

TRADEMARK AND COMMERCIAL PROTECTION; REGISTRATION OF TRADEMARKS (INTER-AMERICAN)

Convention, protocol, and regulations signed at Washington February 20, 1929

Senate advice and consent to ratification December 16, 1930

Ratified by the President of the United States February 11, 1931

Ratification of the United States deposited with the Pan American Union February 17, 1931

Convention entered into force April 2, 1930;¹ for the United States February 17, 1931

Protocol entered into force February 17, 1931

Proclaimed by the President of the United States February 27, 1931

Protocol terminated as to the United States September 29, 1945²

46 Stat. 2907; Treaty Series 833

GENERAL INTER-AMERICAN CONVENTION FOR TRADE MARK AND COMMERCIAL PROTECTION

The Governments of Peru, Bolivia, Paraguay, Ecuador, Uruguay, Dominican Republic, Chile, Panama, Venezuela, Costa Rica, Cuba, Guatemala, Haiti, Colombia, Brazil, Mexico, Nicaragua, Honduras and the United States of America, represented at the Pan American Trade Mark Conference at Washington in accordance with the terms of the resolution adopted on February 15, 1928,³ at the Sixth International Conference of American States at Habana, and the resolution of May 2, 1928, adopted by the Governing Board of the Pan American Union at Washington,

Considering it necessary to revise the "Convention for the Protection of Commercial, Industrial, and Agricultural Trade Marks and Commercial Names," signed at Santiago, Chile, on April 28, 1923,⁴ which replaced the

¹ Date of deposit of second instrument of ratification.

² Pursuant to notice of denunciation given by the United States Sept. 29, 1944, in accordance with terms of art. 19.

³ *Report of the Delegates of the United States of America to the Sixth International Conference of American States held at Habana, Cuba, January 16 to February 20, 1928* (U.S. Government Printing Office, 1928), p. 265.

⁴ TS 751, *ante*, p. 395.

“Convention for the Protection of Trade Marks” signed at Buenos Aires on August 20, 1910,⁵ with a view of introducing therein the reforms which the development of law and practice have made advisable;

Animated by the desire to reconcile the different juridical systems which prevail in the several American Republics; and

Convinced of the necessity of undertaking this work in its broadest scope, with due regard for the respective national legislations,

Have resolved to negotiate the present Convention for the protection of trade marks, trade names and for the repression of unfair competition and false indications of geographical origin, and for this purpose have appointed as their respective delegates,

Peru:

Alfredo Gonzalez-Prada

Bolivia:

Emeterio Cano de la Vega

Paraguay:

Juan V. Ramirez

Ecuador:

Gonzalo Zaldumbide

Uruguay:

J. Varela Acevedo

Dominican Republic:

Francisco de Moya

Chile:

Oscar Blanco Viel

Panama:

Ricardo J. Alfaro

Juan B. Chevalier

Venezuela:

Pedro R. Rincones

Costa Rica:

Manuel Castro Quesada

Fernando E. Piza

Cuba:

Gustavo Gutierrez

Alfredo Bufill

Guatemala:

Adrian Recinos

Ramiro Fernandez

Haiti:

Raoul Lizaire

Colombia:

Roberto Botero Escobar

Pablo Garcia de la Parra

Brazil:

Carlos Delgado de Carvalho

Mexico:

Francisco Suastegui

Nicaragua:

Vicente Vita

Honduras:

Carlos Izaguirre V.

United States of America:

Francis White

Thomas E. Robertson

Edward S. Rogers

Who, after having deposited their credentials, which were found to be in good and due form by the Conference, have agreed as follows:

⁵ TS 595, *ante*, vol. 1, p. 772.

CHAPTER I

EQUALITY OF CITIZENS AND ALIENS AS TO TRADE MARK AND COMMERCIAL PROTECTION

Article 1

The Contracting States bind themselves to grant to the nationals of the other Contracting States and to domiciled foreigners who own a manufacturing or commercial establishment or an agricultural development in any of the States which have ratified or adhered to the present Convention the same rights and remedies which their laws extend to their own nationals or domiciled persons with respect to trade marks, trade names, and the repression of unfair competition and false indications of geographical origin or source.

CHAPTER II

TRADE MARK PROTECTION

Article 2

The person who desires to obtain protection for his marks in a country other than his own, in which this Convention is in force, can obtain protection either by applying directly to the proper office of the State in which he desires to obtain protection, or through the Inter-American Trade Mark Bureau referred to in the Protocol on the Inter-American Registration of Trade Marks,⁶ if this Protocol has been accepted by his country and the country in which he seeks protection.

Article 3

Every mark duly registered or legally protected in one of the Contracting States shall be admitted to registration or deposit and legally protected in the other Contracting States, upon compliance with the formal provisions of the domestic law of such States.

Registration or deposit may be refused or cancelled of marks:

1. The distinguishing elements of which infringe rights already acquired by another person in the country where registration or deposit is claimed.
2. Which lack any distinctive character or consist exclusively of words, symbols, or signs which serve in trade to designate the class, kind, quality, quantity, use, value, place of origin of the products, time of production, or which are or have become at the time registration or deposit is sought, generic or usual terms in current language or in the commercial usage of the country where registration or deposit is sought, when the owner of the marks seeks to appropriate them as a distinguishing element of his mark.

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

⁶ For text, see p. 764.

of the mark and if in fact it has acquired in the country where deposit, registration or protection is sought, a significance distinctive of the applicant's goods.

3. Which offend public morals or which may be contrary to public order.

4. Which tend to expose persons, institutions, beliefs, national symbols or those of associations of public interest, to ridicule or contempt.

5. Which contain representations of racial types or scenes typical or characteristic of any of the Contracting States, other than that of the origin of the mark.

6. Which have as a principal distinguishing element, phrases, names or slogans which constitute the trade name or an essential or characteristic part thereof, belonging to some person engaged in any of the other Contracting States in the manufacture, trade or production of articles or merchandise of the same class as that to which the mark is applied.

Article 4

The Contracting States agree to refuse to register or to cancel the registration and to prohibit the use, without authorization by competent authority, of marks which include national and state flags and coats-of-arms, national or state seals, designs on public coins and postage stamps, official labels, certificates or guarantees, or any national or state official insignia or simulations of any of the foregoing.

Article 5

Labels, industrial designs, slogans, prints, catalogues or advertisements used to identify or to advertise goods, shall receive the same protection accorded to trade marks in countries where they are considered as such, upon complying with the requirements of the domestic trade mark law.

Article 6

The Contracting States agree to admit to registration or deposit and to protect collective marks and marks of associations, the existence of which is not contrary to the laws of the country of origin, even when such associations do not own a manufacturing, industrial, commercial or agricultural establishment.

Each country shall determine the particular conditions under which such marks may be protected.

States, Provinces or Municipalities, in their character of corporations, may own, use, register or deposit marks and shall in that sense enjoy the benefits of this Convention.

Article 7

Any owner of a mark protected in one of the Contracting States in accordance with its domestic law, who may know that some other person is using or applying to register or deposit an interfering mark in any other of the Contracting States, shall have the right to oppose such use, registration or

deposit and shall have the right to employ all legal means, procedure or recourse provided in the country in which such interfering mark is being used or where its registration or deposit is being sought, and upon proof that the person who is using such mark or applying to register or deposit it, had knowledge of the existence and continuous use in any of the Contracting States of the mark on which opposition is based upon goods of the same class, the opposer may claim for himself the preferential right to use such mark in the country where the opposition is made or priority to register or deposit it in such country, upon compliance with the requirements established by the domestic legislation in such country and by this Convention.

Article 8

When the owner of a mark seeks the registration or deposit of the mark in a Contracting State other than that of origin of the mark and such registration or deposit is refused because of the previous registration or deposit of an interfering mark, he shall have the right to apply for and obtain the cancellation or annulment of the interfering mark upon proving, in accordance with the legal procedure of the country in which cancellation is sought, the stipulations in Paragraph (a) and those of either Paragraph (b) or (c) below:

(a) That he enjoyed legal protection for his mark in another of the Contracting States prior to the date of the application for the registration or deposit which he seeks to cancel; and

(b) that the claimant of the interfering mark, the cancellation of which is sought, had knowledge of the use, employment, registration or deposit in any of the Contracting States of the mark for the specific goods to which said interfering mark is applied, prior to adoption and use thereof or prior to the filing of the application or deposit of the mark which is sought to be cancelled; or

(c) that the owner of the mark who seeks cancellation based on a prior right to the ownership and use of such mark, has traded or trades with or in the country in which cancellation is sought, and that goods designated by his mark have circulated and circulate in said country from a date prior to the filing of the application for registration or deposit for the mark, the cancellation which is claimed, or prior to the adoption and use of the same.

Article 9

When the refusal of registration or deposit of a mark is based on a registration previously effected in accordance with this Convention, the owner of the refused mark shall have the right to request and obtain the cancellation of the mark previously registered or deposited, by proving, in accordance with the legal procedure of the country in which he is endeavoring to obtain registration or deposit of his mark, that the registrant of the mark which

he desires to cancel, has abandoned it. The period within which a mark may be declared abandoned for lack of use shall be determined by the internal law of each country, and if there is no provision in the internal law, the period shall be two years and one day beginning from the date of registration or deposit if the mark has never been used, or one year and one day if the abandonment or lack of use took place after the mark has been used.

Article 10

The period of protection granted to marks registered, deposited or renewed under this Convention, shall be the period fixed by the laws of the State in which registration, deposit or renewal is made at the time when made.

Once the registration or deposit of a mark in any Contracting State has been effected, each such registration or deposit shall exist independently of every other and shall not be affected by changes that may occur in the registration or deposit of such mark in the other Contracting States, unless otherwise provided by domestic law.

Article 11

The transfer of the ownership of a registered or deposited mark in the country of its original registration shall be effective and shall be recognized in the other Contracting States, provided that reliable proof be furnished that such transfer has been executed and registered in accordance with the internal law of the State in which such transfer took place. Such transfer shall be recorded in accordance with the legislation of the country in which it is to be effective.

The use and exploitation of trade marks may be transferred separately for each country, and such transfer shall be recorded upon the production of reliable proof that such transfer has been executed in accordance with the internal law of the State in which such transfer took place. Such transfer shall be recorded in accordance with the legislation of the country in which it is to be effective.

Article 12

Any registration or deposit which has been effected in one of the Contracting States, or any pending application for registration or deposit, made by an agent, representative or customer of the owner of a mark in which a right has been acquired in another Contracting State through its registration, prior application or use, shall give to the original owner the right to demand its cancellation or refusal in accordance with the provisions of this Convention and to request and obtain the protection for himself, it being considered that such protection shall revert to the date of the application of the mark so denied or cancelled.

Article 13

The use of a trade mark by its owner in a form different in minor or non-substantial elements from the form in which the mark has been registered in any of the Contracting States, shall not entail forfeiture of the registration or impair the protection of the mark.

In case the form or distinctive elements of the mark are substantially changed, or the list of goods to which it is to be applied is modified or increased, the proprietor of the mark may be required to apply for a new registration, without prejudice to the protection of the original mark or in respect to the original list of goods.

The requirements of the laws of the Contracting States with respect to the legend which indicates the authority for the use of trade marks, shall be deemed fulfilled in respect to goods of foreign origin if such marks carry the words or indications legally used or required to be used in the country of origin of the goods.

CHAPTER III

PROTECTION OF COMMERCIAL NAMES

Article 14

Trade names or commercial names of persons entitled to the benefits of this Convention shall be protected in all the Contracting States. Such protection shall be enjoyed without necessity of deposit or registration, whether or not the name forms part of a trade mark.

Article 15

The names of an individual, surnames and trade names used by manufacturers, industrialists, merchants or agriculturists to denote their trade or calling, as well as the firm's name, the name or title legally adopted and used by associations, corporations, companies or manufacturing, industrial, commercial or agricultural entities, in accordance with the provisions of the respective national laws, shall be understood to be commercial names.

Article 16

The protection which this Convention affords to commercial names shall be:

(a) to prohibit the use or adoption of a commercial name identical with or deceptively similar to one legally adopted and previously used by another engaged in the same business in any of the Contracting States; and

(b) to prohibit the use, registration or filing of a trade mark the distinguishing elements of which consist of the whole or an essential part of a commercial name legally adopted and previously used by another owner domiciled or established in any of the Contracting States, engaged in the

manufacture, sale or production of products or merchandise of the same kind as those for which the trade mark is intended.

Article 17

Any manufacturer, industrialist, merchant or agriculturist domiciled or established in any of the Contracting States, may, in accordance with the law and the legal procedure of such countries, oppose the adoption, use, registration or deposit of a trade mark for products or merchandise of the same class as those sold under his commercial name, when he believes that such trade mark or the inclusion in it of the trade or commercial name or a simulation thereof may lead to error or confusion in the mind of the consumer with respect to such commercial name legally adopted and previously in use.

Article 18

Any manufacturer, industrialist, merchant or agriculturist domiciled or established in any of the Contracting States may, in accordance with the law and procedure of the country where the proceeding is brought, apply for and obtain an injunction against the use of any commercial name or the cancellation of the registration or deposit of any trade mark, when such name or mark is intended for use in the manufacture, sale or production of articles or merchandise of the same class, by proving:

(a) that the commercial name or trade mark, the enjoining or cancellation of which is desired, is identical with or deceptively similar to his commercial name already legally adopted and previously used in any of the Contracting States, in the manufacture, sale or production of articles of the same class, and

(b) that prior to the adoption and use of the commercial name, or to the adoption and use or application for registration or deposit of the trade mark, the cancellation of which is sought, or the use of which is sought to be enjoined, he used and continues to use for the manufacture, sale or production of the same products or merchandise his commercial name adopted and previously used in any of the Contracting States or in the State in which cancellation or injunction is sought.

Article 19

The protection of commercial names shall be given in accordance with the internal legislation and by the terms of this Convention, and in all cases where the internal legislation permits, by the competent governmental or administrative authorities whenever they have knowledge or reliable proof of their legal existence and use, or otherwise upon the motion of any interested party.

CHAPTER IV

REPRESSION OF UNFAIR COMPETITION

Article 20

Every act or deed contrary to commercial good faith or to the normal and honorable development of industrial or business activities shall be considered as unfair competition and, therefore, unjust and prohibited.

Article 21

The following are declared to be acts of unfair competition and unless otherwise effectively dealt with under the domestic laws of the Contracting States shall be repressed under the provisions of this Convention:

(a) Acts calculated directly or indirectly to represent that the goods or business of a manufacturer, industrialist, merchant or agriculturist are the goods or business of another manufacturer, industrialist, merchant or agriculturist of any of the other Contracting States, whether such representation be made by the appropriation or simulation of trade marks, symbols, distinctive names, the imitation of labels, wrappers, containers, commercial names, or other means of identification;

(b) The use of false descriptions of goods, by words, symbols or other means tending to deceive the public in the country where the acts occur, with respect to the nature, quality, or utility of the goods;

(c) The use of false indications of geographical origin or source of goods, by words, symbols, or other means which tend in that respect to deceive the public in the country in which these acts occur;

(d) To sell, or offer for sale to the public an article, product or merchandise of such form or appearance that even though it does not bear directly or indirectly an indication of origin or source, gives or produces, either by pictures, ornaments, or language employed in the text, the impression of being a product, article or commodity originating, manufactured or produced in one of the other Contracting States;

(e) Any other act or deed contrary to good faith in industrial, commercial or agricultural matters which, because of its nature or purpose, may be considered analogous or similar to those above mentioned.

Article 22

The Contracting States which may not yet have enacted legislation repressing the acts of unfair competition mentioned in this chapter, shall apply to such acts the penalties contained in their legislation on trade marks or in any other statutes, and shall grant relief by way of injunction against the continuance of said acts at the request of any party injured; those causing such injury shall also be answerable in damages to the injured party.

CHAPTER V

REPRESSION OF FALSE INDICATIONS OF GEOGRAPHICAL ORIGIN OR SOURCE

Article 23

Every indication of geographical origin or source which does not actually correspond to the place in which the article, product or merchandise was fabricated, manufactured, produced or harvested, shall be considered fraudulent and illegal, and therefore prohibited.

Article 24

For the purposes of this Convention the place of geographical origin or source shall be considered as indicated when the geographical name of a definite locality, region, country or nation, either expressly and directly, or indirectly, appears on any trade mark, label, cover, packing or wrapping, of any article, product or merchandise, directly or indirectly thereon, provided that said geographical name serves as a basis for or is the dominant element of the sentences, words or expressions used.

Article 25

Geographical names indicating geographical origin or source are not susceptible of individual appropriation, and may be freely used to indicate the origin or source of the products or merchandise or his commercial domicile, by any manufacturer, industrialist, merchant or agriculturist established in the place indicated or dealing in the products there originating.

Article 26

The indication of the place of geographical origin or source, affixed to or stamped upon the product or merchandise, must correspond exactly to the place in which the product or merchandise has been fabricated, manufactured or harvested.

Article 27

Names, phrases or words, constituting in whole or in part geographical terms which through constant, general and reputable use in commerce have come to form the name or designation itself of the article, product or merchandise to which they are applied, are exempt from the provisions of the preceding articles; this exception, however, does not include regional indications of origin of industrial or agricultural products the quality and reputation of which to the consuming public depend on the place of production or origin.

Article 28

In the absence of any special remedies insuring the repression of false indications of geographical origin or source, remedies provided by the domestic sanitary laws, laws dealing with misbranding and the laws relating to trade marks or trade names, shall be applicable in the Contracting States.

CHAPTER VI

REMEDIES

Article 29

The manufacture, exportation, importation, distribution, or sale is forbidden of articles or products which directly or indirectly infringe any of the provisions of this Convention with respect to trade mark protection; protection and safeguard of commercial names; repression of unfair competition; and repression of false indications of geographical origin or source.

Article 30

Any act prohibited by this Convention will be repressed by the competent administrative or judicial authorities of the government of the state in which the offense was committed, by the legal methods and procedure existing in said country, either by official action, or at the request of interested parties, who may avail themselves of the rights and remedies afforded by the laws to secure indemnification for the damage and loss suffered; the articles, products or merchandise or their marks, which are the instrumentality of the acts of unfair competition, shall be liable to seizure or destruction, or the offending markings obliterated, as the case may be.

Article 31

Any manufacturer, industrialist, merchant or agriculturist, interested in the production, manufacture, or trade in the merchandise or articles affected by any prohibited act or deed, as well as his agents or representatives in any of the Contracting States and the consular officers of the state to which the locality or region falsely indicated as the place to which belongs the geographical origin or source, shall have sufficient legal authority to take and prosecute the necessary actions and proceedings before the administrative authorities and the courts of the Contracting States.

The same authority shall be enjoyed by official commissions or institutions and by syndicates or associations which represent the interests of industry, agriculture or commerce and which have been legally established for the defense of honest and fair trade methods.

CHAPTER VII

GENERAL PROVISIONS

Article 32

The administrative authorities and the courts shall have sole jurisdiction over administrative proceedings and administrative judgments, civil or criminal, arising in matters relating to the application of the national law.

Any differences which may arise with respect to the interpretation or application of the principles of this Convention shall be settled by the Courts

of justice of each State, and only in case of the denial of justice shall they be submitted to arbitration.

Article 33

Each of the Contracting States, in which it does not yet exist, hereby agrees to establish a protective service, for the suppression of unfair competition and false indication of geographic origin or source, and to publish for opposition in the official publication of the government, or in some other periodical, the trade marks solicited and granted as well as the administrative decisions made in the matter.

Article 34

The present Convention shall be subject to periodic revision with the object of introducing therein such improvements as experience may indicate, taking advantage of any international conferences held by the American States, to which each country shall send a delegation in which it is recommended that there be included experts in the subject of trade marks, in order that effective results may be achieved.

The national administration of the country in which such conferences are held shall prepare, with the assistance of the Pan American Union and the Inter-American Trade Mark Bureau, the work of the respective conference.

The Director of the Inter-American Trade Mark Bureau may attend the sessions of such conferences and may take part in the discussions, but shall have no vote.

Article 35

The provisions of this Convention shall have the force of law in those States in which international treaties possess that character, as soon as they are ratified by their constitutional organs.

The Contracting States in which the fulfillment of international agreements is dependent upon the enactment of appropriate laws, on accepting in principle this Convention, agree to request of their legislative bodies the enactment of the necessary legislation in the shortest possible period of time and in accordance with their constitutional provisions.

Article 36

The Contracting States agree that, as soon as this Convention becomes effective, the Trade Mark Conventions of 1910 and 1923 shall automatically cease to have effect; but any rights which have been acquired, or which may be acquired thereunder, up to the time of the coming into effect of this Convention, shall continue to be valid until their due expiration.

Article 37

The present Convention shall be ratified by the Contracting States in conformity with their respective constitutional procedures.

The original Convention and the instruments of ratification shall be deposited with the Pan American Union which shall transmit certified copies of the former and shall communicate notice of such ratifications to the other signatory Governments, and the Convention shall enter into effect for the Contracting States in the order that they deposit their ratifications.

This Convention shall remain in force indefinitely, but it may be denounced by means of notice given one year in advance, at the expiration of which it shall cease to be in force as regards the Party denouncing the same, but shall remain in force as regards the other States. All denunciations shall be sent to the Pan American Union which will thereupon transmit notice thereof to the other Contracting States.

The American States which have not subscribed to this Convention may adhere thereto by sending the respective official instrument to the Pan American Union which, in turn, will notify the governments of the remaining Contracting States in the manner previously indicated.

In witness whereof the above named delegates have signed this Convention in English, Spanish, Portuguese and French, and thereto have affixed their respective seals.

Done in the City of Washington, on the twentieth day of February in the year one thousand nine hundred and twenty-nine.

[For Peru:] A. GONZÁLEZ PRADA [SEAL]	[For Costa Rica:] MANUEL CASTRO QUESADA [SEAL] F. E. PIZA [SEAL]
[For Bolivia:] EMETERIO CANO DE LA VEGA [SEAL]	[For Cuba:] GUSTAVO GUTIÉRREZ [SEAL] A. L. BUFILL [SEAL]
[For Paraguay:] JUAN VICENTE RAMÍREZ [SEAL]	[For Guatemala:] ADRIÁN RECINOS [SEAL] RAMIRO FERNÁNDEZ [SEAL]
[For Ecuador:] GONZALO ZALDUMBIDE [SEAL]	[For Haiti:] RAOUL LIZAIRE [SEAL]
[For Uruguay:] VARELA [SEAL]	[For Colombia:] PABLO GARCÍA DE LA PARRA [SEAL]
[For the Dominican Republic:] FRANCISCO DE MOYA [SEAL]	[For Brazil:] CARLOS DELGADO DE CARVALHO [SEAL]
[For Chile:] OSCAR BLANCO VIEL [SEAL] I hereby subscribe to this Convention insofar as its provisions are not contrary to the national legislation of my country, with express reservations concerning the provisions of this Convention on which there is no legislation in Chile [translation].	[For Mexico:] F. SUÁSTEGUI [SEAL]
[For Panama:] R. J. ALFARO [SEAL] JUAN B. CHEVALIER [SEAL]	[For Nicaragua:] VICENTE VITA [SEAL]
[For Venezuela:] P. R. RINCONES [SEAL]	[For Honduras:] CARLOS IZAGUIRRE V. [SEAL]
	[For the United States:] EDWARD S. ROGERS [SEAL] THOMAS E. ROBERTSON [SEAL] FRANCIS WHITE [SEAL]

PROTOCOL ON THE INTER-AMERICAN REGISTRATION OF TRADE MARKS

Whereas, The Governments of Peru, Bolivia, Paraguay, Ecuador, Uruguay, Dominican Republic, Chile, Panama, Venezuela, Costa Rica, Cuba, Guatemala, Haiti, Colombia, Brazil, Mexico, Nicaragua, Honduras and the United States of America have this day signed at Washington through their respective delegates a General Inter-American Convention for Trade Mark and Commercial Protection;

Whereas, the maintenance of an international American agency is considered desirable that manufacturers, industrialists, merchants and agriculturists may enjoy the trade mark and commercial protection which that Convention grants them, and that it may serve as a center of information, and cooperate in the fulfillment and improvement of the provisions of the Convention;

Whereas, the adoption of a general convention and a protocol may facilitate ratification among the Contracting States and adherence among the American Republics which have not taken part in the negotiations, since acceptance of the Convention does not imply acceptance of this instrument,

The above mentioned governments have agreed as follows:

Article 1

Natural or juridical persons domiciled in or those who possess a manufacturing or commercial establishment or an agricultural enterprise in any of the States that may have ratified or adhered to the present Protocol, may obtain the protection of their trade marks through the registration of such marks in the Inter-American Trade Mark Bureau.

Article 2

The owner of a mark registered or deposited in one of the Contracting States who desires to register it in any of the other Contracting States, shall file an application to this effect in the office of the country of original registration which office shall transmit it to the Inter-American Trade Mark Bureau, complying with the Regulations. A postal money order or draft on a bank of recognized standing, in the amount of \$50.00, as a fee for the Inter-American Trade Mark Bureau, plus the amount of the fees required by the national law of each of the countries in which he desires to obtain protection for his mark, shall accompany such application.

Article 3

Immediately on receipt of the application for the registration of a mark, and on determining that it fulfills all the requirements, the Inter-American Trade Mark Bureau shall issue a certificate and shall transmit by registered mail copies of the same accompanied by a money order for the amount re-

quired by the respective Offices of the States in which protection is desired. In the case of adhesions or ratifications of additional states after the registration of a mark, the Inter-American Bureau shall, through the respective offices of their countries, inform the proprietors of marks registered through the Bureau, of said adhesions or ratifications, informing them of the right that they have to register their marks in the new adhering or ratifying States, in which registration shall be effected in the manner above mentioned.

Article 4

Each of the Contracting States, through its Trade Mark Office, shall immediately acknowledge to the Inter-American Bureau, the receipt of the application for registration of each mark, and shall proceed to carry through the proceedings with every possible dispatch, directing that the application be published at the expense of the applicant in the usual official papers, and at the proper time shall notify the Inter-American Bureau of the action that it may have taken in accordance with its internal legislation and the provisions of this Convention.

In case protection is granted to the mark, it shall issue a certificate of registration in which shall be indicated the legal period of registration; which certificate shall be issued with the same formalities as national certificates and shall have the same effect in so far as ownership of the mark is concerned. This certificate of registration shall be sent to the Inter-American Trade Mark Bureau, which shall transmit it to the proprietor of the mark through the proper office of the country of origin.

If, within seven months after the receipt by a Contracting State of an application for the protection of a trade mark transmitted by the Inter-American Trade Mark Bureau, the administration of such State does not communicate to the Bureau notice or refusal of protection based on the provisions of its domestic legislation or on the provisions of the General Inter-American Convention for Trade Mark and Commercial Protection such mark shall be considered as registered and the Inter-American Trade Mark Bureau shall so communicate to the applicant through the country of origin, and shall issue a special certificate which shall have the same force and legal value as a national certificate.

In case protection of a mark is refused in accordance with the provisions of the internal legislation of a State or of the General Inter-American Convention for Trade Mark and Commercial Protection, the applicant may have the same recourse which the respective laws grant to the citizens of the state refusing protection. The period within which the recourse and actions granted by national laws may be exercised shall begin four months after receipt by the Inter-American Trade Mark Bureau of the notice of refusal.

The Inter-American registration of a trade mark communicated to the Contracting States, which may already enjoy protection in such States shall

replace any other registration of the same mark effected previously by any other means, without prejudice to the rights already acquired by national registration.

Article 5

In order to effect the transfer of ownership of a trade mark or the assignment of the use of the same, the same procedure as that set forth in the foregoing articles shall be followed, except that in this case there shall only be remitted to the Inter-American Bureau \$10.00, to be retained by said Bureau, plus the fees fixed by the domestic legislation of each one of the countries in which it is desired to register the transfer or assignment of the mark, it being understood that the use of trade marks may be transferred separately in each country.

Article 6

If the applicant claims color as a distinctive element of his mark he shall be required to:

1. Send a statement attached to the application for registration declaring the color or the combination of colors which he claims; and
2. Attach to the application for registration copies or specimens of the mark as actually used, showing the colors claimed, which shall be attached to the notifications sent by the Inter-American Bureau. The number of copies to be sent shall be fixed by the Regulations.

Article 7

Trade marks shall be published in a bulletin edited by the Inter-American Bureau, wherein shall appear the matter contained in the application for registration and an electrotype of the mark supplied by the applicant.

Each administration of the Contracting States shall receive free of charge from the Inter-American Bureau as many copies of the above mentioned publication as it may ask for.

The publication of a mark in the bulletin of the Inter-American Bureau shall have the same effect as publication in the official journals or bulletins of the Contracting States.

Article 8

The Inter-American Bureau, on receipt of payment of a fee to be fixed by the Regulations, shall furnish to any person who may so request, copies of the entries made in the register with reference to any particular mark.

Article 9

The Inter-American Trade Mark Bureau shall keep a record of renewals which have been effected in compliance with the requirements of the do-

mestic laws of the Contracting States, and after payment of a fee of \$10.00 to the Inter-American Trade Mark Bureau and the customary fees required by the States where said renewal is effected.

Six months prior to the expiration of the period of protection, the Inter-American Bureau shall communicate this information to the administration of the country of origin and to the owner of the mark.

Article 10

The owner of a trade mark may at any time relinquish protection in one or several of the Contracting States, by means of a notice sent to the administration of the country of origin of the mark, to be communicated to the Inter-American Bureau, which in turn shall notify the countries concerned.

Article 11

An applicant for registration or deposit, transfer or renewal of a trade mark through the Inter-American Bureau, may appoint by a proper power of attorney at any time, an agent or attorney to represent him in any procedure, administrative, judicial or otherwise, arising in connection with such trade marks or application in any Contracting State.

Such agents or attorneys shall be entitled to notice of all the proceedings and to receive and present all documents that may be required by the Trade Mark Bureau of each country under the provisions of this Protocol.

Article 12

The administration in the country of origin shall notify the Inter-American Bureau of all annulments, cancellations, renunciations, transfers and all other changes in the ownership or use of the mark.

The Inter-American Bureau shall record these changes, notify the administrations of the Contracting States and publish them immediately in its bulletin.

The same procedure shall be followed when the proprietor of the mark requests a reduction in the list of products to which the trade mark is applied.

The subsequent addition of a new product to the list may not be obtained except by a new registration of the mark according to the provisions of Article 2 of this Protocol. The same procedure shall be followed in the case of the substitution of one product for another.

Article 13

The Contracting States bind themselves to send through their respective national trade mark offices, as soon as they are published, two copies of the official bulletins or publications in which judicial or administrative decisions or resolutions, laws, decrees, regulations, circulars, or any other provisions emanating from the executive, legislative or judicial authorities may ap-

pear and which refer to the protection of trade marks, the protection of commercial names, the repression of unfair competition and of false indications of origin, whether of an administrative, civil or penal nature.

Article 14

In order to comply with this Protocol, and to facilitate the inter-American registration of trade marks, the Contracting States establish as their international agency the Bureau located in Habana, Republic of Cuba, referred to as the "Inter-American Trade Mark Bureau," and confer upon its official correspondence the postal frank.

Article 15

The Inter-American Trade Mark Bureau shall perform the duties specified in this Protocol and in the Regulations appended hereto, and shall be supported in part by the fees received for handling trade marks and in part by the quotas assigned to the Contracting States. These quotas shall be paid directly and in advance to the Bureau in yearly installments and shall be determined in the following manner:

The population of each Contracting State ratifying this Protocol shall be determined by its latest official census, the number of inhabitants to be divided into units of 100,000 each, fractions above 50,000 to be considered as a full unit, and those under to be disregarded. The annual budget shall be divided by the total number of units, thereby determining the quota per unit. The contribution of each State to the Inter-American Bureau shall be determined by multiplying the quota per unit by the number of units allotted to each State.

Upon receipt of new ratifications and adhesions to this Protocol, the same procedure shall be followed with respect to such States, the quota of each to be determined by adding these additional units and thus determining the quota per unit.

It is expressly agreed that this annual contribution will continue to be paid only so long as the other revenues of the Bureau are not sufficient to cover the expenses of its maintenance. So long as this situation exists, the latest census of population will be used each year and, on the basis of official data furnished by each Contracting State, the changes in population shall be made and the quotas determined anew before fixing the contributions to be paid by those States. Once the Bureau becomes self-supporting through its own receipts, the balance remaining from the quotas shall be returned to the States in proportion to the amounts received from them.

At the end of each year the Inter-American Bureau shall prepare a statement of fees and contributions received and after making provision for its budgetary requirements for the following year and setting aside a reserve fund, shall return the balance to the Contracting States in proportion to the quotas paid by them.

The budget of the Bureau and the reserve fund to be maintained shall be submitted by the Director of the Bureau and approved by the Chief Executive of the State in which the Bureau is established. The Director of the Bureau shall also submit an annual report to all ratifying States, for their information.

Article 16

In case the Bureau should cease to exist, it shall be liquidated under the supervision of the Government of Cuba, the balance of the funds remaining to be distributed among the Contracting States in the same proportion as they contributed to its support. The buildings and other tangible property of the Bureau shall become the property of the Government of Cuba in recognition of the services of that Republic in giving effect to this Protocol; the Government of Cuba agreeing to dedicate such property to purposes essentially inter-American in character.

The Contracting States agree to accept as final any steps that may be taken for the liquidation of the Bureau.

Article 17

The provisions of this Protocol shall have the force of law in those States in which international treaties possess that character, as soon as they are ratified by their constitutional organs.

The Contracting States in which the fulfillment of international agreements is dependent upon the enactment of appropriate laws, on accepting in principle this Protocol, agree to request of their legislative bodies the enactment of the necessary legislation in the shortest possible period of time and in accordance with their constitutional provisions.

Article 18

The Contracting States agree that, as soon as this Protocol becomes effective, the Trade Mark Conventions of 1910 and 1923 shall automatically cease to have effect in so far as they relate to the organization of the Inter-American Bureau; but any rights which have been or which may be acquired in accordance with the provisions of said Conventions, up to the time of the coming into effect of this Protocol, shall continue to be valid until their due expiration.

Article 19

The present Protocol shall be ratified by the Contracting States, in accordance with their respective constitutional procedure, after they shall have ratified the "General Inter-American Convention for Trade Mark and Commercial Protection."

The original Protocol and the instruments of ratification shall be deposited with the Pan American Union, which shall transmit certified copies of the former and shall communicate notice of such ratifications to the Govern-

ments of the other signatory States and the Protocol shall become effective for the Contracting States in the order in which they deposit their ratifications.

This Protocol shall remain in force indefinitely, but it may be denounced by means of notice given one year in advance, at the expiration of which it shall cease to be in force as regards the State denouncing the same, but shall remain in force as regards the other States. All denunciations shall be sent to the Pan American Union which will thereupon transmit notice thereof to the other States.

The American States which have not signed this Protocol may adhere thereto by sending the respective official instrument to the Pan American Union which, in turn, will thereupon notify the Governments of the remaining Contracting States in the manner previously indicated.

ANNEX

REGULATIONS

Article 1

The application to obtain protection under the Protocol of which the present Annex is a part shall be made by the owner of the mark or his legal representative to the administration of the State in which the mark has been originally registered or deposited in accordance with the provisions in force in that State, accompanied by a money order or draft payable to the Director of the Inter-American Trade Mark Bureau in the sum required by this Protocol. The application and money order shall be accompanied by an electrotype (10 x 10 centimeters) of the mark reproducing it as registered in the State of original registration.

Article 2

The National Bureau of such State having ascertained that the registration of the mark is legal and valid shall send to the Inter-American Trade Mark Bureau, as soon as possible:

- A. The money order;
- B. The electrotype of the mark;
- C. A certificate in duplicate containing the following details:
 1. The name and address of the owner of the mark;
 2. The date of the application for registration in the State of original registration;
 3. The date of registration of the mark in such State;
 4. The order number of the registration in such State;
 5. The date of expiration of the protection of the mark in such State;
 6. A facsimile of the mark as used;
 7. A statement of the goods on which the mark is used;

8. The date of the application to the National Bureau of the State of the original registration to obtain protection under the Convention and this Protocol.

D. When the applicant wishes to claim color as a distinctive element of his mark, thirty copies of the mark printed on paper, showing the color, and a brief description of the same.

Article 3

Within ten days after receipt from such administration of the matter required by Article 2, the Inter-American Trade Mark Bureau shall enter all information in its books and inform the National Bureau of such State of the receipt of the application and of the number and date of the inter-American registration.

Article 4

Within thirty days after such receipt, detailed copies of the inter-American registration shall be sent to the National Bureaus of those States which have ratified the Protocol.

Article 5

The Inter-American Trade Mark Bureau shall publish a periodic bulletin wherein shall appear the data included in the certificate provided for by Section C of Article 2 of these Regulations and also all other information which may be appropriate concerning registration of such marks in the various States.

The Inter-American Trade Mark Bureau may also publish in its bulletin or separately, books, documents, information, studies, and articles concerning the protection of industrial property.

Article 6

The acceptance, opposition, or refusal of a mark by the National Bureau of any one of the Contracting States shall be transmitted within ten days following the date of its receipt by the Inter-American Trade Mark Bureau to the administration of the State of origin of the application with a view to its communication to whom it may concern.

Article 7

Changes in ownership of a mark communicated by the Bureau of the country of origin to the Inter-American Trade Mark Bureau and accompanied by the required fees shall be examined, entered in the register, and corresponding notice sent to the Bureaus of the other Contracting States in which the transfer is to take place, accompanied by the proper fees, all within the time herein fixed with respect to application.

Article 8

The Director of the Inter-American Trade Mark Bureau shall be appointed by the Executive Power of the State in which the Bureau is located, from among lawyers of experience in the subject matter and of recognized moral standing. The Director, at his discretion, may appoint or remove the officials or employees of his Bureau, giving notice thereof to the Government of Cuba; adopt and promulgate such other rules, regulations and circulars as he may deem convenient for the proper functioning of the Bureau and which are not inconsistent with this Protocol.

Article 9

The Inter-American Trade Mark Bureau may carry on any investigation on the subject of trade marks which the Government of any of the Contracting States may request, and encourage the investigation of all problems, difficulties or obstacles which may hinder the operation of the General Inter-American Convention for Trade Mark and Commercial Protection, or of this Protocol.

Article 10

The Inter-American Trade Mark Bureau shall cooperate with the Governments of the Contracting States in the preparation of material for international conferences on this subject; submit to those States such suggestions as it may consider useful, and such opinions as may be requested as to the modifications which should be introduced in the inter-American pacts or in the laws concerning these subjects and in general facilitate the execution of the purposes of this Protocol.

Article 11

The Inter-American Trade Mark Bureau shall inform the signatory Governments at least once a year as to the work which the Bureau has done or is doing.

Article 12

The Inter-American Trade Mark Bureau shall maintain as far as possible relations with similar offices and scientific and industrial institutions and organizations for the exchange of publications, information, and data relative to the progress of the law on the subject of the protection of trade marks, defense and protection of commercial names and suppression of unfair competition and false indications of origin.

Article 13

These Regulations may be modified at any time at the request of any of the Contracting States or the Director of the Bureau, provided that the modification does not violate the General Convention or the Protocol of which the Regulations form a part, and that the modification is approved by the Governing Board of the Pan American Union, after having been circulated among

the Contracting States for a period of six months before submission for the approval of the Pan American Union.

In witness whereof the above named delegates have signed this Protocol in English, Spanish, Portuguese and French, and thereto have affixed their respective seals.

Done in the City of Washington on the twentieth day of February in the year one thousand nine hundred and twenty-nine.

[For Peru:] A. GONZÁLEZ PRADA [SEAL]	[For Cuba:] GUSTAVO GUTIÉRREZ [SEAL] A. L. BUFILL [SEAL]
[For Bolivia:] EMETERIO CANO DE LA VEGA [SEAL]	[For Haiti:] RAOUL LIZAIRE [SEAL]
[For Paraguay:] JUAN VICENTE RAMÍREZ [SEAL]	[For Colombia:] PABLO GARCÍA DE LA PARRA [SEAL]
[For Ecuador:] GONZALO ZALDUMBIDE [SEAL]	[For Brazil:] CARLOS DELGADO DE CARVALHO [SEAL]
[For the Dominican Republic:] FRANCISCO DE MOYA [SEAL]	[For Mexico:] F. SUÁSTEGUI [SEAL]
[For Panama:] R. J. ALFARO [SEAL] JUAN B. CHEVALIER [SEAL]	[For Nicaragua:] VICENTE VITA [SEAL]
[For Venezuela:] P. R. RINCONES [SEAL]	[For Honduras:] CARLOS IZAGUIRRE V. [SEAL]
[For Costa Rica:] MANUEL CASTRO QUESADA [SEAL] F. E. PIZA [SEAL]	[For the United States:] FRANCIS WHITE [SEAL] THOMAS E. ROBERTSON [SEAL] EDWARD S. ROGERS [SEAL]

GLOSSARY ⁷

Resolved, That the following glossary be followed in the interpretation of terms contained in the General Inter-American Convention on Trade Mark and Commercial Protection, and in the Protocol on the Inter-American Registration of Trade Marks, approved by the Conference:

Nationals: persons; partnerships; firms; corporations; associations; syndicates, unions and all other natural and juridical persons entitled to the benefit of nationality of the contracting countries.

Persons: include not only natural persons but all juridical persons such as partnerships, firms, corporations, associations, syndicates and unions.

Marks or Trade marks: include manufacturing, industrial, commercial, agricultural marks, collective marks, and the marks of syndicates, unions and associations.

Collective marks: mean marks lawfully used by two or more owners.

⁷ Eighth resolution adopted by conference on Feb. 19, 1929.

Commercial names: include trade names, names of individuals, surnames, partnership firm and corporate names, and the names of syndicates, associations, unions and other entities recognized by the laws of the Contracting States, and which are used in manufacturing, industry, commerce and agriculture to identify or distinguish the user's trade, calling or purpose.

Ownership: as applied to trade marks means the right acquired by registration in countries where the right to a trade mark is so acquired, and the right acquired by adoption and use in countries where the right to a trade mark is so acquired.

Owner or Proprietor: means the natural or juridical person entitled to ownership as above defined.

Deposit: means the filing of a trade mark in any Contracting Country other than the country of original registration.

Interfering mark or Infringing mark: means a mark which so resembles one previously registered, deposited, or used by another person as to be likely, when applied to goods, to cause confusion or mistake or to deceive purchasers as to their commercial source or origin.

Country of origin: means the country of original registration of the mark and not the country of the citizenship or domicile of the registrant or depositor.

Injunction: means a judicial order or process, operating upon the person, requiring the party to whom it is directed to do or (usually) refrain from doing some designated thing.

§: Wherever this sign is used it shall be understood to mean money which is legal currency in Cuba and which has a value equivalent to that of the dollar.