

PROTECTION OF INDUSTRIAL PROPERTY

Additional act signed at Brussels December 14, 1900

Senate advice and consent to ratification March 7, 1901

Ratified by the President of the United States April 16, 1901

Ratifications deposited at Brussels May 3, 1901

Proclaimed by the President of the United States August 25, 1902

*Entered into force September 14, 1902*¹

Convention of 1883 replaced May 1, 1913, by convention of June 2, 1911,² as between contracting parties to the later convention; definitively October 10, 1925³

32 Stat. 1936; Treaty Series 411

[TRANSLATION]

ADDITIONAL ACT OF DECEMBER 14, 1900, MODIFYING THE CONVENTION OF MARCH 20, 1883, AS WELL AS THE FINAL PROTOCOL THERETO ANNEXED

His Majesty the King of the Belgians; The President of the United States of Brazil; His Majesty the King of Denmark; The President of the Dominican Republic; His Majesty the King of Spain, and in his name, Her Majesty the Queen Regent of the Kingdom; The President of the United States of America; The President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and the Algarves; His Majesty the King of Servia; His Majesty the King of Sweden and Norway; The Federal Council of the Swiss Confederation; The Government of Tunis, having deemed it useful to make certain modifications and additions to the International Convention of March 20, 1883,⁴ as well as to the Final Protocol annexed to said Convention, have named for their Plenipotentiaries the following:

¹ Three months from June 14, 1902, date of procès-verbal of deposit of ratifications, closing the record of deposit in accordance with art. 3 (for French text of procès-verbal see *British and Foreign State Papers*, vol. 92, p. 808).

² TS 579, *post*, p. 791.

³ Date by which all parties to the 1883 convention had become parties to the 1911 convention.

⁴ TS 379, *ante*, p. 80.

His Majesty the King of the Belgians: Mr. A. Nyssens, former Minister of Industry and of Labor; Mr. L. Capelle, Envoy Extraordinary and Minister Plenipotentiary, Director General of Commerce and of Consulates in the Ministry of Foreign Affairs; Mr. Georges de Ro, Advocate at the Court of Appeal of Brussels, former Secretary of the order; Mr. J. Dubois, Director General in the Ministry of Industry and Labor.

The President of the United States of Brazil: Mr. da Cunha, Envoy Extraordinary and Minister Plenipotentiary of the United States of Brazil near His Majesty the King of the Belgians.

His Majesty the King of Denmark: Mr. H. Holten-Nielsen, Member of the Patent Commission, Registrar of Trade-Marks.

The President of the Dominican Republic: Mr. J. W. Hunter, Consul General of the Dominican Republic at Antwerp.

His Majesty the King of Spain, and, in His name, Her Majesty the Queen Regent of the Kingdom: Mr. de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The President of the United States of America: Mr. Lawrence Townsend, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near His Majesty the King of the Belgians; Mr. Francis Forbes; Mr. Walter H. Chamberlin, Assistant Commissioner of Patents.

The President of the French Republic: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Mr. C. Nicolas, Former Councillor of State, Honorary Director at the Ministry of Commerce, of Industry, of Posts and Telegraphs; Mr. Michel Pelletier, Advocate at the Court of Appeal of Paris.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: The Right Honorable C. B. Stuart Wortley, M. P.; Sir Henry Bergne, K.C.M.G., Chief of the Commercial Department at the Foreign Office; Mr. C. N. Dalton, C. B., Comptroller General of Patents.

His Majesty the King of Italy: Mr. Romeo Cantagalli, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Commander Carlo-Francesco Gabba, Senator, Professor at the University of Pisa; Chevalier Samuele Ottolenghi, Chief of Division at the Ministry of Agriculture, of Industry and of Commerce, Director of the Bureau on Industrial Property.

His Majesty the Emperor of Japan: Mr. Itchiro Motono, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Her Majesty the Queen of the Netherlands: Mr. F. W. J. G. Snyder van Wissenkerke, Doctor of Laws, Councillor at the Ministry of Justice, Director of the Bureau on Industrial Property.

His Majesty the King of Portugal and of the Algarves: Councillor E. Madeira Pinto, Director General at the Ministry of Public Works, of Commerce and Industry.

His Majesty the King of Servia: Dr. Michel Vouitch, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Sweden and Norway: Count Wrangel, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The Federal Council of the Swiss Confederation: Mr. J. Borel, Consul General of the Swiss Confederation at Brussels; Doctor Louis-Rodolphe de Salis, Professor at Berne.

The President of the French Republic, for Tunis: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near his Majesty the King of the Belgians; Mr. Bladé, Consul of the 1st Class at the Ministry of Foreign Affairs of France.

Who, after having communicated to each other their full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE 1

The International Convention of March 20, 1883, is modified as follows:

I. Article 3 of the Convention shall read as follows:

ART. 3. Are assimilated to the subjects or citizens of the contracting States, the subjects or citizens of States not forming part of the Union, who are domiciled or have bona fide industrial or commercial establishments upon the territory of one of the States of the Union.

II. Article 4 shall read as follows:

ART. 4. Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter mentioned.

In consequence, the deposit subsequently made in one of the other States of the Union before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be twelve months for patents of invention and four months for designs or industrial models, as well as for trade or commercial marks.

III. There is inserted in the Convention an article 4 *bis*, as follows:

ART. 4 *bis*. Patents applied for in the different contracting States by persons admitted to the benefit of the convention under the terms of article 2 and 3 shall be independent of the patents obtained for the same invention in the other States adherents or nonadherents to the Union.

This provision shall apply to patents existing at the time of its going into effect.

The same rule applies, in the case of adhesion of new States, to patents already existing on both sides at the time of the adhesion.

IV. There are added to Article 9 two paragraphs, as follows:

In the States whose legislation does not admit of seizure on importation, such seizure may be replaced by prohibition of importation.

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

V. Article 10 shall read as follows:

ART. 10. The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every producer, manufacturer, or trader engaged in the production, the manufacture, or the sale of this production when established either in the locality falsely indicated as place of origin, or in the region where that locality is situated.

VI. There is inserted in the Convention an article 10 *bis*, as follows:

ART. 10 *bis*. Those entitled of right under the Convention (art. 2 and 3), shall enjoy, in all the States of the Union, the protection accorded to citizens or subjects against unfair competition.

VII. Article 11 shall read as follows:

ART. 11. The high contracting parties shall accord conformably to the legislation of each country a temporary protection to patentable inventions, to industrial designs, or models, as well as to trade-marks for the productions which shall be shown at official or officially recognized International Expositions organized upon the territory of one of them.

VIII. Article 14 shall read as follows:

ART. 14. The present Convention shall be submitted to periodical revision for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object conferences shall take place successively in one of the contracting States between the delegates of said States.

IX. Article 16 shall read as follows:

ART. 16. The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey of full right, accession to all the clauses, and admission to all the advantages stipulated by the present convention, and shall go into force a month after the sending of the notification given by the Swiss Government to the Unionist States, unless a later date shall have been indicated by the adhering State.

ARTICLE 2

The Final Protocol annexed to the International Convention of March 20, 1883, is completed by the addition of a number 3 *bis*, as follows:

ART. 3 *bis*. The patentee, in each country, shall not suffer forfeiture because of non-working until after a minimum period of three years, to date from the deposit of the application in the country concerned, and in the case where the patentee shall not justify the reasons of his inaction.

ARTICLE 3

The present Additional Act shall have the same force and duration as the Convention of March 20, 1883.

It shall be ratified and the ratifications shall be deposited at the Ministry of Foreign Affairs at Brussels as soon as may be and at the latest within the period of eighteen months dated from the day of signature.

It shall go into effect three months after the close of the record of deposit.

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

Done at Brussels in a single copy, December 14, 1900.

For Belgium:

A. NYSSENS
CAPELLE
GEORGES DE RO
J. DUBOIS

For Brazil:

F. XAVIER DA CUNHA

For Denmark:

H. HOLTEN NIELSEN

For the Dominican Republic:

JOHN W. HUNTER

For Spain:

W. R. DE VILLA URRUTIA

For the United States of America:

LAWRENCE TOWNSEND
FRANCIS FORBES
WALTER H. CHAMBERLIN

For France:

A. GÉRARD
C. NICOLAS
MICHEL PELLETIER

For Great Britain:

CHARLES B. STUART WORTLEY
H. C. BERGNE
C. N. DALTON

For Italy:

R. CANTAGALLI
C. F. GABBA
S. OTTOLENGHI

For Japan:

I. MOTONO

For Norway:

CTE WRANGEL

For the Netherlands:

SNYDER VAN WISSENKERKE

For Portugal:

ERNESTO MADEIRA PINTO

For Servia:

DR. MICHEL VOÛTCH

For Sweden:

CTE WRANGEL

For Switzerland:

JULES BOREL
L. R. DE SALIS

For Tunis:

A. GÉRARD
ÉTIENNE BLADÉ