enjoy, for the purpose of filing in the other States, and subject to the rights of third parties, a right of priority during the periods hereinafter stated. [2] Consequently, the subsequent filing in any of the other States of the Union before the expiration of those periods shall not be invalidated through any acts accomplished in the interval, as for instance, by another filing, by the publication of the invention or its exploitation by others, by the putting on sale of copies of the design, or by use of the mark. [3] The above-mentioned periods of priority shall be six months for patents and three months for industrial designs and for trade marks. They shall be increased by one month for overseas countries.

Article 6. [1] Every trade mark duly filed in the country of origin shall be accepted for filing and protected in its original form in the other countries of the Union. [2] The country in which the applicant has his principal establishment shall be considered as the country of origin. [3] If the principal establishment is not situated in one of the countries of the Union, the country to which the applicant belongs shall be considered as the country of origin. [4] The filing may be refused if the object for which it is requested is considered as contrary to morality or public order.

Article 7. The nature of the goods to which the trade mark is to be applied shall in no case form an obstacle to the filing of the mark.

Article 8. A trade name shall be protected in all the countries of the Union without the obligation of filing, whether or not it forms part of a trade mark.

Article 9. [1] All goods unlawfully bearing a trade mark or a trade name may be seized on importation into those States of the Union where such mark or name has a right to legal protection. [2] Seizure shall take place at the request either of the public prosecutor or of the interested party in conformity with the domestic law of each State.

Article 10. [1] The provisions of the preceding Article shall apply to any goods which falsely bear as an indication of source the name of a specified locality, when such indication is joined to a trade name of a fictitious character or used with fraudulent intention. [2] Any manufacturer or trader engaged in the manufacture of or trade in such goods and established in the locality falsely indicated as the source shall be deemed an interested party.

Article 11. The High Contracting Parties undertake to grant temporary protection to patentable inventions, industrial designs and trade marks in respect of goods exhibited at official or officially recognized international exhibitions.

Article 12. Each of the High Contracting Parties undertakes to establish a special industrial property service and a central office for the communication to the public of patents, industrial designs and trade marks.

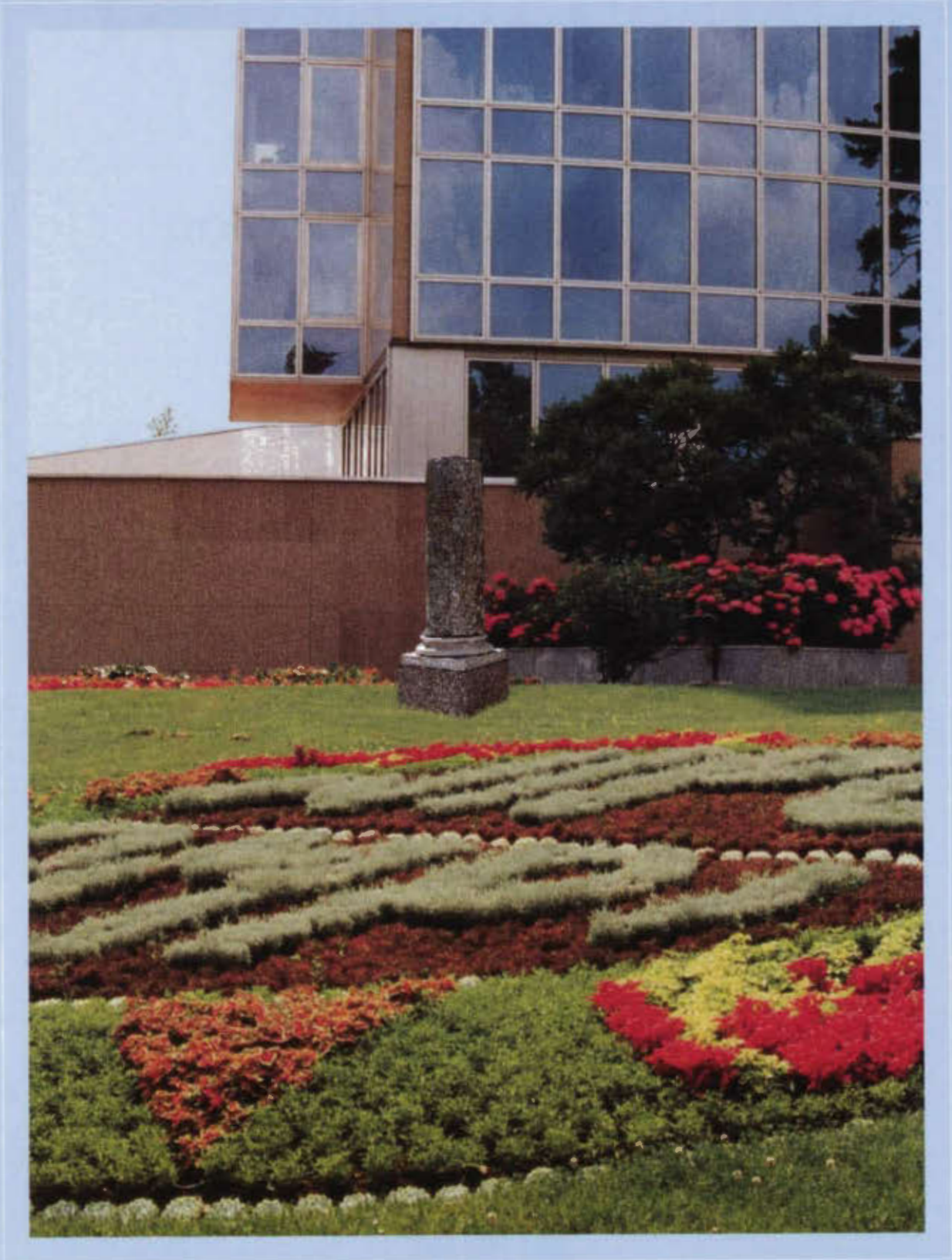
Final Protocol of March 20, 1883

4. [1] Paragraph [1] of Article 6 should be understood in the sense that no trade mark may be excluded from protection in one of the States of the Union for the sole reason that it does not comply, with regard to the signs of which it is composed, with the conditions of the laws of that State, provided it complies on this point with the laws of the country of origin and that it has been properly filed there. Subject to this exception, which only concerns the form of the mark, and subject to the provisions of the other Articles of the Convention, each State shall apply its domestic law. [2] In order to avoid improper interpretation, it is understood that the use of public armorial bearings and decorations may be considered as contrary to public order, in the sense of the last paragraph of Article 6.

MADRID AGREEMENT

Concerning the International Registration of Marks





THE VARIOUS TEXTS

of the Madrid Agreement

Original Text of 1891	page 100
Act of Brussels, 1900	page 101
Act of Washington, 1911	page 102
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Act of Nice, 1957	page 109
Act of Stockholm, 1967, as amended in 1979	page 114
Madrid Protocol, 1989	page 122



MADRID AGREEMENT, 1891

AGREEMENT OF MADRID CONCERNING THE INTERNATIONAL REGISTRATION OF TRADEMARKS OF APRIL 14, 1891

ARTICLE 1

Subjects or citizens of any of the contracting States may, in all the other States, secure protection for their trademarks accepted on filing in the country of origin by deposit of the said marks at the International Bureau, at Berne, through the intermediary of the Administration of the said country of origin.

ARTICLE 2

Subjects or citizens of States which have not acceded to this Agreement, who satisfy the conditions of Article 3 of the Convention, shall be treated in the same manner as subjects or citizens of contracting States.

ARTICLE 3

The International Bureau shall register immediately the marks filed in accordance with Article 1. It shall notify the registration to the contracting States. The marks registered shall be published in a supplement to the journal of the International Bureau, utilizing either a drawing or a description in French supplied by the applicant.

In view of the publicity to be given in the various States to marks thus registered, each Administration shall receive from the International Bureau, free of charge, as many copies of the above-mentioned publication as it cares to ask for.

ARTICLE 4

From the date of the registration thus effected at the International Bureau, the protection in each of the contracting States shall be the same as if the mark had been directly deposited there.

ARTICLE 5

In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark shall have the right to declare that protection cannot be granted to such mark in their territory.

They must exercise this right within the year of notification provided for by Article 3.

Such declaration, thus notified to the International Bureau, shall be transmitted without delay by the latter to the Administration of the country of origin and to the proprietor of the mark. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

ARTICLE 6

Protection resulting from registration at the International Bureau shall continue for twenty years from such registration, but it may not be invoked in favor of a mark which no longer enjoys legal protection in the country of origin.

ARTICLE 7

Any registration may be renewed in accordance with the provisions of Articles 1 and 3.

Six months before the expiration of the term of protection, the International Bureau shall send an unofficial notice to the Administration of the country of origin and to the proprietor of the mark.

ARTICLE 8

The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the proprietor of the mark in respect of which international registration is applied for.

To this fee shall be added an international fee of one hundred francs, the annual returns from which shall be distributed equally among the contracting States by the International Bureau, after deduction of the common expenses necessitated by the carrying out of this Agreement.

ARTICLE 9

The Administration of the country of origin shall notify the International Bureau of annulments, cancellations, renunciations, transfers and other changes that may occur regarding the ownership of the mark.

The International Bureau shall register these changes, shall notify them to the contracting Administrations and shall publish them immediately in its journal.

ARTICLE 10

The Administrations shall by common accord regulate the details for carrying out this Agreement.

ARTICLE 11

The States of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it at their request and in the form prescribed by Article 16 of the Convention of March 20, 1883, for the Protection of Industrial Property.

As soon as the International Bureau is informed that a State has acceded to this Agreement, it shall address to the Administration of that State, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

This notification, of itself, shall assure to the said marks the benefits of the foregoing provisions upon the territory of the acceding State, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

ARTICLE 12

This Agreement shall be ratified, and the ratifications shall be exchanged in Madrid within a period not exceeding six months.

It shall come into force one month after the exchange of ratifications, and shall have the same force and duration as the Convention of March 20, 1883.

FINAL PROTOCOL

At the time of signing the Agreement Concerning the International Registration of Trademarks, concluded this day, the Plenipotentiaries of the States that have acceded to the said Agreement have agreed as follows:

Doubts having been raised regarding the scope of Article 5, it is understood that the right of refusal that this Article allows Administrations shall not prejudice the provisions of Article 6 of the Convention of March 20, 1883, and of paragraph 4 of the Final Protocol accompanying it, these provisions being applicable to marks deposited at the International Bureau as they have been and will continue to be applicable to those deposited directly in all the contracting countries.

This Protocol shall have the same force and duration as the Agreement to which it relates.

ACT OF BRUSSELS, 1900

AGREEMENT OF MADRID CONCERNING
THE INTERNATIONAL REGISTRATION
OF TRADEMARKS OF APRIL 14, 1891,
REVISED AT BRUSSELS ON DECEMBER 14, 1900

ADDITIONAL ACT

ARTICLE 1

I.—Article 2 of the Agreement of April 14, 1891, shall read as follows:

ARTICLE 2.—Subjects or citizens of States which have not acceded to this Agreement, who, within the territory of the restricted Union constituted by this Agreement, satisfy the conditions of Article 3 of the General Convention, shall be treated in the same manner as subjects or citizens of the contracting States.

II.—Article 3 shall read as follows:

ARTICLE 3.—The International Bureau shall register immediately the marks filed in accordance with Article 1. It shall notify the registration to the contracting States. The marks registered shall be published in a supplement to the journal of the International Bureau, utilizing a printing block supplied by the applicant.

If the applicant claims color as a distinctive feature of his mark, he shall be obliged:

1. to mention this fact, and to accompany his application with a statement indicating the color;
2. to append to his application copies in color of the said mark, which shall be attached to the notifications made by the International Bureau. The number of such copies shall be fixed by the Regulations.

In view of the publicity to be given, in the various States, to registered marks, each Administration shall receive from the International Bureau, free of charge, as many copies of the above-mentioned publication as it cares to ask for.

III.—An Article 4bis, worded as follows, is inserted in the Agreement:

ARTICLE 4bis.—When a mark already deposited in one or more of the contracting States is subsequently registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be considered as replacing the earlier national registrations, without prejudice to any rights acquired by such earlier registrations.

IV.—Article 5 shall read as follows:

ARTICLE 5.—In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark shall have the right to declare that protection cannot be granted to such mark on their territory. Any such refusal can only be based on grounds which would apply, by virtue of the Convention of March 20, 1883, in the case of marks deposited for national registration.

They must exercise this right within the period prescribed by their domestic law and, at the latest, in the year of notification provided for in Article 3, with an indication to the International Bureau of the grounds for refusal.

Such declaration, thus notified to the International Bureau, shall be transmitted by it without delay to the Administration of the country of origin and to the proprietor of the mark. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

V. An Article 5bis, worded as follows, is inserted in the Agreement:

ARTICLE 5bis.—The International Bureau shall deliver to any person making application therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register in connection with a specific mark.

VI.—Article 8 shall read as follows:

ARTICLE 8.—The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the proprietor of the mark in respect of which international registration is applied for. To this fee shall be added an international fee of one hundred francs for the first mark and fifty francs for each successive mark deposited at the same time by the same proprietor. The annual returns from this fee shall be distributed equally among the contracting States by the International Bureau, after deduction of the common expenses necessitated by the carrying out of this Agreement.

VII.—An Article 9bis, worded as follows, is inserted in the Agreement:

ARTICLE 9bis. When a mark entered in the International Register is transferred to a person established in a contracting State 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. The International Bureau shall register the transfer and, after having received the consent of the Administration of the country to which the new owner belongs, shall notify it to the other Administrations and shall publish it in its journal.

This provision shall in no way have the effect of modifying the legislation of contracting States which prohibit the transfer of the mark without the simultaneous transfer of the industrial or commercial establishment whose goods it distinguishes.

No transfer of a mark registered in the International Register, for the benefit of a person not established in one of the signatory countries, shall be recorded.

ARTICLE 2

The Final Protocol signed at the same time as the Agreement of April 14, 1891, is deleted.

ARTICLE 3

This Additional Act shall have the same validity and duration as the Agreement to which it relates.

It shall be ratified, and the ratifications shall be deposited at Brussels, at the Ministry for Foreign Affairs, as soon as this can be done and at the latest within one year from the date of signature.

It shall come into force three months after the close of the record of deposit.

ACT OF WASHINGTON, 1911

AGREEMENT OF MADRID CONCERNING
THE INTERNATIONAL REGISTRATION
OF TRADEMARKS OF APRIL 14, 1891,
REVISED AT BRUSSELS ON DECEMBER 14, 1900,
AND AT WASHINGTON ON JUNE 2, 1911

ARTICLE 1

Subjects or citizens of any of the contracting countries may, in all the other countries, secure protection for their trademarks accepted on filing in the country of origin by deposit of the said marks at the International Bureau, at Berne, through the intermediary of the Administration of the said country of origin.

ARTICLE 2

Subjects or citizens of countries which have not acceded to this Agreement who, within the territory of the restricted Union constituted by this Agreement, satisfy the conditions of Article 3 of the General Convention, shall be treated in the same manner as subjects or citizens of the contracting countries.

ARTICLE 3

The International Bureau shall register immediately the marks filed in accordance with Article 1. It shall notify the registration to the various Administrations. The marks registered shall be published in a periodical journal issued by the International Bureau, utilizing the particulars contained in the application for registration and a printing block supplied by the applicant.

If the applicant claims color as a distinctive feature of his mark, he shall be obliged:

1. to mention this fact, and to accompany his application with a statement indicating the color or the combination of colors claimed;
2. to append to his application copies in color of the said mark, which shall be attached to the notifications made by the International Bureau. The number of such copies shall be fixed by the Regulations.

In view 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-mentioned publication as it cares to ask for. This publicity shall be considered in all the contracting countries as fully sufficient, and no other publicity may be required of the depositor.

ARTICLE 4

From the date of the registration thus effected at the International Bureau, the protection of the mark in each of the contracting countries shall be the same as if the mark had been directly deposited there.

Every mark registered internationally within the four months following the date of filing in the country of origin shall enjoy the right of priority provided by Article 4 of the General Convention.

ARTICLE 4bis

When a mark already deposited in one or more of the contracting countries is subsequently registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be considered as replacing the earlier national registrations, without prejudice to any rights acquired by such earlier registrations.

ARTICLE 5

In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark shall have the right to declare that protection cannot be granted to such mark on their territory. Any such refusal can only be based on grounds which would apply, by virtue of the General Convention, in the case of marks deposited for national registration.

They must exercise this right within the period prescribed by their domestic law and, at the latest, in the year of notification provided for in Article 3, with an indication to the International Bureau of the grounds for refusal.

Such declaration, thus notified to the International Bureau, shall be transmitted by it without delay to the Administration of the country of origin and to the proprietor of the mark. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

ARTICLE 5bis

The International Bureau shall deliver to any person making application therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register in connection with a specific mark.

ARTICLE 6

Protection resulting from registration at the International Bureau shall continue for twenty years from such registration, but may not be invoked in favor of a mark which no longer enjoys legal protection in the country of origin.

ARTICLE 7

Any registration may be renewed in accordance with the provisions of Articles 1 and 3.

Six months before the expiration of the term of protection, the International Bureau shall send an unofficial notice to the Administration of the country of origin and to the proprietor of the mark.

ARTICLE 8

The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the proprietor of the mark in respect of which international registration is applied for. To this fee shall be added an international fee of one hundred francs for the first mark and fifty francs for each successive mark deposited at the same time by the same proprietor. The annual returns from this fee shall be distributed equally among the contracting countries by the International Bureau, after deduction of the common expenses necessitated by the carrying out of this Agreement.

ARTICLE 8bis

The proprietor of an international mark may at any time renounce protection in one or more contracting countries by means of a declaration sent to the Administration of the country of origin of the mark, for communication to the International Bureau, which shall notify the countries for which renunciation was made.

ARTICLE 9

The Administration of the country of origin shall notify to the International Bureau all annulments, cancellations, renunciations, transfers and other changes that may occur regarding the ownership of the mark.

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The International Bureau shall register these changes, shall notify them to the Administrations of the contracting countries, and shall publish them immediately in its journal.

Similar procedure shall be followed when the proprietor of the mark requests that the list of goods to which the mark is applied be reduced.

The subsequent addition of new goods to the said list can only be obtained by making a new application in accordance with the provisions of Article 3. The substitution of one of the goods for another shall be treated as an addition.

ARTICLE 9bis

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. The International Bureau shall register the transfer and, after having received the consent of the Administration of the country to which the new owner belongs, shall notify it to the other Administrations and shall publish it in its journal.

This provision shall in no way have the effect of modifying the legislation of contracting countries which prohibit transfer of the mark without the simultaneous transfer of the industrial or commercial establishment whose goods it distinguishes.

No transfer of a mark registered in the International Register, for the benefit of a person not established in one of the contracting countries, shall be recorded.

ARTICLE 10

The Administrations shall by common accord regulate the details for carrying out this Agreement.

ARTICLE 11

The countries of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it 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 this Agreement, it shall address to the Administration of that country, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

This notification, of itself, shall assure to the said marks the benefits of the foregoing provisions upon the territory of the acceding country, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

ARTICLE 12

This Agreement shall be ratified, and the ratifications shall be deposited at Washington not later than April 1, 1913.

It shall come into force one month after the expiration of that period, and shall have the same force and duration as the General Convention.

ACT OF THE HAGUE, 1925

AGREEMENT OF MADRID CONCERNING
THE INTERNATIONAL REGISTRATION
OF TRADEMARKS
OF APRIL 14, 1891,
REVISED AT BRUSSELS ON DECEMBER 14, 1900,
AT WASHINGTON ON JUNE 2, 1911,
AND AT THE HAGUE ON NOVEMBER 6, 1925

ARTICLE 1

Nationals of any of the contracting countries may, in all the other countries, secure protection for their trademarks registered in the country of origin by deposit of the said marks at the International Bureau, at Berne, through the intermediary of the Administration of the said country of origin.

For the definition of "country of origin," the relevant provisions 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 which have not acceded to this Agreement, who, within the territory of the restricted Union constituted by this Agreement, satisfy the conditions of Article 3 of the General Convention, shall be treated in the same manner as nationals of the contracting countries.

ARTICLE 3

Every application for international registration must be presented on the form prescribed by the Regulations, and the Administration of the country of origin of the mark shall certify that the particulars appearing in the application are in accordance with the particulars in the national Register.

If the applicant claims color as a distinctive feature of his mark, he shall be obliged:

1. to mention this fact, and to accompany his application with a statement indicating the color or the combination of colors claimed;
2. to append to his application copies in color of the said mark, which shall be attached to the notifications made by the International Bureau. The number of such copies shall be fixed by the Regulations.

The International Bureau shall register immediately the marks filed in accordance with Article 1. It shall notify the registration without delay to the various Administrations. The marks registered shall be published in a periodical journal issued by the International Bureau, utilizing the particulars contained in the application for registration and a printing block supplied by the applicant.

In view 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-mentioned publication as it cares to ask for. This publicity shall be considered in all contracting countries as fully sufficient, and no other publicity may be required of the depositor.

ARTICLE 4

From the date of the registration thus effected at the International Bureau, the protection of the mark in each of the contracting countries shall be the same as if the mark had been directly deposited there.

Every mark which has been the subject of an international registration shall enjoy the right of priority provided by Article 4 of the General Convention, without requiring compliance with the formalities provided for in section *d* of that Article.

ARTICLE 4bis

When a mark already deposited in one or more contracting countries is subsequently registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be considered as replacing the earlier national registrations, without prejudice to any rights acquired by such earlier registrations.

ARTICLE 5

In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark shall have the right to declare that protection cannot be granted to such mark on their territory. Any such refusal can only be based on grounds which would apply, by virtue of the General Convention, in the case of marks deposited for national registration.

The Administration exercising this right must notify its refusal to the International Bureau, with an indication of the grounds, within the period prescribed by its domestic law and, at the latest, before the expiration of one year calculated from the international registration of the mark.

The International Bureau shall, without delay, transmit to the Administration of the country of origin and to the proprietor of the mark, or to his agent, if an agent has been indicated to the Bureau by the said Administration, one of the copies of the declaration of refusal thus notified. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

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

ARTICLE 5bis

Documents showing the legitimacy of the use of certain elements included in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, or names of persons other than the name of the applicant, or other like inscriptions which might be required by the Administrations of contracting countries, shall be exempt from any certification or authentication other than that of the Administration of the country of origin.

ARTICLE 5ter

The International Bureau shall deliver to any person making application therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register in connection with a specific mark.

It may also, upon payment, undertake searches for anticipation among international marks.

ARTICLE 6

Protection resulting from registration at the International Bureau shall continue for twenty years from such registration (subject to the provisions of Article 8 concerning cases where the applicant has only paid part of the international fee), but it may not be invoked in favor of a mark which no longer enjoys legal protection in the country of origin.

ARTICLE 7

Any registration may be renewed in accordance with the provisions of Articles 1 and 3 for a further period of twenty years to be counted from the date of renewal.

Six months before the expiration of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the proprietor of the mark of the exact date of expiration.

If a mark submitted for renewal of the previous registration has undergone a modification with respect to form, the Administrations may refuse to register it

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by way of renewal; they shall have the same right in the case of a change in the specification of the goods to which the mark is to be applied, unless, upon notification of the objection through the intermediary of the International Bureau, the interested party declares that he renounces protection for goods other than those designated in the same terms at the time of the earlier registration.

When the mark is not accepted by way of renewal, account may be taken of the priority or other rights acquired by the fact of the earlier registration.

ARTICLE 8

The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a national fee which it may require from the proprietor of the mark in respect of which international registration is applied for.

To this fee shall be added an international fee (in Swiss francs) of one hundred and fifty francs for the first mark, and one hundred francs for each successive mark deposited at the International Bureau at the same time and in the name of the same proprietor.

The depositor may pay at the time of the application for international registration a fee of only one hundred francs in respect of the first mark and only seventy-five francs in respect of each mark deposited at the same time as the first.

If the applicant avails himself of this right, he shall, before expiration of a period of ten years counted from the international registration, pay to the International Bureau a complementary fee of seventy-five francs in respect of the first mark and fifty francs in respect of each mark deposited at the same time as the first mark, failing which, at the expiration of this period, he shall lose the benefit of his registration. Six months before such expiration, the International Bureau shall, by sending an unofficial notice, remind the depositor of the exact date of expiration. If the complementary fee is not paid to the International Bureau before the expiration of this period, the Bureau shall cancel the mark, shall notify this operation to the Administrations, and shall publish it in its journal.

When the list of goods in respect of which protection is claimed contains more than one hundred words, registration of the mark shall not be effected before payment of a surcharge to be fixed by the Regulations.

The annual returns from the various receipts from international registration shall be distributed by the International Bureau equally among the contracting countries, after deduction of the common expenses necessitated by the carrying out of this Agreement.

If, at the time this revised Agreement enters into force, a country has not yet ratified it, that country shall only be entitled, until the date of its accession, to a share of the excess of receipts calculated on the basis of the former fees.

ARTICLE 8bis

The proprietor of an international mark may at any time renounce protection in one or more of the contracting countries by means of a declaration sent to the Administration of the country of origin of the mark, for communication to the International Bureau, which shall notify the countries for which renunciation was made.

ARTICLE 9

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

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

Similar procedure shall be followed when the proprietor of the mark requests that the list of goods to which the mark is applied be reduced.

These operations may be subject to a fee, which shall be fixed by the Regulations.

The subsequent addition of new goods to the said list can only be obtained by making a new application in accordance with the provisions of Article 3. The substitution of one of the goods for another shall be treated as an addition.

ARTICLE 9bis

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. The International Bureau, after having received the consent of the Administration of the country to which the new owner belongs, shall register the transfer, shall notify it to the other Administrations and shall publish it in its journal, mentioning, if possible, the date and the registration number of the mark in its new country of origin.

No transfer of a mark registered in the International Register for the benefit of a person who is not entitled to deposit an international mark shall be recorded.

ARTICLE 9ter

The provisions of Articles 9 and 9bis concerning transfers shall in no way have the effect of modifying the legislation of contracting countries which prohibit the transfer of the mark without the simultaneous transfer of the industrial or commercial establishment whose goods it distinguishes.

ARTICLE 10

The Administrations shall by common accord regulate the details for carrying out this Agreement.

ARTICLE 11

The countries of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it 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 this Agreement, it shall address to the Administration of that country, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

This notification, of itself, shall assure to the said marks the benefits of the foregoing provisions upon the territory of the acceding country, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

However, each country when acceding to this Agreement may declare that, except in the case of international marks which have already been the subject in that country of an identical national registration still in force, and which shall be immediately recognized upon the request of interested parties, the application of this Act shall be limited to marks registered from the date when the accession becomes effective.

Such a declaration shall relieve the International Bureau of the necessity of making the collective notification referred to above. The Bureau shall restrict its action to giving notification of the marks in respect of which application is, within a period of one year from the accession of the new country, made to the Bureau, with the necessary particulars, for permission to take advantage of the exception referred to in the preceding paragraph.

ARTICLE 12

This Agreement 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 this date and shall have the same force and duration as the General Convention.

This Act shall, in relations between the countries which have ratified it, replace the Madrid Agreement of 1891, revised at Washington on June 2, 1911. However, the latter will remain in force in relations between the countries which do not ratify this Act.

ACT OF LONDON, 1934

AGREEMENT OF MADRID CONCERNING
THE INTERNATIONAL REGISTRATION OF TRADEMARKS
OF APRIL 14, 1891, REVISED AT BRUSSELS ON DECEMBER
14, 1900, AT WASHINGTON ON JUNE 2, 1911, AT THE
HAGUE ON NOVEMBER 6, 1925, AND AT LONDON ON
JUNE 2, 1934

ARTICLE 1

(1) Nationals of any of the contracting countries may, in all the other countries, secure protection for their trademarks registered in the country of origin by deposit of the said marks at the International Bureau for the Protection of Industrial Property, at Berne, through the intermediary of the Administration of the said country of origin.

(2) For the definition of "country of origin", the relevant provisions 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 this Agreement, who, within the territory of the restricted Union constituted by this Agreement, satisfy the conditions of Article 3 of the General Convention, shall be treated in the same manner as nationals of contracting countries.

ARTICLE 3

(1) Every application for international registration must be presented on the form prescribed by the Regulations, and the Administration of the country of origin of the mark shall certify that the particulars appearing in the application are in accordance with the particulars in the national Register.

(2) If the applicant claims color as a distinctive feature of his mark, he shall be obliged:

1. to mention this fact, and to accompany his application with a statement indicating the color or the combination of colors claimed;
2. to append to his application copies in color of the said mark, which shall be attached to the notifications made by the International Bureau. The number of such copies shall be fixed by the Regulations.

(3) The International Bureau shall register immediately the marks filed in accordance with Article 1. It shall notify the registration without delay to the various Administrations. The marks registered shall be published in a periodical journal issued by the International Bureau, utilizing the particulars contained in the application for registration and a printing block supplied by the applicant.

(4) In view 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-mentioned publication as it cares to ask for. This publicity shall be considered in all contracting countries as fully sufficient, and no other publicity may be required of the depositor.

ARTICLE 4

(1) From the date of the registration thus effected at the International Bureau, the protection of the mark in each of the con-

tracting countries shall be the same as if the mark had been directly deposited there.

(2) Every mark which has been the subject of an international registration shall enjoy the right of priority provided by Article 4 of the General Convention, without requiring compliance with the formalities provided for in section D of that Article.

ARTICLE 4 bis

(1) When a mark already deposited in one or more contracting countries is subsequently registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be considered as replacing the earlier national registrations, without prejudice to any rights acquired by such earlier registrations.

(2) The national Administration shall, upon request, be obliged to take note in its Registers of the international registration.

ARTICLE 5

(1) In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark shall have the right to declare that protection cannot be granted to such mark in their territory. Any such refusal can only be based on grounds which would apply, by virtue of the General Convention, in the case of marks deposited for national registration.

(2) The Administration exercising this right must notify its refusal to the International Bureau, with an indication of the grounds, within the period prescribed by its domestic law and, at the latest, before the expiration of one year calculated from the international registration of the mark.

(3) The International Bureau shall, without delay, transmit to the Administration of the country of origin and to the proprietor of the mark, or to his agent, if an agent has been indicated to the Bureau by the said Administration, one of the copies of the declaration of refusal thus notified. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

(4) The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who asks for them.

(5) Administrations which, within the above-mentioned maximum period of one year, have not addressed any communication to the International Bureau, shall be deemed to have accepted the mark.

(6) The invalidation of an international mark may not be pronounced by the competent authorities without the proprietor of the mark having, in good time, been afforded the opportunity of proving his rights. Invalidation shall be notified to the International Bureau.

ARTICLE 5 bis

Documents showing the legitimacy of the use of certain elements included in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, or names of persons other than the name of the applicant, or other like inscriptions which might be required by the Administrations of contracting countries, shall be exempt from any authentication or certification other than that of the Administration of the country of origin.

ARTICLE 5 *ter*

(1) The International Bureau shall deliver to any person making application therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register in connection with a specific mark.

(2) The International Bureau may also, upon payment, undertake searches for anticipation among international marks.

(3) Extracts from the International Register requested with a view to their production in one of the contracting countries shall be exempt from all authentication.

ARTICLE 6

Protection resulting from registration at the International Bureau shall continue for twenty years from such registration (subject to the provisions of Article 8 concerning cases where the applicant has only paid part of the international fee), but it may not be invoked in favor of a mark which no longer enjoys legal protection in the country of origin.

ARTICLE 7

(1) Any registration may be renewed, in accordance with the provisions of Articles 1 and 3, for a further period of twenty years to be counted from the date of renewal.

(2) Six months before the expiration of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the proprietor of the mark of the exact date of expiration.

(3) If the mark submitted for renewal of the previous registration has undergone a modification which alters its distinctive character, the Administrations may refuse to register it by way of renewal; they shall have the same right in the case of a change in the specification of the goods to which the mark is to be applied, unless, upon notification of the objection through the intermediary of the International Bureau, the interested party declares that he renounces protection for goods other than those designated in the same terms at the time of the earlier registration.

(4) When the mark is not accepted by way of renewal, account shall nevertheless be taken of the priority or other rights acquired by the fact of the earlier registration. In particular, the mark shall enjoy the right of priority in respect of such goods as were designated in the same terms at the time of the earlier registration and of the renewal.

ARTICLE 8

(1) The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a national fee which it may require from the proprietor of the mark in respect of which international registration is applied for.

(2) To this fee shall be added an international fee (in Swiss francs) of 150 francs for the first mark and 100 francs for each successive mark deposited at the International Bureau at the same time and in the name of the same proprietor.

(3) The depositor may pay at the time of the application for international registration a fee of only 100 francs in respect of the first mark and only 75 francs in respect of each mark deposited at the same time as the first.

(4) If the applicant avails himself of this right, he shall, before the expiration of a period of ten years, counted from the inter-

national registration, pay to the International Bureau a complementary fee of 75 francs in respect of the first mark and 50 francs in respect of each mark deposited at the same time as the first mark, failing which, at the expiration of this period, he shall lose the benefit of his registration. Six months before such expiration, the International Bureau shall, by sending an unofficial notice, remind the depositor of the exact date of expiration. If the complementary fee is not paid to the International Bureau before the expiration of this period, the Bureau shall cancel the mark, shall notify this operation to the Administrations, and shall publish it in its journal. If the complementary fee due in respect of marks included in a collective deposit is not paid for all marks at the same time, the depositor shall specify the marks for which he intends to make the complementary payment and shall pay the fee of 75 francs for the first mark of each series.

(5) When the list of goods in respect of which protection is claimed contains more than one hundred words, registration of the mark shall not be effected before payment of a surcharge to be fixed by the Regulations.

(6) The annual returns from the various receipts from international registration shall be distributed by the International Bureau equally among the contracting countries, after deduction of the common expenses necessitated by the carrying out of this Agreement.

(7) If, at the time this revised Agreement comes into force, a country has not acceded to the Act of The Hague, it shall only be entitled, until the date of its accession, to a share of the excess of receipts calculated on the basis of the former fees.

ARTICLE 8 *bis*

The proprietor of an international mark may at any time renounce protection in one or more contracting countries by means of a declaration sent to the Administration of the country of origin of the mark, for communication to the International Bureau, which shall notify the countries for which renunciation was made. Renunciation shall not be subject to any fee.

ARTICLE 9

(1) The Administration of the country of origin shall likewise notify to the International Bureau all annulments, cancellations, renunciations, transfers and other changes made in the entry of the mark in the national Register, if such changes also affect the international registration.

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

(3) Similar procedure shall be followed when the proprietor of the mark requests that the list of goods to which the mark is applied be reduced.

(4) These operations may be subject to a fee, which shall be fixed by the Regulations.

(5) The subsequent addition of new goods to the said list can only be obtained by making a new application in accordance with the provisions of Article 3.

(6) The substitution of one of the goods 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 country of origin. The International Bureau, after having received the consent of the Administration of the country to which the new owner belongs, shall register the transfer, shall notify it to the other Administrations, and shall publish it in its journal, mentioning, if possible, the date and the registration number of the mark in its new country of origin.

(2) No transfer of a mark registered in the International Register for the benefit of a person who is not entitled to deposit an international mark shall be recorded.

(3) When it has not been possible to record a transfer in the International Register, either because the new country of origin has refused its consent or because the transfer has been made for the benefit of a person who is not entitled to deposit an international mark, the Administration of the former country of origin shall have the right to request the International Bureau to cancel the mark in its Register.

ARTICLE 9 *ter*

(1) If the assignment of an international mark for part only of the registered goods is notified to the International Bureau, the Bureau shall record it in its Register. Each of the contracting countries shall have the right to refuse to recognize the validity of the assignment if the goods included in the part thus assigned are similar to those in respect of which the mark remains registered for the benefit of the assignor.

(2) Similarly, the International Bureau shall record an assignment of the international mark for only one or several of the contracting countries.

(3) If, in the above cases, a change in the country of origin takes place, the consent of the Administration of the country to which the assignee belongs shall be required, in accordance with the provisions of Article 9 *bis*.

(4) The provisions of the preceding paragraphs are applicable subject to Article 6 *quater* of the General Convention.

ARTICLE 10

The Administrations shall by common accord regulate the details for carrying out this Agreement.

ARTICLE 11

(1) The countries of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it 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 this Agreement, it

shall address to the Administration of that country, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

(3) This notification, of itself, shall assure to the said marks the benefits of the foregoing provisions upon the territory of the acceding country, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

(4) However, each country when acceding to this Agreement may declare that, except in the case of international marks which have already been the subject in that country of an identical national registration still in force, and which shall be immediately recognized upon the request of interested parties, the application of this Act shall be limited to marks registered from the date when the accession becomes effective.

(5) Such a declaration shall relieve the International Bureau of the necessity of making the collective notification referred to above. The Bureau shall restrict its action to giving notification of the marks in respect of which application is, within a period of one year from the accession of the new country, made to the Bureau, with the necessary particulars, for permission to take advantage of the exception referred to in the preceding paragraph.

(6) Registrations of marks which have been the subject of one of the notifications provided for in this Article shall be regarded as replacing registrations directly effected in the new contracting country before the effective date of its accession.

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

ARTICLE 11 *bis*

In the event of denunciation of this Agreement, the provisions of Article 17 *bis* of the General Convention shall apply. International marks registered up to the date on which the denunciation becomes effective, and not refused within the period of one year referred to in Article 5, shall continue, throughout the period of international protection, to enjoy the same protection as if they had been directly deposited in the denouncing country.

ARTICLE 12

(1) This Agreement shall be ratified and the ratifications shall be deposited at London not later than July 1, 1938.

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

(3) This Act shall, in relations between the countries which have ratified it, replace the Madrid Agreement of 1891, revised at The Hague on November 6, 1925. However, the latter will remain in force in relations between the countries which do not ratify this Act. As regards countries which have not yet ratified the Act of The Hague, the Agreement revised at Washington in 1911 shall remain in force.

ACT OF NICE, 1957

AGREEMENT OF MADRID CONCERNING THE INTERNATIONAL REGISTRATION OF TRADEMARKS OF APRIL 14, 1891, REVISED AT BRUSSELS ON DECEMBER 14, 1900, AT WASHINGTON ON JUNE 2, 1911, AT THE HAGUE ON NOVEMBER 6, 1925, AT LONDON ON JUNE 2, 1934, AND AT NICE ON JUNE 15, 1957

ARTICLE 1

(1) The countries to which this Agreement applies form a separate Union for the international registration of trademarks.

(2) Nationals of any of the contracting countries may, in all the other countries parties to this Agreement, secure protection for their marks applicable to goods or services, registered in the country of origin, by deposit of the said marks at the International Bureau for the Protection of Industrial Property through the intermediary of the Administration of the said country of origin.

(3) Shall be considered as the country of origin the country of the separate Union where the applicant has a real and effective industrial or commercial establishment; if he has no such establishment in a country of the separate Union, the country of the separate Union where he is domiciled; if he has no domicile in the separate Union, the country of his nationality, if he is a national of one of the countries of the separate Union.

ARTICLE 2

Nationals of countries which have not acceded to this Agreement, who, within the territory of the separate Union constituted by this Agreement, satisfy the conditions of Article 3 of the Paris Convention for the Protection of Industrial Property, shall be treated in the same manner as nationals of contracting countries.

ARTICLE 3

(1) Every application for international registration must be presented on the form prescribed by the Regulations; the Administration of the country of origin of the mark shall certify that the particulars appearing in the application are in accordance with the particulars in the national Register, and shall indicate the dates and numbers of the application and registration of the mark in the country of origin and also the date of the application for international registration.

(2) The applicant shall indicate the goods or services in respect of which protection of the mark is claimed and also, if possible, the corresponding class or classes, according to the classification established by the Nice Agreement concerning the International Classification of Goods and Services to which Trademarks are Applied. If the applicant does not give this indication, the International Bureau shall classify the goods or services in the appropriate classes of the said classification. The indication of the classes given by the applicant shall be subject to control by the International Bureau which will exercise it in association with the national Administration. In the event of disagreement between the national Administration and the International Bureau, the opinion of the latter shall prevail.

(3) If the applicant claims color as a distinctive feature of his mark, he shall be obliged:

1. to mention this fact, and to accompany his application with a statement indicating the color or the combination of colors claimed;
2. to append to his application copies in color of the said mark, which shall be attached to the notifications made by the International Bureau. The number of such copies shall be fixed by the Regulations.

(4) The International Bureau shall register immediately the marks filed in accordance with Article 1. The registration shall bear the date of the application for international registration in the country of origin provided that the application has been received by the International Bureau within a period of two months from that date. If the application has not been received within that period, the International Bureau shall register it with the date on which it was received. The International Bureau shall notify the registration without delay to the Administrations concerned. The marks registered shall be published in a periodical journal issued by the International Bureau, utilizing the particulars contained in the application for registration. With regard to marks comprising a figurative element or a special form of writing, the Regulations shall determine whether a printing block must be supplied by the applicant.

(5) In view of the publicity to be given in the contracting countries to registered marks, each Administration shall receive from the International Bureau a number of copies of the said publication free and a number of copies at a reduced price, in proportion to the number of units, according to the provisions of Article 13, paragraph (8), of the Paris Convention for the Protection of Industrial Property, under the conditions set out in the Regulations. This publicity shall be considered in all contracting countries as fully sufficient, and no other publicity may be required of the depositor.

ARTICLE 3 *bis*

(1) Any contracting country may, at any time, notify the Government of the Swiss Confederation in writing that the protection resulting from the international registration shall not extend to that country unless the proprietor of the mark expressly requests it.

(2) This notification shall not take effect until six months after the date of its communication by the Government of the Swiss Confederation to the other contracting countries. Nevertheless, this period shall not apply in the case of countries which avail themselves, at the time of their ratification or accession, of the right given by paragraph (1).

ARTICLE 3 *ter*

(1) Any request for the extension of the protection resulting from an international registration to a country which has availed itself of the right provided for in Article 3 *bis* must be specially mentioned in the application referred to in Article 3, paragraph (1).

(2) Any request for territorial extension made subsequently to the international registration must be presented through the intermediary of the Administration of the country of origin on a form prescribed by the Regulations. It shall be immediately registered by the International Bureau which shall notify it without delay to the Administration or Administrations concerned. It shall be published in the periodical journal issued by the International Bureau. This territorial extension shall be effective from

the date on which it is entered in the International Register; it shall cease to be valid on the expiration of the international registration of the mark to which it relates.

ARTICLE 4

(1) From the date of the registration thus effected at the International Bureau in accordance with the provisions of Articles 3 and 3 *ter*, the protection of the mark in each of the contracting countries concerned shall be the same as if the mark had been directly deposited there. The indication of the classes of the goods or services provided for in Article 3 shall not bind the contracting countries with regard to the determination of the scope of the protection of the mark.

(2) Every mark which has been the subject of an international registration shall enjoy the right of priority provided by Article 4 of the Paris Convention for the Protection of Industrial Property, without requiring compliance with the formalities provided for in section D of that Article.

ARTICLE 4 *bis*

(1) When a mark already deposited in one or more contracting countries is subsequently registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be considered as replacing the earlier national registrations, without prejudice to any rights acquired by such earlier registrations.

(2) The national Administration shall, upon request, be obliged to take note in its Registers of the international registration.

ARTICLE 5

(1) In countries where the legislation so authorizes, the Administrations notified by the International Bureau of the registration of a mark or a request for extension of protection made in accordance with Article 3 *ter* shall have the right to declare that protection cannot be granted to such mark in their territory. Any such refusal can only be based on grounds which would apply, by virtue of the Paris Convention for the Protection of Industrial Property, in the case of marks deposited for national registration. Nevertheless, protection may not be refused, even partially, for the sole reason that national legislation would not permit registration except in a limited number of classes or for a limited number of goods or services.

(2) The Administration exercising this right must notify its refusal to the International Bureau, with an indication of all grounds, within the period prescribed by its domestic law and, at the latest, before the expiration of one year calculated from the international registration of the mark or from the request for extension of protection made in accordance with Article 3 *ter*.

(3) The International Bureau shall, without delay, transmit to the Administration of the country of origin and to the proprietor of the mark, or to his agent, if an agent has been indicated to the Bureau by the said Administration, one of the copies of the declaration of refusal thus notified. The interested party shall have the same remedies as if the mark had been directly deposited by him in the country where protection is refused.

(4) The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who asks for them.

(5) Administrations which, within the above-mentioned maximum period of one year, have not communicated to the Interna-

tional Bureau any provisional or final decision of refusal with regard to the registration of a mark or a request for extension of protection shall lose the benefit of the right provided in paragraph (1) of this Article with respect to the mark in question.

(6) The invalidation of an international mark may not be pronounced by the competent authorities without the proprietor of the mark having, in good time, been afforded the opportunity of proving his rights. Invalidation shall be notified to the International Bureau.

ARTICLE 5 *bis*

Documents showing the legitimacy of the use of certain elements included in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, or names of persons other than the name of the applicant, or other like inscriptions which might be required by the Administrations of contracting countries, shall be exempt from any authentication or certification other than that of the Administration of the country of origin.

ARTICLE 5 *ter*

(1) The International Bureau shall deliver to any person making application therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register in connection with a specific mark.

(2) The International Bureau may also, upon payment, undertake searches for anticipation among international marks.

(3) Extracts from the International Register requested with a view to their production in one of the contracting countries shall be exempt from all authentication.

ARTICLE 6

(1) The registration of a mark at the International Bureau is effected for twenty years (subject to the provisions of Article 8 concerning cases where the applicant has only paid part of the international fee), with the possibility of renewal according to the requirements set out in Article 7.

(2) On the expiration of a period of five years from the international registration, such registration shall become independent of the national mark previously registered in the country of origin, subject to the following provisions.

(3) Protection resulting from international registration, whether or not the subject of a transfer, may no longer be invoked, in whole or in part, if, within five years from the date of the international registration, the national mark, previously registered in the country of origin in accordance with Article 1, no longer enjoys, in whole or in part, legal protection in that country. The same applies if this legal protection has subsequently ceased as the result of an action begun before the expiration of the period of five years.

(4) In the case of voluntary or *ex officio* cancellation, the Administration of the country of origin shall request the cancellation of the mark at the International Bureau, and the latter shall effect this operation. In the case of judicial action, the said Administration shall send to the International Bureau, either *ex officio* or at the request of the plaintiff, a copy of the complaint or other document showing that an action has been started and also of the final decision of the court; the Bureau shall enter them in the International Register.

ARTICLE 7

(1) Any registration may be renewed for a period of twenty years, to be counted from the expiration of the preceding period, simply by the payment of the basic fee and, if necessary, of the supplementary and complementary fees provided by Article 8, paragraph (2).

(2) The renewal may not include any change in relation to the previous registration in its last form.

(3) The first renewal effected after the entry into force of this Act shall include an indication of the classes of the International Classification to which the registration relates.

(4) Six months before the expiration of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the proprietor of the mark and his agent of the exact date of expiration.

(5) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be granted for the renewal of the international registration.

ARTICLE 8

(1) The Administration of the country of origin may fix, at its own discretion, and collect, for its own benefit, a national fee which it may require from the proprietor of the mark in respect of which international registration or renewal is applied for.

(2) The registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which will include:

(a) a basic fee of 200 Swiss francs for the first mark, and of 150 Swiss francs for each additional mark deposited at the same time as the first;

(b) a supplementary fee of 25 Swiss francs for each class of the International Classification, beyond three, in which the goods or services to which the mark is applied will be placed;

(c) a complementary fee of 25 Swiss francs per country for any request for extension of protection in accordance with Article 3 *ter*.

(3) However, the supplementary fee referred to in paragraph (2) (b) may, without prejudice to the date of registration, be paid within a period fixed by the Regulations if the number of classes of goods or services has been fixed or disputed by the International Bureau. If, upon expiration of the said period, the supplementary fee has not been paid or the list of goods or services has not been reduced to the required extent by the applicant, the application for international registration shall be considered as abandoned.

(4) The annual returns from the various receipts from international registration, with the exception of those provided under (b) and (c) of paragraph (2), shall be divided equally among the countries parties to this Act by the International Bureau, after deduction of the expenses and charges necessitated by the carrying out of the said Act.

If, at the time this Act comes into force, a country has not yet acceded either to the Act of The Hague or to the Act of London, it shall only be entitled, until the effective date of its accession, to a share of the excess of receipts calculated on the basis of the former texts.

(5) The amounts derived from the supplementary fees provided for in paragraph (2) (b) shall be divided at the expiration of each year among the countries parties to this Act, in proportion to the

number of marks for which protection has been applied for in each of them during that year, this number being affected, in the case of countries which make a preliminary examination, by a coefficient which shall be determined by the Regulations.

(6) The amounts derived from the complementary fees provided for in paragraph (2) (c) shall be divided according to the provisions of paragraph (5) among the countries availing themselves of the right provided for in Article 3 *bis*.

(7) With regard to the basic fee, the depositor shall be entitled to pay, at the time of the application for international registration, a basic sum of only 125 Swiss francs for the first mark, and only 100 Swiss francs for each additional mark deposited at the same time as the first.

(8) If the applicant avails himself of this right, he shall, before the expiration of a period of ten years, counted from the international registration, pay to the International Bureau, as the balance of the basic fee, 100 Swiss francs for the first mark, and 75 Swiss francs for each additional mark deposited at the same time as the first, failing which, at the expiration of this period, he shall lose the benefit of his registration. Six months before such expiration, the International Bureau shall, by sending an unofficial notice, remind the depositor and his agent of the exact date of expiration. If the balance of the basic fee is not paid to the International Bureau before the expiration of this period, the Bureau shall cancel the mark, shall notify this operation to the national Administrations, and shall publish it in its journal. If the balance due for marks deposited at the same time is not paid at one and the same time, the depositor shall specify the marks for which he intends to pay the balance and pay 100 Swiss francs for the first mark of each series.

(9) With regard to the above-mentioned period of ten years, the provisions of Article 7, paragraph (5), shall apply by analogy.

ARTICLE 8 *bis*

The person in whose name the international registration stands may at any time renounce protection in one or more contracting countries by means of a declaration sent to the Administration of his own country, for communication to the International Bureau, which shall notify the countries for which renunciation was made. Renunciation shall not be subject to any fee.

ARTICLE 9

(1) The Administration of the country of the person in whose name the international registration stands shall likewise notify to the International Bureau all annulments, cancellations, renunciations, transfers and other changes made in the entry of the mark in the national Register, if such changes also affect the international registration.

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

(3) Similar procedure shall be followed when the person in whose name the international registration stands requests that the list of goods or services to which the mark is applied be reduced.

(4) These operations may be subject to a fee, which shall be fixed by the Regulations.

(5) The subsequent addition of new goods or services to the said list can only be obtained by making a new application in accordance with the provisions of Article 3.

(6) The substitution of one of the goods or services 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 the person in whose name the international registration stands, the transfer shall be notified to the International Bureau by the Administration of the latter country. The International Bureau shall register the transfer, shall notify it to the other Administrations, and shall publish it in its journal. If the transfer has been effected before the expiration of a period of five years from the international registration, the International Bureau shall seek the consent of the Administration of the country of the new proprietor, and shall publish, if possible, the date and registration number of the mark in the country of the new proprietor.

(2) No transfer of a mark registered in the International Register for the benefit of a person who is not entitled to deposit an international mark shall be recorded.

(3) When it has not been possible to record a transfer in the International Register, either because the country of the new proprietor has refused its consent or because it has been made for the benefit of a person who is not entitled to apply for international registration, the Administration of the country of the former proprietor shall have the right to request the International Bureau to cancel the mark in its Register.

ARTICLE 9 *ter*

(1) If the assignment of an international mark for part only of the registered goods or services is notified to the International Bureau, the Bureau shall record it in its Register. Each of the contracting countries shall have the right to refuse to recognize the validity of the assignment if the goods or services included in the part thus assigned are similar to those in respect of which the mark remains registered for the benefit of the assignor.

(2) Similarly, the International Bureau shall record an assignment of the international mark for only one or several of the contracting countries.

(3) If, in the above cases, a change in the country of the proprietor takes place, the Administration of the country to which the new proprietor belongs, shall, if the international mark has been transferred before the expiration of a period of five years from the international registration, give the consent required by Article 9 *bis*.

(4) The provisions of the preceding paragraphs are applicable subject to Article 6 *quater* of the Paris Convention for the Protection of Industrial Property.

ARTICLE 9 *quater*

(1) If several countries of the separate Union agree to effect the unification of their domestic laws relating to marks, they may notify the Government of the Swiss Confederation:

(a) that a common Administration is substituted for the national Administration of each of them, and

(b) that the whole of their respective territories must be considered as a single country for the purposes of the application of all or part of this Agreement.

(2) This notification shall not take effect until six months after the date of its communication by the Government of the Swiss Confederation to the other contracting countries.

ARTICLE 10

(1) The Administrations shall by common accord regulate the details for carrying out this Agreement.

(2) There is established, at the International Bureau, a Committee of the Directors of the National Industrial Property Offices of the separate Union. It shall meet on the invitation of the Director of the International Bureau or at the request of five countries, parties to the Agreement, at intervals of not more than five years. It shall appoint from among its members a limited Council to which specified tasks may be assigned and which shall meet at least once a year.

(3) The functions of this Committee are consultative.

(4) However:

(a) subject to the general jurisdiction of the High Supervisory Authority, it may, on the reasoned proposal of the Director of the International Bureau, and with the unanimous consent of the countries represented, change the amounts of the fees provided for in Article 8 of this Agreement;

(b) it shall establish and amend, with the unanimous consent of the countries represented, the Regulations of this Agreement;

(c) the Directors of the National Industrial Property Offices may delegate their powers to the representative of another country.

ARTICLE 11

(1) The countries of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it at their request and in the form prescribed by Article 16 of the Paris Convention for the Protection of Industrial Property. This accession shall only be valid for the text of the Agreement as last revised.

(2) As soon as the International Bureau is informed that a country, or the whole or part of the countries or territories for whose external relations it is responsible, has acceded to this Agreement, it shall address to the Administration of that country, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

(3) This notification, of itself, shall assure to the said marks the benefits of the foregoing provisions in the territory of the acceding country, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

(4) However, each country when acceding to this Agreement may declare that, except in the case of international marks which have already been the subject in that country of an identical national registration still in force, and which shall be immediately recognized upon the request of interested parties, the application of this Act shall be limited to marks registered from the date when the accession becomes effective.

(5) Such a declaration shall relieve the International Bureau of the necessity of making the collective notification referred to above. The Bureau shall restrict its action to giving notification of the marks in respect of which application is, within a period of one year from the accession of the new country, made to the Bureau, with the necessary particulars, for permission to take advantage of the exception referred to in the preceding paragraph.

The International Bureau shall not make the collective notification to countries which, in acceding to the Madrid Agreement, declare their intention to avail themselves of the right provided by Article 3 *bis*. These countries may also declare at the same time that the application of this Act shall be limited to marks registered

from the day on which their accession becomes effective; this limitation shall not affect international marks which have already been the subject of an identical national registration in these countries, and which could give rise to requests for extension of protection made and notified in conformity with Article 3 *ter* and Article 8, paragraph (2) (c).

(6) Registrations of marks which have been the subject of one of the notifications provided for in this Article shall be regarded as replacing registrations directly effected in the new contracting country before the effective date of its accession.

(7) The provisions of Article 16 *bis* of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 11 *bis*

In the event of denunciation of this Agreement, the provisions of Article 17 *bis* of the Paris Convention for the Protection of Industrial Property shall apply. International marks registered up to the date on which the denunciation becomes effective, and not refused within the period of one year referred to in Article 5, shall continue, throughout the period of international protection, to enjoy the same protection as if they had been directly deposited in the denouncing country.

ARTICLE 12

(1) This Agreement shall be ratified and the ratifications shall be deposited at Paris as soon as possible.

(2) It shall come into force between the countries in whose names it has been ratified or which have acceded to it in accordance

with Article 11, paragraph (1), when twelve countries at least have ratified it or acceded to it, two years after the deposit of the twelfth instrument of ratification or accession has been notified to them by the Government of the Swiss Confederation, and it shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

(3) In the case of countries which deposit their instrument of ratification or accession after the deposit of the twelfth instrument of ratification or accession, it shall enter into force in accordance with the provisions of Article 16 of the Paris Convention. However, this entry into force shall be subject in all cases to the expiration of the period provided in the preceding paragraph.

(4) This Act shall, in all relations between the countries in whose names it has been ratified or which have acceded to it, replace, as from the day on which it enters into force in regard to them, the Madrid Agreement of 1891, in its texts previous to this Act. However, each country which has ratified this Act or has acceded to it shall remain bound by the previous texts in its relations with countries which have not ratified it or acceded to it, unless that country has expressly declared that it no longer wishes to be bound by those texts. This declaration shall be notified to the Government of the Swiss Confederation. It shall not be effective until twelve months after its receipt by the said Government.

(5) The International Bureau shall, in agreement with the countries concerned, provide for the administrative measures of adaptation which appear necessary with a view to the carrying out of the provisions of this Agreement.

Madrid Agreement Concerning the International Registration of Marks

of April 14, 1891,
as revised

at Brussels on December 14, 1900, at Washington on June 2, 1911,
at The Hague on November 6, 1925, at London on June 2, 1934,
at Nice on June 15, 1957,
and at Stockholm on July 14, 1967, ¹⁾
and as amended on October 2, 1979

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Article 1

[Establishment of a Special Union. Filing of Marks at International Bureau. Definition of Country of Origin] ¹

(1) The countries to which this Agreement applies constitute a Special Union for the international registration of marks.

(2) Nationals of any of the contracting countries may, in all the other countries party to this Agreement, secure protection for their marks applicable to goods or services, registered in the country of origin, by filing the said marks at the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), through the intermediary of the Office of the said country of origin.

(3) Shall be considered the country of origin the country of the Special Union where the applicant has a real and effective industrial or commercial establishment; if he has no such establishment in a country of the Special Union, the country of the Special Union where he has his domicile; if he has no domicile within the Special Union but is a national of a country of the Special Union, the country of which he is a national.

Article 2

[Reference to Article 3 of Paris Convention (Same Treatment for Certain Categories of Persons as for Nationals of Countries of the Union)]

Nationals of countries not having acceded to this Agreement who, within the territory of the Special Union constituted by the said Agreement, satisfy the conditions specified in Article 3 of the Paris Convention for the Protection of Industrial Property shall be treated in the same manner as nationals of the contracting countries.

¹ This is a provisional English translation prepared by the International Bureau of the World Intellectual Property Organization (WIPO).

* This Table of Contents is added for the convenience of the reader. It does not appear in the signed text of the Agreement.

¹ Articles have been given titles to facilitate their identification. There are no titles in the signed, French text.

Article 3

[Contents of Application for International Registration]

(1) Every application for international registration must be presented on the form prescribed by the Regulations; the Office of the country of origin of the mark shall certify that the particulars appearing in such application correspond to the particulars in the national register, and shall mention the dates and numbers of the filing and registration of the mark in the country of origin and also the date of the application for international registration.

(2) The applicant must indicate the goods or services in respect of which protection of the mark is claimed and also, if possible, the corresponding class or classes according to the classification established by the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. If the applicant does not give such indication, the International Bureau shall classify the goods or services in the appropriate classes of the said classification. The indication of classes given by the applicant shall be subject to control by the International Bureau, which shall exercise the said control in association with the national Office. In the event of disagreement between the national Office and the International Bureau, the opinion of the latter shall prevail.

(3) If the applicant claims color as a distinctive feature of his mark, he shall be required:

1. to state the fact, and to file with his application a notice specifying the color or the combination of colors claimed;
2. to append to his application copies in color of the said mark, which shall be attached to the notification given by the International Bureau. The number of such copies shall be fixed by the Regulations.

(4) The International Bureau shall register immediately the marks filed in accordance with Article 1. The registration shall bear the date of the application for international registration in the country of origin, provided that the application has been received by the International Bureau within a period of two months from that date. If the application has not been received within that period, the International Bureau shall record it as at the date on which it received the said application. The International Bureau shall notify such registration without delay to the Offices concerned. Registered marks shall be published in a periodical journal issued by the International Bureau, on the basis of the particulars contained in the application for registration. In the case of marks comprising a figurative element or a special form of writing, the Regulations shall determine whether a printing block must be supplied by the applicant.

(5) With a view to the publicity to be given in the contracting countries to registered marks, each Office shall receive from the International Bureau a number of copies of the said publication free of charge and a number of copies at a reduced price, in proportion to the number of units mentioned in Article 16(4)(a) of the Paris Convention for the Protection of Industrial Property, under the conditions fixed by the Regulations. Such publicity shall be deemed in all the contracting countries to be sufficient, and no other publicity may be required of the applicant.

Article 3^{bis}

[“Territorial Limitation”]

(1) Any contracting country may, at any time, notify the Director General of the Organization (hereinafter designated as “the Director General”) in writing that the protection resulting from the international registration shall extend to that country only at the express request of the proprietor of the mark.

(2) Such notification shall not take effect until six months after the date of the communication thereof by the Director General to the other contracting countries.

Article 3^{ter}

[Request for “Territorial Extension”]

(1) Any request for extension of the protection resulting from the international registration to a country which has availed itself of the right provided for in Article 3^{bis} must be specially mentioned in the application referred to in Article 3(1).

(2) Any request for territorial extension made subsequently to the international registration must be presented through the intermediary of the Office of the country of origin on a form prescribed by the Regulations. It shall be immediately registered by the International Bureau, which shall notify it without delay to the Office or Offices concerned. It shall be published in the periodical journal issued by the International Bureau. Such territorial extension shall be effective from the date on which it has been recorded in the International Register; it shall cease to be valid on the expiration of the international registration of the mark to which it relates.

Article 4

[Effects of International Registration]

(1) From the date of the registration so effected at the International Bureau in accordance with the provisions of Articles 3 and 3^{ter}, the protection of the mark in each of the contracting countries concerned shall be the same as if the mark had been filed therein direct. The indication of classes of goods or services provided for in Article 3 shall not bind the contracting countries with regard to the determination of the scope of the protection of the mark.

(2) Every mark which has been the subject of an international registration shall enjoy the right of priority provided for by Article 4 of the Paris Convention for the Protection of Industrial Property, without requiring compliance with the formalities prescribed in Section D of that Article.

Article 4^{bis}

[Substitution of International Registration for Earlier National Registrations]

(1) When a mark already filed in one or more of the contracting countries is later registered by the International Bureau in the name of the same proprietor or his successor in title, the international registration shall be deemed to have replaced the earlier national registrations, without prejudice to any rights acquired by reason of such earlier registrations.

(2) The national Office shall, upon request, be required to take note in its registers of the international registration.

Article 5

[Refusal by National Offices]

(1) In countries where the legislation so authorizes, Offices notified by the International Bureau of the registration of a mark or of a request for extension of protection made in accordance with Article 3^{ter} shall have the right to declare that protection cannot be granted to such mark in their territory. Any such refusal can be based only on the grounds which would apply, under the Paris Convention for the Protection of Industrial Property, in the case of a mark filed for national registration. However, protection may not be refused, even partially, by reason only that national legislation would not permit registration except in a limited number of classes or for a limited number of goods or services.

(2) Offices wishing to exercise such right must give notice of their refusal to the International Bureau, together with a statement of all grounds, within the period prescribed by their domestic law and, at the latest, before the expiration of one year from the date of the international registration of the mark or of the request for extension of protection made in accordance with Article 3^{ter}.

(3) The International Bureau shall, without delay, transmit to the Office of the country of origin and to the proprietor of the mark, or to his agent if an agent has been mentioned to the Bureau by the said Office, one of the copies of the declaration of refusal so notified. The interested party shall have the same remedies as if the mark had been filed by him direct in the country where protection is refused.

(4) The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who may so request.

(5) Offices which, within the aforesaid maximum period of one year, have not communicated to the International Bureau any provisional or final decision of refusal with regard to the registration of a mark or a request for extension of protection shall lose the benefit of the right provided for in paragraph (1) of this Article with respect to the mark in question.

(6) Invalidation of an international mark may not be pronounced by the competent authorities without the proprietor of the mark having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.

Article 5^{bis}

[Documentary Evidence of Legitimacy of Use of Certain Elements of Mark]

Documentary evidence of the legitimacy of the use of certain elements incorporated in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, names of persons other than the name of the applicant, or other like inscriptions, which might be required by the Offices of the contracting countries shall be exempt from any legalization or certification other than that of the Office of the country of origin.

Article 5^{ter}

[Copies of Entries in International Register. Searches for Anticipation. Extracts from International Register]

(1) The International Bureau shall issue to any person applying therefor, subject to a fee fixed by the Regulations, a copy of the entries in the Register relating to a specific mark.

(2) The International Bureau may also, upon payment, undertake searches for anticipation among international marks.

(3) Extracts from the International Register requested with a view to their production in one of the contracting countries shall be exempt from all legalization.

Article 6

[Period of Validity of International Registration. Independence of International Registration. Termination of Protection in Country of Origin]

(1) Registration of a mark at the International Bureau is effected for twenty years, with the possibility of renewal under the conditions specified in Article 7.

(2) Upon expiration of a period of five years from the date of the international registration, such registration shall become independent of the national mark registered earlier in the country of origin, subject to the following provisions.

(3) The protection resulting from the international registration, whether or not it has been the subject of a transfer, may no longer be invoked, in whole or in part, if, within five years from the date of the international registration, the national mark, registered earlier in the country of origin in accordance with Article 1, no longer enjoys, in whole or in part, legal protection in that country. This provision shall also apply when legal protection has later ceased as the result of an action begun before the expiration of the period of five years.

(4) In the case of voluntary or ex officio cancellation, the Office of the country of origin shall request the cancellation of the mark at the International Bureau, and the latter shall effect the cancellation. In the case of judicial action, the said Office shall send to the International Bureau, ex officio or at the request of the plaintiff, a copy of the complaint or any other documentary evidence that an action has begun, and also of the final decision of the court; the Bureau shall enter notice thereof in the International Register.

Article 7

[Renewal of International Registration]

(1) Any registration may be renewed for a period of twenty years from the expiration of the preceding period, by payment only of the basic fee and, where necessary, of the supplementary and complementary fees provided for in Article 8(2).

(2) Renewal may not include any change in relation to the previous registration in its latest form.

(3) The first renewal effected under the provisions of the Nice Act of June 15, 1957, or of this Act, shall include an indication of the classes of the International Classification to which the registration relates.

(4) Six months before the expiration of the term of protection, the International Bureau shall, by sending an unoffi-

cial notice, remind the proprietor of the mark and his agent of the exact date of expiration.

(5) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be granted for renewal of the international registration.

Article 8

[National Fee. International Fee. Division of Excess Receipts, Supplementary Fees, and Complementary Fees]

(1) The Office of the country of origin may fix, at its own discretion, and collect, for its own benefit, a national fee which it may require from the proprietor of the mark in respect of which international registration or renewal is applied for.

(2) Registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which shall include:

- (a) a basic fee;
- (b) a supplementary fee for each class of the International Classification, beyond three, into which the goods or services to which the mark is applied will fall;
- (c) a complementary fee for any request for extension of protection under Article 3^{ter}.

(3) However, the supplementary fee specified in paragraph (2)(b) may, without prejudice to the date of registration, be paid within a period fixed by the Regulations if the number of classes of goods or services has been fixed or disputed by the International Bureau. If, upon expiration of the said period, the supplementary fee has not been paid or the list of goods or services has not been reduced to the required extent by the applicant, the application for international registration shall be deemed to have been abandoned.

(4) The annual returns from the various receipts from international registration, with the exception of those provided for under (b) and (c) of paragraph (2), shall be divided equally among the countries party to this Act by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of the said Act. If, at the time this Act enters into force, a country has not yet ratified or acceded to the said Act, it shall be entitled, until the date on which its ratification or accession becomes effective, to a share of the excess receipts calculated on the basis of that earlier Act which is applicable to it.

(5) The amounts derived from the supplementary fees provided for in paragraph (2)(b) shall be divided at the expiration of each year among the countries party to this Act or to the Nice Act of June 15, 1957, in proportion to the number of marks for which protection has been applied for in each of them during that year, this number being multiplied, in the case of countries which make a preliminary examination, by a coefficient which shall be determined by the Regulations. If, at the time this Act enters into force, a country has not yet ratified or acceded to the said Act, it shall be entitled, until the date on which its ratification or accession becomes effective, to a share of the amounts calculated on the basis of the Nice Act.

(6) The amounts derived from the complementary fees provided for in paragraph (2)(c) shall be divided according to

the requirements of paragraph (5) among the countries availing themselves of the right provided for in Article 3^{bis}. If, at the time this Act enters into force, a country has not yet ratified or acceded to the said Act, it shall be entitled, until the date on which its ratification or accession becomes effective, to a share of the amounts calculated on the basis of the Nice Act.

Article 8^{bis}

[Renunciation in Respect of One or More Countries]

The person in whose name the international registration stands may at any time renounce protection in one or more of the contracting countries by means of a declaration filed with the Office of his own country, for communication to the International Bureau, which shall notify accordingly the countries in respect of which renunciation has been made. Renunciation shall not be subject to any fee.

Article 9

[Changes in National Registers also Affecting International Registration. Reduction of List of Goods and Services Mentioned in International Registration. Additions to that List. Substitutions in that List]

(1) The Office of the country of the person in whose name the international registration stands shall likewise notify the International Bureau of all annulments, cancellations, renunciations, transfers, and other changes made in the entry of the mark in the national register, if such changes also affect the international registration.

(2) The Bureau shall record those changes in the International Register, shall notify them in turn to the Offices of the contracting countries, and shall publish them in its journal.

(3) A similar procedure shall be followed when the person in whose name the international registration stands requests a reduction of the list of goods or services to which the registration applies.

(4) Such transactions may be subject to a fee, which shall be fixed by the Regulations.

(5) The subsequent addition of new goods or services to the said list can be obtained only by filing a new application as prescribed in Article 3.

(6) The substitution of one of the goods or services for another shall be treated as an addition.

Article 9^{bis}

[Transfer of International Mark Entailing Change in Country of Proprietor]

(1) When a mark registered in the International Register is transferred to a person established in a contracting country other than the country of the person in whose name the international registration stands, the transfer shall be notified to the International Bureau by the Office of the latter country. The International Bureau shall record the transfer, shall notify the other Offices thereof, and shall publish it in its journal. If the transfer has been effected before the expiration of a period of five years from the international registration, the International Bureau shall seek the consent of the Office of the country of the new proprietor, and shall publish, if possible, the date and registration number of the mark in the country of the new proprietor.

(2) No transfer of a mark registered in the International Register for the benefit of a person who is not entitled to file an international mark shall be recorded.

(3) When it has not been possible to record a transfer in the International Register, either because the country of the new proprietor has refused its consent or because the said transfer has been made for the benefit of a person who is not entitled to apply for international registration, the Office of the country of the former proprietor shall have the right to demand that the International Bureau cancel the mark in its Register.

Article 9^{ter}

[Assignment of International Mark for Part Only of Registered Goods or Services or for Certain Contracting Countries. Reference to Article 6^{quater} of Paris Convention (Assignment of Mark)]

(1) If the assignment of an international mark for part only of the registered goods or services is notified to the International Bureau, the Bureau shall record it in its Register. Each of the contracting countries shall have the right to refuse to recognize the validity of such assignment if the goods or services included in the part so assigned are similar to those in respect of which the mark remains registered for the benefit of the assignor.

(2) The International Bureau shall likewise record the assignment of an international mark in respect of one or several of the contracting countries only.

(3) If, in the above cases, a change occurs in the country of the proprietor, the Office of the country to which the new proprietor belongs shall, if the international mark has been transferred before the expiration of a period of five years from the international registration, give its consent as required by Article 9^{bis}.

(4) The provisions of the foregoing paragraphs shall apply subject to Article 6^{quater} of the Paris Convention for the Protection of Industrial Property.

Article 9^{quater}

[Common Office for Several Contracting Countries. Request by Several Contracting Countries to be Treated as a Single Country]

(1) If several countries of the Special Union agree to effect the unification of their domestic legislations on marks, they may notify the Director General:

- (a) that a common Office shall be substituted for the national Office of each of them, and
- (b) that the whole of their respective territories shall be deemed to be a single country for the purposes of the application of all or part of the provisions preceding this Article.

(2) Such notification shall not take effect until six months after the date of the communication thereof by the Director General to the other contracting countries.

Article 10

[Assembly of the Special Union]

(1) (a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it, except for the travel expenses and the subsistence allowance of one delegate for each member country, which shall be paid from the funds of the Special Union.

(2) (a) The Assembly shall:

- (i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;
- (ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;
- (iii) modify the Regulations, including the fixation of the amounts of the fees referred to in Article 8(2) and other fees relating to international registration;
- (iv) review and approve the reports and activities of the Director General concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;
- (v) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;
- (vi) adopt the financial regulations of the Special Union;
- (vii) establish such committees of experts and working groups as it may deem necessary to achieve the objectives of the Special Union;
- (viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;
- (ix) adopt amendments to Articles 10 to 13;
- (x) take any other appropriate action designed to further the objectives of the Special Union;
- (xi) perform such other functions as are appropriate under this Agreement.

(2) (b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication.

If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 13(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(4) (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

Article II

[International Bureau]

(1) (a) International registration and related duties, as well as all other administrative tasks concerning the Special Union, shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may have been established by the Assembly.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly and of such committees of experts or working groups as may have been established by the Assembly. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 10 to 13.

(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

Article 12

[Finances]

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribu-

tion to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) international registration fees and other fees and charges due for other services rendered by the International Bureau in relation to the Special Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income.

(4) (a) The amounts of the fees referred to in Article 8(2) and other fees relating to international registration shall be fixed by the Assembly on the proposal of the Director General.

(b) The amounts of such fees shall be so fixed that the revenues of the Special Union from fees, other than the supplementary and complementary fees referred to in Article 8(2)(b) and (c), and other sources shall be at least sufficient to cover the expenses of the International Bureau concerning the Special Union.

(c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) Subject to the provisions of paragraph (4)(a), the amount of fees and charges due for other services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country as a member of the Paris Union for the Protection of Industrial Property to the budget of the said Union for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(d) As long as the Assembly authorizes the use of the reserve fund of the Special Union as a working capital fund, the Assembly may suspend the application of the provisions of subparagraphs (a), (b), and (c).

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its

headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 13

[Amendment of Articles 10 to 13]

(1) Proposals for the amendment of Articles 10, 11, 12, and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 10, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date.

Article 14

[Ratification and Accession. Entry into Force. Accession to Earlier Acts. Reference to Article 24 of Paris Convention (Territories)]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) (a) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of the Special Union.

(b) As soon as the International Bureau is informed that such a country has acceded to this Act, it shall address to the Office of that country, in accordance with Article 3, a collective notification of the marks which, at that time, enjoy international protection.

(c) Such notification shall, of itself, ensure to the said marks the benefits of the foregoing provisions in the territory of the said country, and shall mark the commencement of the

period of one year during which the Office concerned may make the declaration provided for in Article 5.

(d) However, any such country may, in acceding to this Act, declare that, except in the case of international marks which have already been the subject in that country of an earlier identical national registration still in force, and which shall be immediately recognized upon the request of the interested parties, application of this Act shall be limited to marks registered from the date on which its accession enters into force.

(e) Such declaration shall dispense the International Bureau from making the collective notification referred to above. The International Bureau shall notify only those marks in respect of which it receives, within a period of one year from the accession of the new country, a request, with the necessary particulars, to take advantage of the exception provided for in subparagraph (d).

(f) The International Bureau shall not make the collective notification to such countries as declare, in acceding to this Act, that they are availing themselves of the right provided for in Article 3^{bis}. The said countries may also declare at the same time that the application of this Act shall be limited to marks registered from the day on which their accessions enter into force; however, such limitation shall not affect international marks which have already been the subject of an earlier identical national registration in those countries, and which could give rise to requests for extension of protection made and notified in accordance with Articles 3^{ter} and 8(2)(c).

(g) Registrations of marks which have been the subject of one of the notifications provided for in this paragraph shall be regarded as replacing registrations effected direct in the new contracting country before the date of entry into force of its accession.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, a country may accede to the Nice Act of June 15, 1957, only in conjunction with ratification of, or accession to, this Act. Accession to Acts earlier than the Nice Act shall not be permitted, not even in conjunction with ratification of, or accession to, this Act.

(7) The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

Article 15

[Denunciation]

(1) This Agreement shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided for by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

(5) International marks registered up to the date on which denunciation becomes effective, and not refused within the period of one year provided for in Article 5, shall continue, throughout the period of international protection, to enjoy the same protection as if they had been filed direct in the denouncing country.

Article 16

[Application of Earlier Acts]

(1) (a) This Act shall, as regards the relations between the countries of the Special Union by which it has been ratified or acceded to, replace, as from the day on which it enters into force with respect to them, the Madrid Agreement of 1891, in its texts earlier than this Act.

(b) However, any country of the Special Union which has ratified or acceded to this Act shall remain bound by the earlier texts which it has not previously denounced by virtue of Article 12(4) of the Nice Act of June 15, 1957, as regards its relations with countries which have not ratified or acceded to this Act.

(2) Countries outside the Special Union which become party to this Act shall apply it to international registrations effected at the International Bureau through the intermediary of the national Office of any country of the Special Union not party to this Act, provided that such registrations satisfy, with respect to the said countries, the requirements of this Act. With regard to international registrations effected at the International Bureau through the intermediary of the na-

tional Offices of the said countries outside the Special Union which become party to this Act, such countries recognize that the aforesaid country of the Special Union may demand compliance with the requirements of the most recent Act to which it is party.

Article 17

[Signature, Languages, Depositary Functions]

(1) (a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments, entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Articles 3^{bis}, 9^{quater}, 13, 14(7), and 15(2).

Article 18

[Transitional Provisions]

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be construed as references to the Bureau of the Union established by the Paris Convention for the Protection of Industrial Property or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided for under Articles 10 to 13 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to that effect to the Director General; such notification shall be effective from the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

**Protocol
Relating to the
Madrid Agreement
Concerning
the International Registration
of Marks**

Adopted at Madrid on June 27, 1989

List of the Articles of the Protocol

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Article 1

Membership in the Madrid Union

The States party to this Protocol (hereinafter referred to as "the Contracting States"), even where they are not party to the Madrid Agreement Concerning the International Registration of Marks as revised at Stockholm in 1967 and as amended in 1979 (hereinafter referred to as "the Madrid (Stockholm) Agreement"), and the organizations referred to in Article 14(1)(b) which are party to this Protocol (hereinafter referred to as "the Contracting Organizations") shall be members of the same Union of which countries party to the Madrid (Stockholm) Agreement are members. Any reference in this Protocol to "Contracting Parties" shall be construed as a reference to both Contracting States and Contracting Organizations.

Article 2

Securing Protection through International Registration

(1) Where an application for the registration of a mark has been filed with the Office of a Contracting Party, or where a mark has been registered in the register of the Office of a Contracting Party, the person in whose name that application (hereinafter referred to as "the basic application") or that registration (hereinafter referred to as "the basic registration") stands may, subject to the provisions of this Protocol, secure protection for his mark in the territory of the Contracting Parties, by obtaining the registration of that mark in the register of the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the international registration," "the International Register," "the International Bureau" and "the Organization," respectively), provided that,

- (i) where the basic application has been filed with the Office of a Contracting State or where the basic registration has been made by such an Office, the person in whose name that application or registration stands is a national of that Contracting State, or is domiciled, or has a real and effective industrial or commercial establishment, in the said Contracting State,
- (ii) where the basic application has been filed with the Office of a Contracting Organization or where the basic registration has been made by such an Office, the person in whose name that application or registration stands is a national of a State member of that Contracting Organization, or is domiciled, or has a real and effective industrial or commercial establishment, in the territory of the said Contracting Organization.

(2) The application for international registration (hereinafter referred to as "the international application") shall be filed with the International Bureau through the intermediary of the Office with which the basic application was filed or by which the basic registration was made (hereinafter referred to as "the Office of origin"), as the case may be.

(3) Any reference in this Protocol to an "Office" or an "Office of a Contracting Party" shall be construed as a reference to the office that is in charge, on behalf of a Contracting Party, of the registration of marks, and any reference in this Protocol to "marks" shall be construed as a reference to trademarks and service marks.

(4) For the purposes of this Protocol, "territory of a Contracting Party" means, where the Contracting Party is a State, the

territory of that State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituting treaty of that intergovernmental organization applies.

Article 3

International Application

(1) Every international application under this Protocol shall be presented on the form prescribed by the Regulations. The Office of origin shall certify that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the basic application or basic registration, as the case may be. Furthermore, the said Office shall indicate,

- (i) in the case of a basic application, the date and number of that application,
- (ii) in the case of a basic registration, the date and number of that registration as well as the date and number of the application from which the basic registration resulted.

The Office of origin shall also indicate the date of the international application.

(2) The applicant must indicate the goods and services in respect of which protection of the mark is claimed and also, if possible, the corresponding class or classes according to the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. If the applicant does not give such indication, the International Bureau shall classify the goods and services in the appropriate classes of the said classification. The indication of classes given by the applicant shall be subject to control by the International Bureau, which shall exercise the said control in association with the Office of origin. In the event of disagreement between the said Office and the International Bureau, the opinion of the latter shall prevail.

(3) If the applicant claims color as a distinctive feature of his mark, he shall be required

- (i) to state the fact, and to file with his international application a notice specifying the color or the combination of colors claimed;
- (ii) to append to his international application copies in color of the said mark, which shall be attached to the notifications given by the International Bureau; the number of such copies shall be fixed by the Regulations.

(4) The International Bureau shall register immediately the marks filed in accordance with Article 2. The international registration shall bear the date on which the international application was received in the Office of origin, provided that the international application has been received by the International Bureau within a period of two months from that date. If the international application has not been received within that period, the international registration shall bear the date on which the said international application was received by the International Bureau. The International Bureau shall notify the international registration without delay to the Offices concerned. Marks registered in the International Register shall be published in a periodical gazette issued by the International Bureau, on the basis of the particulars contained in the international application.

(5) With a view to the publicity to be given to marks registered in the International Register, each Office shall receive from the

International Bureau a number of copies of the said gazette free of charge and a number of copies at a reduced price, under the conditions fixed by the Assembly referred to in Article 10 (hereinafter referred to as "the Assembly"). Such publicity shall be deemed to be sufficient for the purposes of all the Contracting Parties, and no other publicity may be required of the holder of the international registration.

Article 3^{bis}

Territorial Effect

The protection resulting from the international registration shall extend to any Contracting Party only at the request of the person who files the international application or who is the holder of the international registration. However, no such request can be made with respect to the Contracting Party whose Office is the Office of origin.

Article 3^{ter}

Request for "Territorial Extension"

(1) Any request for extension of the protection resulting from the international registration to any Contracting Party shall be specially mentioned in the international application.

(2) A request for territorial extension may also be made subsequently to the international registration. Any such request shall be presented on the form prescribed by the Regulations. It shall be immediately recorded by the International Bureau, which shall notify such recordal without delay to the Office or Offices concerned. Such recordal shall be published in the periodical gazette of the International Bureau. Such territorial extension shall be effective from the date on which it has been recorded in the International Register; it shall cease to be valid on the expiry of the international registration to which it relates.

Article 4

Effects of International Registration

(1)(a) From the date of the registration or recordal effected in accordance with the provisions of Articles 3 and 3^{ter}, the protection of the mark in each of the Contracting Parties concerned shall be the same as if the mark had been deposited direct with the Office of that Contracting Party. If no refusal has been notified to the International Bureau in accordance with Article 5(1) and (2) or if a refusal notified in accordance with the said Article has been withdrawn subsequently, the protection of the mark in the Contracting Party concerned shall, as from the said date, be the same as if the mark had been registered by the Office of that Contracting Party.

(b) The indication of classes of goods and services provided for in Article 3 shall not bind the Contracting Parties with regard to the determination of the scope of the protection of the mark.

(2) Every international registration shall enjoy the right of priority provided for by Article 4 of the Paris Convention for the Protection of Industrial Property, without it being necessary to comply with the formalities prescribed in Section D of that Article.

Article 4^{bis}

**Replacement of a National or Regional Registration
by an International Registration**

(1) Where a mark that is the subject of a national or regional registration in the Office of a Contracting Party is also the subject of an international registration and both registrations stand in the name of the same person, the international registration is deemed to replace the national or regional registration, without prejudice to any rights acquired by virtue of the latter, provided that

- (i) the protection resulting from the international registration extends to the said Contracting Party under Article 3^{ter}(1) or (2),
- (ii) all the goods and services listed in the national or regional registration are also listed in the international registration in respect of the said Contracting Party,
- (iii) such extension takes effect after the date of the national or regional registration.

(2) The Office referred to in paragraph (1) shall, upon request, be required to take note in its register of the international registration.

Article 5

**Refusal and Invalidation of Effects of International Registration
in Respect of Certain Contracting Parties**

(1) Where the applicable legislation so authorizes, any Office of a Contracting Party which has been notified by the International Bureau of an extension to that Contracting Party, under Article 3^{ter}(1) or (2), of the protection resulting from the international registration shall have the right to declare in a notification of refusal that protection cannot be granted in the said Contracting Party to the mark which is the subject of such extension. Any such refusal can be based only on the grounds which would apply, under the Paris Convention for the Protection of Industrial Property, in the case of a mark deposited direct with the Office which notifies the refusal. However, protection may not be refused, even partially, by reason only that the applicable legislation would permit registration only in a limited number of classes or for a limited number of goods or services.

(2)(a) Any Office wishing to exercise such right shall notify its refusal to the International Bureau, together with a statement of all grounds, within the period prescribed by the law applicable to that Office and at the latest, subject to subparagraphs (b) and (c), before the expiry of one year from the date on which the notification of the extension referred to in paragraph (1) has been sent to that Office by the International Bureau.

(b) Notwithstanding subparagraph (a), any Contracting Party may declare that, for international registrations made under this Protocol, the time limit of one year referred to in subparagraph (a) is replaced by 18 months.

(c) Such declaration may also specify that, when a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified by the Office of the said Contracting Party to the International Bureau after the expiry of the 18-month time limit. Such an Office may, with respect to any given international registration, notify a refusal of protection after the expiry of the 18-month time limit, but only if

- (i) it has, before the expiry of the 18-month time limit, informed the International Bureau of the possibility that oppositions may be filed after the expiry of the 18-month time limit, and
- (ii) the notification of the refusal based on an opposition is made within a time limit of not more than seven months from the date on which the opposition period begins; if the opposition period expires before this time limit of seven months, the notification must be made within a time limit of one month from the expiry of the opposition period.

(d) Any declaration under subparagraphs (b) or (c) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organization having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General of the Organization (hereinafter referred to as "the Director General"), or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.

(e) Upon the expiry of a period of ten years from the entry into force of this Protocol, the Assembly shall examine the operation of the system established by subparagraphs (a) to (d). Thereafter, the provisions of the said subparagraphs may be modified by a unanimous decision of the Assembly.

(3) The International Bureau shall, without delay, transmit one of the copies of the notification of refusal to the holder of the international registration. The said holder shall have the same remedies as if the mark had been deposited by him direct with the Office which has notified its refusal. Where the International Bureau has received information under paragraph (2)(c)(i), it shall, without delay, transmit the said information to the holder of the international registration.

(4) The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who may so request.

(5) Any Office which has not notified, with respect to a given international registration, any provisional or final refusal to the International Bureau in accordance with paragraphs (1) and (2) shall, with respect to that international registration, lose the benefit of the right provided for in paragraph (1).

(6) Invalidation, by the competent authorities of a Contracting Party, of the effects, in the territory of that Contracting Party, of an international registration may not be pronounced without the holder of such international registration having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.

Article 5^{bis}

**Documentary Evidence of Legitimacy of Use
of Certain Elements of the Mark**

Documentary evidence of the legitimacy of the use of certain elements incorporated in a mark, such as armorial bearings, es-cutcheons, portraits, honorary distinctions, titles, trade names,

names of persons other than the name of the applicant, or other like inscriptions, which might be required by the Offices of the Contracting Parties shall be exempt from any legalization as well as from any certification other than that of the Office of origin.

Article 5^{ter}

Copies of Entries in International Register; Searches for Anticipations; Extracts from International Register

(1) The International Bureau shall issue to any person applying therefor, upon the payment of a fee fixed by the Regulations, a copy of the entries in the International Register concerning a specific mark.

(2) The International Bureau may also, upon payment, undertake searches for anticipations among marks that are the subject of international registrations.

(3) Extracts from the International Register requested with a view to their production in one of the Contracting Parties shall be exempt from any legalization.

Article 6

Period of Validity of International Registration; Dependence and Independence of International Registration

(1) Registration of a mark at the International Bureau is effected for ten years, with the possibility of renewal under the conditions specified in Article 7.

(2) Upon expiry of a period of five years from the date of the international registration, such registration shall become independent of the basic application or the registration resulting therefrom, or of the basic registration, as the case may be, subject to the following provisions.

(3) The protection resulting from the international registration, whether or not it has been the subject of a transfer, may no longer be invoked if, before the expiry of five years from the date of the international registration, the basic application or the registration resulting therefrom, or the basic registration, as the case may be, has been withdrawn, has lapsed, has been renounced or has been the subject of a final decision of rejection, revocation, cancellation or invalidation, in respect of all or some of the goods and services listed in the international registration. The same applies if

- (i) an appeal against a decision refusing the effects of the basic application,
- (ii) an action requesting the withdrawal of the basic application or the revocation, cancellation or invalidation of the registration resulting from the basic application or of the basic registration, or
- (iii) an opposition to the basic application

results, after the expiry of the five-year period, in a final decision of rejection, revocation, cancellation or invalidation, or ordering the withdrawal, of the basic application, or the registration resulting therefrom, or the basic registration, as the case may be, provided that such appeal, action or opposition had begun before the ex-

piry of the said period. The same also applies if the basic application is withdrawn, or the registration resulting from the basic application or the basic registration is renounced, after the expiry of the five-year period, provided that, at the time of the withdrawal or renunciation, the said application or registration was the subject of a proceeding referred to in item (i), (ii) or (iii) and that such proceeding had begun before the expiry of the said period.

(4) The Office of origin shall, as prescribed in the Regulations, notify the International Bureau of the facts and decisions relevant under paragraph (3), and the International Bureau shall, as prescribed in the Regulations, notify the interested parties and effect any publication accordingly. The Office of origin shall, where applicable, request the International Bureau to cancel, to the extent applicable, the international registration, and the International Bureau shall proceed accordingly.

Article 7

Renewal of International Registration

(1) Any international registration may be renewed for a period of ten years from the expiry of the preceding period, by the mere payment of the basic fee and, subject to Article 8(7), of the supplementary and complementary fees provided for in Article 8(2).

(2) Renewal may not bring about any change in the international registration in its latest form.

(3) Six months before the expiry of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the holder of the international registration and his representative, if any, of the exact date of expiry.

(4) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be allowed for renewal of the international registration.

Article 8

Fees for International Application and Registration

(1) The Office of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the applicant for international registration or from the holder of the international registration in connection with the filing of the international application or the renewal of the international registration.

(2) Registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which shall, subject to the provisions of paragraph (7)(a), include,

- (i) a basic fee;
- (ii) a supplementary fee for each class of the International Classification, beyond three, into which the goods or services to which the mark is applied will fall;
- (iii) a complementary fee for any request for extension of protection under Article 3^{ter}.

(3) However, the supplementary fee specified in paragraph (2)(ii) may, without prejudice to the date of the international registration, be paid within the period fixed by the Regulations if the number of classes of goods or services has been fixed or disputed by the International Bureau. If, upon expiry of the said period, the supplementary fee has not been paid or the list of goods or

services has not been reduced to the required extent by the applicant, the international application shall be deemed to have been abandoned.

(4) The annual product of the various receipts from international registration, with the exception of the receipts derived from the fees mentioned in paragraph (2)(ii) and (iii), shall be divided equally among the Contracting Parties by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of this Protocol.

(5) The amounts derived from the supplementary fees provided for in paragraph (2)(ii) shall be divided, at the expiry of each year, among the interested Contracting Parties in proportion to the number of marks for which protection has been applied for in each of them during that year, this number being multiplied, in the case of Contracting Parties which make an examination, by a coefficient which shall be determined by the Regulations.

(6) The amounts derived from the complementary fees provided for in paragraph (2)(iii) shall be divided according to the same rules as those provided for in paragraph (5).

(7)(a) Any Contracting Party may declare that, in connection with each international registration in which it is mentioned under Article 3^{ter}, and in connection with the renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fees, a fee (hereinafter referred to as "the individual fee") whose amount shall be indicated in the declaration, and can be changed in further declarations, but may not be higher than the equivalent of the amount which the said Contracting Party's Office would be entitled to receive from an applicant for a ten-year registration, or from the holder of a registration for a ten-year renewal of that registration, of the mark in the register of the said Office, the said amount being diminished by the savings resulting from the international procedure. Where such an individual fee is payable,

(i) no supplementary fees referred to in paragraph (2)(ii) shall be payable if only Contracting Parties which have made a declaration under this subparagraph are mentioned under Article 3^{ter}, and

(ii) no complementary fee referred to in paragraph (2)(iii) shall be payable in respect of any Contracting Party which has made a declaration under this subparagraph.

(b) Any declaration under subparagraph (a) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organization having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General, or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.

Article 9

Recordal of Change in the Ownership of an International Registration

At the request of the person in whose name the international registration stands, or at the request of an interested Office made *ex officio* or at the request of an interested person, the Interna-

tional Bureau shall record in the International Register any change in the ownership of that registration, in respect of all or some of the Contracting Parties in whose territories the said registration has effect and in respect of all or some of the goods and services listed in the registration, provided that the new holder is a person who, under Article 2(1), is entitled to file international applications.

Article 9^{bis}

Recordal of Certain Matters Concerning an International Registration

The International Bureau shall record in the International Register

- (i) any change in the name or address of the holder of the international registration,
- (ii) the appointment of a representative of the holder of the international registration and any other relevant fact concerning such representative,
- (iii) any limitation, in respect of all or some of the Contracting Parties, of the goods and services listed in the international registration,
- (iv) any renunciation, cancellation or invalidation of the international registration in respect of all or some of the Contracting Parties,
- (v) any other relevant fact, identified in the Regulations, concerning the rights in a mark that is the subject of an international registration.

Article 9^{ter}

Fees for Certain Recordals

Any recordal under Article 9 or under Article 9^{bis} may be subject to the payment of a fee.

Article 9^{quater}

Common Office of Several Contracting States

(1) If several Contracting States agree to effect the unification of their domestic legislations on marks, they may notify the Director General

- (i) that a common Office shall be substituted for the national Office of each of them, and
- (ii) that the whole of their respective territories shall be deemed to be a single State for the purposes of the application of all or part of the provisions preceding this Article as well as the provisions of Articles 9^{quinqies} and 9^{sexies}.

(2) Such notification shall not take effect until three months after the date of the communication thereof by the Director General to the other Contracting Parties.

Article 9^{quinquies}

Transformation of an International Registration into National or Regional Applications

Where, in the event that the international registration is cancelled at the request of the Office of origin under Article 6(4), in respect of all or some of the goods and services listed in the said registration, the person who was the holder of the international registration files an application for the registration of the same mark with the Office of any of the Contracting Parties in the territory of which the international registration had effect, that application shall be treated as if it had been filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3^{ter}(2) and, if the international registration enjoyed priority, shall enjoy the same priority, provided that

- (i) such application is filed within three months from the date on which the international registration was cancelled,
- (ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the Contracting Party concerned, and
- (iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

Article 9^{sexies}

Safeguard of the Madrid (Stockholm) Agreement

(1) Where, with regard to a given international application or a given international registration, the Office of origin is the Office of a State that is party to both this Protocol and the Madrid (Stockholm) Agreement, the provisions of this Protocol shall have no effect in the territory of any other State that is also party to both this Protocol and the Madrid (Stockholm) Agreement.

(2) The Assembly may, by a three-fourths majority, repeal paragraph (1), or restrict the scope of paragraph (1), after the expiry of a period of ten years from the entry into force of this Protocol, but not before the expiry of a period of five years from the date on which the majority of the countries party to the Madrid (Stockholm) Agreement have become party to this Protocol. In the vote of the Assembly, only those States which are party to both the said Agreement and this Protocol shall have the right to participate.

Article 10

Assembly

(1)(a) The Contracting Parties shall be members of the same Assembly as the countries party to the Madrid (Stockholm) Agreement.

(b) Each Contracting Party shall be represented in that Assembly by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party which has appointed it, except for the travel ex-

penses and the subsistence allowance of one delegate for each Contracting Party, which shall be paid from the funds of the Union.

(2) The Assembly shall, in addition to the functions which it has under the Madrid (Stockholm) Agreement, also

- (i) deal with all matters concerning the implementation of this Protocol;
- (ii) give directions to the International Bureau concerning the preparation for conferences of revision of this Protocol, due account being taken of any comments made by those countries of the Union which are not party to this Protocol;
- (iii) adopt and modify the provisions of the Regulations concerning the implementation of this Protocol;
- (iv) perform such other functions as are appropriate under this Protocol.

(3)(a) Each Contracting Party shall have one vote in the Assembly. On matters concerning only countries that are party to the Madrid (Stockholm) Agreement, Contracting Parties that are not party to the said Agreement shall not have the right to vote, whereas, on matters concerning only Contracting Parties, only the latter shall have the right to vote.

(b) One-half of the members of the Assembly which have the right to vote on a given matter shall constitute the quorum for the purposes of the vote on that matter.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of the members of the Assembly having the right to vote on a given matter which are represented is less than one-half but equal to or more than one-third of the members of the Assembly having the right to vote on that matter, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly having the right to vote on the said matter which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiry of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Articles 5(2)(e), 9^{sexies}(2), 12 and 13(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one member of the Assembly only.

(4) In addition to meeting in ordinary sessions and extraordinary sessions as provided for by the Madrid (Stockholm) Agreement, the Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the members of the Assembly having the right to vote on the matters proposed to be included in the agenda of the session. The agenda of such an extraordinary session shall be prepared by the Director General.

Article 11

International Bureau

(1) International registration and related duties, as well as all other administrative tasks, under or concerning this Protocol, shall be performed by the International Bureau.

(2)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of this Protocol.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for such conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at such conferences of revision.

(3) The International Bureau shall carry out any other tasks assigned to it in relation to this Protocol.

Article 12

Finances

As far as Contracting Parties are concerned, the finances of the Union shall be governed by the same provisions as those contained in Article 12 of the Madrid (Stockholm) Agreement, provided that any reference to Article 8 of the said Agreement shall be deemed to be a reference to Article 8 of this Protocol. Furthermore, for the purposes of Article 12(6)(b) of the said Agreement, Contracting Organizations shall, subject to a unanimous decision to the contrary by the Assembly, be considered to belong to contribution class I (one) under the Paris Convention for the Protection of Industrial Property.

Article 13

Amendment of Certain Articles of the Protocol

(1) Proposals for the amendment of Articles 10, 11, 12, and the present Article, may be initiated by any Contracting Party, or by the Director General. Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 10, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those States and intergovernmental organizations which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on the amendment. Any amendment to the said Articles thus accepted shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

Article 14

**Becoming Party to the Protocol;
Entry into Force**

(1)(a) Any State that is a party to the Paris Convention for the Protection of Industrial Property may become party to this Protocol.

(b) Furthermore, any intergovernmental organization may also become party to this Protocol where the following conditions are fulfilled:

- (i) at least one of the member States of that organization is a party to the Paris Convention for the Protection of Industrial Property;
- (ii) that organization has a regional Office for the purposes of registering marks with effect in the territory of the organization, provided that such Office is not the subject of a notification under Article 9^{quater}.

(2) Any State or organization referred to in paragraph (1) may sign this Protocol. Any such State or organization may, if it has signed this Protocol, deposit an instrument of ratification, acceptance or approval of this Protocol or, if it has not signed this Protocol, deposit an instrument of accession to this Protocol.

(3) The instruments referred to in paragraph (2) shall be deposited with the Director General.

(4)(a) This Protocol shall enter into force three months after four instruments of ratification, acceptance, approval or accession have been deposited, provided that at least one of those instruments has been deposited by a country party to the Madrid (Stockholm) Agreement and at least one other of those instruments has been deposited by a State not party to the Madrid (Stockholm) Agreement or by any of the organizations referred to in paragraph (1)(b).

(b) with respect to any other State or organization referred to in paragraph (1), this Protocol shall enter into force three months after the date on which its ratification, acceptance, approval or accession has been notified by the Director General.

(5) Any State or organization referred to in paragraph (1) may, when depositing its instrument of ratification, acceptance or approval of, or accession to, this Protocol, declare that the protection resulting from any international registration effected under this Protocol before the date of entry into force of this Protocol with respect to it cannot be extended to it.

Article 15

Denunciation

(1) This Protocol shall remain in force without limitation as to time.

(2) Any Contracting Party may denounce this Protocol by notification addressed to the Director General.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided for by this Article shall not be exercised by any Contracting Party before the expiry of five years from the date upon which this Protocol entered into force with respect to that Contracting Party.

(5)(a) Where a mark is the subject of an international registration having effect in the denouncing State or intergovernmental organization at the date on which the denunciation becomes effective, the holder of such registration may file an application for the registration of the same mark with the Office of the denouncing State or intergovernmental organization, which shall be treated as if it had been filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3^{ter}(2) and, if the international registration enjoyed priority, enjoy the same priority, provided that

- (i) such application is filed within two years from the date on which the denunciation became effective,
- (ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the denouncing State or intergovernmental organization, and
- (iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

(b) The provisions of subparagraph (a) shall also apply in respect of any mark that is the subject of an international registration having effect in Contracting Parties other than the denouncing State or intergovernmental organization at the date on which denunciation becomes effective and whose holder, because of the denunciation, is no longer entitled to file international applications under Article 2(1).

Article 16

Signature; Languages; Depositary Functions

(1)(a) This Protocol shall be signed in a single copy in the English, French and Spanish languages, and shall be deposited with the Director General when it ceases to be open for signature at Madrid. The texts in the three languages shall be equally authentic.

(b) Official texts of this Protocol shall be established by the Director General, after consultation with the interested governments and organizations, in the Arabic, Chinese, German, Italian, Japanese, Portuguese and Russian languages, and in such other languages as the Assembly may designate.

(2) This Protocol shall remain open for signature at Madrid until December 31, 1989.

(3) The Director General shall transmit two copies, certified by the Government of Spain, of the signed texts of this Protocol to all States and intergovernmental organizations that may become party to this Protocol.

(4) The Director General shall register this Protocol with the Secretariat of the United Nations.

(5) The Director General shall notify all States and international organizations that may become or are party to this Protocol of signatures, deposits of instruments of ratification, acceptance, approval or accession, the entry into force of this Protocol and any amendment thereto, any notification of denunciation and any declaration provided for in this Protocol.

List of
Portraits and Other Pictures





List of Portraits and Other Pictures

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WORLD INTELLECTUAL PROPERTY ORGANIZATION