Sec. 157. Trademarks. Word marks.

Invented words or words used in an arbitrary or fanciful meaning only are in most countries recognized as lawful trademarks. Many of the best known and most valuable trademarks in the United States and in many of the foreign countries consist of some one or more words which are so distinctive in character that they appeal forcibly to the eye and the ear. In certain countries, however, words cannot, under the law, be recognized as lawful trademarks. Such countries are Austria, Finland and Norway, but in each of these countries, except Finland, trademarks which are the property of citizens or subjects of certain foreign countries and are registered in the country of origin, may under the provisions of international agreements be registered and protected, even though they consist of a word or words only.2 The reason for the refusal to recognize words as lawful trademarks does not clearly appear.

Sec. 158. Trademarks. Word marks. Descriptive words.

Words which are descriptive of the nature or quality, origin or destination of the goods to which they are applied are not under the laws of any country lawful trademarks, though there is a marked difference in different countries in the meaining given to the word "descriptive." In Great Britain, and in the British Colonies and dependencies which have trademark laws, all of which follow the principles of the law of Great Britain very closely, a word is considered to be descriptive if it relates to or is suggestive of the nature or quality, destination or origin of the goods to which it is applied. The same practice is followed in the United States though the law is silent as regards descriptive words. In

¹ In Great Britain words were not registrable as trademarks, unless "old marks," prior to the Patents &c., Act of 1883.

² Part III., § 215. Note under Article 6 of the International Convention.

A word or words having no reference to the character or quality of the goods, and not being a geographical name. Patents &c., Act of 1883 of Great Britain as amended 1888, article 64.

France, on the contrary, it is generally held that when an expression is other than the necessary designation of a product it cannot be considered descriptive. The French practice in this regard is generally followed in the European countries which permit the registration of word marks.

Sec. 159. Trademarks. Word marks. Geographical names.

The name of the locality of origin of goods is not in most countries registrable as a trademark under the law as being descriptive, as well as being a mark which might rightfully be used by others.³ In a few countries, exception is made in case of the name of an estate which is owned by the producer or trader who seeks registration.⁴ This exception is not inconsistent with the general principle that a mark in order to be registrable as a trademark must be other than such a mark as would naturally be used by others to indicate the origin of their goods.

The marking of goods with the names of localities other than that of the origin of the goods, particularly if with names of localities in which goods of the same class are produced, is necessarily deceptive and such marks are not in any country registrable as trademarks,⁵ though words which in their ordinary sense are geographical if used in an arbitrary sense and not in their ordinary geographical sense, as indicating locality of origin, may be registered and protected as trademarks.⁶ Geographical names so used have been protected as trademarks in the courts of the United States, and in case of "old marks" in the courts of Great Britain.⁷ Under the present law of Great Britain, how-

¹ Marafy, Dictionnaire. Article, Mots descriptive.

² See § 139. Note 1.

^{*}See & 138, 139.

⁴ Law of 1896 of Portugal, Article 60.

⁵ Law of 1891 of Brazil, Article 8.

⁶ Ex parte Little & Co., 85 O. G., 1221, and cases there cited.

⁷ Colgate vs. Adams, 88 Federal reporter, 899. Sebastian, Law of Trademarks, page 79.

ever, geographical names are expressly excluded from registration.

Sec. 160. Trademarks. Letter and numeral marks.

Marks which consist solely of letters or numerals are not considered lawful trademarks under the laws of Austria, Bulgaria, Denmark, Finland, Germany, Norway, Sweden and Great Britain, and the British Colonies and dependencies generally, though in Austria, Denmark, Norway and Sweden, trademarks which are the property of citizens or subjects of certain foreign countries, and are registered in the country of origin, may under the provisions of international agreements be registered, even though they consist solely of letters or numerals, and under the law of Great Britain and the British Colonies and dependencies generally such marks if "old marks," that is, marks in use before the date of the first registration law of the country, may be registered. In Great Britain, such marks have been in numerous cases sustained by the courts as lawful trademarks.

Sec. 161. Trademarks. Letter and numeral marks.

The reason for not considering marks which consist of letters or numerals solely, lawful trademarks, is more readily seen than the reason for excluding marks which consist of words. The right of any producer to place the initials of his name on his products is everywhere recognized as a natural right which should not be interfered with, provided it is not done to imitate the known mark of another with fraudulent intent; and, as it is hardly possible to conceive of any combination of letters which may not be the initials of the name of some other than the person who may use them as a trademark, it is evident that such person cannot at the moment of adopting such a mark be certain of an ex-

¹ Patents &c., Act of 1883 of Great Britain as amended 1888, Article 64.

² Part III., § 215. Note under Article 6 of the International Convention.

³ Such use must, so far as Great Britain is concerned, be use in the United Kingdom. The same is no doubt true of all other countries.

clusive right to its use. So too with numerals which may be used by any producer as catalogue marks to distinguish articles of the same class of his own production. Marks of this character, whether consisting of letters solely or numerals, may no doubt become by long use the known marks of certain producers, and as such be entitled to protection against others who make use of them for the purpose of unfair competition.

Sec. 162. Trademarks. Color and form.

The color or form given to articles on the envelopes or wrappers in which goods are put upon the market cannot in most countries be considered as a lawful trademark. The countries which specifically exclude color or form are Argentine Republic, Paraguay, Peru and Uruguay. Great Britain and the British Colonies and dependencies generally, and Portugal, also exclude marks consisting solely of color or form, and it may be regarded as doubtful whether, even in the countries which permit the registration broadly of any distinctive mark, a mark which consists solely of color or form would be considered as a lawful trademark.

Sec. 163. Trademarks. Other marks excluded from registration.

Marks which include the portrait or name of a person other than the user of the mark are under the laws of Brazil, Denmark, Finland, Norway and Sweden, expressly excluded from registration, unless the written consent of such person is filed with the application for registry of the mark. Marks which include representations which are contrary to good morals or to public order, are not in any country considered lawful trademarks, for obvious reasons. So, too, marks which include representations of public arms, the flag of the country, or of other countries, portraits of the sovereign or members of the royal family, insignia of certain orders, the symbol of the Red Cross society and marks of like nature cannot, for obvious reasons, be considered lawful trademarks, and are very generally refused registration, though certain of such marks may be registered provided the applicant for registration can show that he is properly authorized to use them.

CHAPTER V.

OF THE PERSONS ENTITLED TO REGISTER A TRADEMARK.

Sec. 164. The user of a trademark alone entitled to registration.

Only the actual user, or, in certain countries, the intended user' of the mark, is in any country of the world entitled to register the mark. The laws of many of the countries provide specifically that only persons who are engaged in the production of articles of commerce or who trade in such articles are entitled to register trademarks, and though the laws of other countries provide for registration by the owner or the proprietor of the mark, this is not to be understood as permitting the registration of or acknowledging a property right in any mark, however distinctive, which is not actually used on goods actually placed on the market. The user of the mark must under the laws of all countries be the user within the country, except as otherwise provided by conventions or agreements with foreign nations. The user entitled to registration may be an individual, a firm, a company or a corporation. In many countries2 and in a number of the several states of the United States,3 an association of individuals may register a trademark used by the individual members of the association. Such marks are generally known as collective trademarks. The application for registration must in all countries be made by the actual, or in certain countries, the intended user of the mark, either personally or through a duly appointed repre-

A trademark may be registered in Great Britain before it is used (*In re* Hudson, 32 Ch. D., 311), provided there is a *bona fide* intent to use it on the goods for which it is registered. In countries in which registration is attributive of the right to the mark, use of the mark prior to registration is not necessary.

²See, for instance, law of 1890 of Switzerland, Article 7, and law of 1896 of Portugal, Article 66.

⁵ See § 141.

sentative, and cannot be made by an assignee as such, as may be done in case of applications for patent, since the right to a trademark is not, under the laws of any country, assignable before registration, and, except in a very few countries, is not assignable even after registration except in connection with a transfer of the business in which it is used.

Sec. 165. Trademarks owned by foreigners registered only under international agreements. Requirements for registration.

Nearly all countries provide for the registration and protection of trademarks owned by subjects or citizens of such other countries as have by treaty, convention or law agreed to reciprocity in the matter of protection of trademarks. Under such agreements only can a trademark owned by a foreigner and used only on articles produced in a foreign country, be registered in most countries. The foreigner who desires to register his mark in any country other than that in which he is located, is required, under the laws of nearly all countries, to appoint a representative resident in the country through whom the application for registration must be made, and must continue to be represented by some person resident in the country so long as he desires the protection of the law for his trademark. The purpose of this requirement is to bring the owner of the trademark at least constructively within the jurisdiction of the courts of the country in case of any proceedings to which it is necessary to make him a party. Actual use of the mark within the country is not required as a prerequisite to registration under international agreement by foreign owners of trademarks, though there must undoubtedly be a bona fide intent to use the mark within the country.

Sec. 166. Foreign applicant for registration must establish ownership of the mark.

In practically all countries it is required that the foreigner who seeks to register a trademark, either under international agreements or the provisions of the law, must establish his right to ownership of the mark in the country of which he is a resident. The proof of ownership generally required is the certificate of registration or a certified copy of such certificate. The fact that the mark has been used by the applicant without registration in the country of which he is a resident, even though such use has been long continued and the mark has been generally recognized as his, is not easily established in a foreign country, and even if satisfactorily established, would not, under the laws of most countries, be sufficient to establish the right of registration.

Sec. 167. Registration of a foreign trademark in the name of a representative.

While the trademark of a foreigner located in a country with which no agreement as to the registration of trademarks exists, cannot generally be registered in any country in the name of and as the property of such foreigner, there is nothing in the laws of the foreign countries in which registration is attributive of the right to the mark to prevent the registration of such mark through some person residing in the country under an agreement with the owner of the mark, in his own name. But such agreement is not recognized by the law and cannot be enforced. Such representative must register the mark as his own and holds the legal title, and can enforce his right at any time against the foreign owner. He must also make such use of the mark as will be sufficient to maintain his title thereto in force.

Sec. 168. Priority. Under attributive laws determined by date of application.

In countries in which registration is attributive of property in the mark, right to the mark as between rival claimants is determined absolutely by priority of application for

¹Under the terms of the International Convention (Part III, §215, Article 4) it is sufficient if the applicant has regularly filed in his own country an application for registration, and a certified copy of such application as filed would seem to be sufficient in the countries which are parties to that Convention.

registration. Such countries are Argentine Republic, Bolivia, Brazil, Chili, Costa Rica, Denmark, Finland, Germany, Guatemala, Japan, Norway, Paraguay, Peru, Serbia, Spain, Sweden, Uruguay and Venezuela. In these countries, it is not necessary that the mark be actually used prior to or at the date of filing the application, the intention to use being sufficient. It should, however, be noted that in none of these countries is a mark which is in common use in the trade—a free mark as it is termed in the law of Germany¹—registrable—as a trademark.

Sec. 169. Priority. Under declaratory laws determined by date of first use.

In the countries in which registration is merely declaratory of the property in the mark and in those in which registration is only so far attributive of property in the mark that a mark which has remained on the register for a certain length of time becomes incontestably the property of the registrant, the prior user is alone entitled to registration, and may, on proof of prior use, secure the ownership of the mark, even though another may have been the first to register. There is, however, always a presumption in favor of the registrant, registration being even under the United States law *prima facie* evidence of ownership.

The countries in which registration is merely declaratory and a person claiming to be a prior user is entitled to contest the right of a registrant at any time are: Belgium, France, Hawaii, Italy, Luxemburg, Mexico, Netherlands and the United States.

In Great Britain, registration is, after five years, conclusive of the right to the mark,² and the same is true of many of the British Colonies and dependencies, but up to the expiration

What is meant by the "free marks" of the German law is not clear, but the term seems to include marks in common use which serve merely for ornament or decoration of products and have no special signification. See Marafy, Dictionnaire, Article Allemagne.

² Patents, etc., Act of 1883 of Great Britain, Article 76.

of the five years the right of the registrant may be contested. The same is true in Russia, the term within which contest is permitted being, however, but three years. The law of Greece permits the registration of such marks only as have been used by the applicant one year without interruption. It does not, however, appear that after registration the right of the registrant may be contested by a prior user. Under the law of Portugal, the prior user is entitled to contest the right of the registrant only within six months from the date of application by the first applicant.

Sec. 170. Priority. Use within the country alone considered in determining priority.

In determining priority of use, use within the country is alone considered. Prior use in a foreign country or even registration in a foreign country has no weight in determining priority. This cannot be considered unreasonable even from the standpoint of the United States manufacturer, who relying on the protection of his right to the mark of which he was the first user afforded by the common law, does not find it necessary to register his mark in this country. He cannot expect that in a foreign country a manufacturer who has adopted the same mark and made it valuable in that country will be deprived of his right to such mark by reason of a prior use in this country, of which he has had no notice.

Sec. 171. Priority. Provisions of the International Convention respecting priority.

The International Convention provides that the owner of a trademark regularly filed for registration in one of the countries of the Union shall be entitled to priority from the date of filing in all the other countries of the Union, provided he files an application for registration of the same mark within three months

¹ Law of 1896 of Russia, Article 15.

² Law of 1893 of Greece, Article 2.

³ Law of 1896 of Portugal, Article 90.

⁴ See § 15).

(four months for countries over seas) from such first filing.¹ This period of priority seems short and is undoubtedly of little value to those who fail to register their marks promptly upon their first adoption. Such promptness is not found necessary in the United States, and few applications are here filed for registration of trademarks which have not been in use for many months or even many years. To the producer or trader who applies for registration of his trademark promptly upon its adoption and first use, this provision of the Convention, which is in all of the countries of the Union except the United States,² given full force and effect, gives a reasonable time within which to secure registration in foreign countries.

This provision of the Convention is not to be understood as in any way restricting the right of the owner of a mark to register his mark in foreign countries at any time subsequent to registration in his own country, but unless he files his application in the foreign countries which belong to the Union within the period provided for, he cannot claim priority as against another applicant for registration for the same mark whose application is earlier in date.

¹ Part III, § 215, Article 4 of the Convention.

² See § 155, note 3, and Part III, § 215, notes under Article 4 of the Convention.

CHAPTER VI.

OF THE DURATION OF THE RIGHT TO THE TRADEMARK.

Sec. 172. The term for which registration is granted. Trademarks and patents.

Whether the right to the exclusive use of a trademark be acquired by use or by registration, the mark may continue to be the property of its owner or his successors in business so long as its use is continued. In this respect there is a radical difference between trademarks and patents. Patents are granted only for inventions believed to be useful to the public. The inventor gives his invention to the public on condition that, before the public acquires the right to it, he shall for a term of years enjoy an exclusive right of property in it. On the theory that it is of advantage to the public to secure the right to use a useful invention at as early a date as possible, the forfeiture of the patent is encouraged in many countries. A trademark has no utility or value in and of itself. The right to use a particular trademark is not of advantage to the public, for so soon as it ceases to be the distinctive mark of the goods of its owner, it ceases to have any meaning. Forfeiture of the exclusive right to a trademark so long as it is used for its legitimate purpose and so long as the public is kept informed of its ownership, is not encouraged in any country. An invention may be of value in and of itself. A trademark has no value other than that acquired from its continued use by a particular manufacturer or trader. The longer it is used the more valuable it may become, and there is absolutely no limit to its possible continuance in use. In but six countries, however, is the term for which registration is granted unlimited,

These countries are Belgium, Canada, Congo Free State, Italy, Mexico and Spain. In all other countries the term for which registration is effected is limited. In most countries the term is fifteen years or less, in many it is but ten years. In all countries in which the term is limited provision is made for renewal of registration for a second term, and so on indefinitely as often as the term expires. In all such countries, however, except the United States and France, failure to renew registration terminates the right of property in the mark.

Sec. 173. The reason for requiring renewal of registration.

The requirement that the owner of the mark renew the registration at reasonable intervals of time is nothing more than a requirement that he give reasonable notice to the public that he continues to claim the right to its exclusive use. Marks which are not renewed are, in practically all countries except the United States, taken off the register and the register is thus cleared of those which have been abandoned and no longer appear on the market, or have been allowed to become marks commonly used in the trade. If the mark is no longer used, there appears to be no reason why another producer or dealer should not adopt and use it as his own and acquire the right to its exclusive use. If the mark has become a common mark, there is no reason why there should continue to appear to be an exclusive right to it after it has ceased to be actually used as the mark of a particular producer or dealer. It is obviously a distinct advantage to the public, particularly the producing and trading public, to be able to determine from inspection of the register precisely what marks are actually in

¹The term of registration of the general mark only is perpetual. The term of registration of the specific mark is limited. Law of 1879 of Canada, Article 14.

But failure to use the mark for a year by law forseits the right to the mark. Law of 1889 of Mexico, Article 12.

³ See § 145 and notes thereunder.

By failure to renew, the owner of the mark ceases to have the rights of a registrant, and has recourse only against those who use his mark for the purpose of unfair competition. See § 145 and notes thereunder.

use and the subject of a property right. There is not entire agreement between the laws of different countries as to what becomes of a mark the right to which expires by failure to renew registration. Under the law of Portugal, such a mark falls into the public domain and cannot be thereafter the subject of an exclusive right. In most other countries such a mark can be registered and become the exclusive property of another only after the expiration of a specified period—in Germany, two years, in Great Britain, one year, and in Switzerland, five years.

Sec. 174. Termination of the right to the trademark. Cancellation and forfeiture.

As has been stated,⁵ the exclusive right to a trademark, in nearly all countries, terminates, unless registration is renewed, with the expiration of the term for which it was registered. The right terminates prior to the expiration of the term if for any reason the mark is removed from the register. In nearly all countries provision is made in the law for the cancellation of marks⁶ from the register on the application of the registrant or if it is made to appear that the mark was not registrable under the law or that the business in which the mark was used has been abandoned, it being provided in nearly all trademark laws that the right to the mark expires with the abandonment of the enterprise in connection with which it was used.⁷ In many countries it is also provided by law that the right to the mark expires in case of transfer of the business if the new proprietor fails to record the transfer within a speci-

¹ Law of 1896 of Portugal, Article 92.

² Law of 1894, Article 4.

Patents, etc., Act of 1883 of Great Britain as amended 1888, Article 79.

Law of 1890 of Switzerland, Article 10.

See § 172.

⁶No provision for the cancellation of registration is found in the laws of Belgium, France, Italy, or the United States.

⁷See, for example, Patents, etc., Act of 1883 of Great Britain, Article 70; Law of 1890 of Austria, Article 9; Law of 1894 of Germany, Article 9.

fied time. Failure to use the mark for an extended period, in certain countries, forfeits the right to its exclusive use. In a number of countries the right of a foreign registrant to the mark terminates with the expiration of his right thereto in the country of which he is a resident, whether such right expires by failure to renew or by cancellation for other causes.

¹ Law of 189c of Austria, Article 9; Law of 1892 of Bulgaria, Article 2; Law of 1879 of Roumania, Article 2.

² See § 147 and notes thereunder.

Law of 1890 of Denmark, Article 14; Law of 1889 of Finland, Article 9; Law of 1893 of Greece, Article 13; Law of 1883 of Luxemburg, Article 9; Law of 1884 of Norway, Article 15; Law of 1884 of Sweden, Article 16.

CHAPTER VII.

OF THE PROCEDURE IN REGISTERING A TRADEMARK.

Sec. 175. The general requirements and procedure for registration of trademarks.

The requirements necessary to be complied with in making application for registration of a trademark are in most countries comparatively simple. In many countries it is not even necessary to make a formal written application for registration, it being sufficient if the applicant appear in person before the proper officer and deposit with him the prescribed number of copies of the mark, making such statement as shall serve to properly identify himself and indicate the class of goods on which the mark is used. The applicant is everywhere required to be fully identified by name, business, residence, and place of business. Names are generally required to be written in full, all given names being written out. From two to a dozen or more copies of the mark are required and an electrotype or a stereotype or wood block (cliché) of the mark which can be used in printing fac-similes of the mark in the journal in which trademarks have been registered, or for which application for registry has been filed, are required to be published is in most countries also required, Description of the mark or statement of essential features is not in most countries required, particularly if the mark be a simple one. A statement of the class of goods on which the mark is used, or is intended to be used, is always required, and the class must conform to the official class in those countries in which an official classification has been established. In most countries a trademark if used for goods comprised in more

than one official class must be separately registered for each class. The declaration by the applicant under oath that he is the owner of the mark required in the United States, Great Britain, and the British Colonies and dependencies, is not generally required in other countries.

Sec. 176. Fees for registration of trademarks.

The right to the exclusive use of a particular trademark, since it in no way interferes with the production by others of goods of the same kind as those to which it is applied, cannot be the foundation of a monopoly.' The protection of a right to a trademark which has been legitimately acquired, is recognized throughout the world as advantageous as well to the public as to the producer. It being generally recognized that registration is a necessity, not so much for the protection of the user of the mark as by fair notice to the public to prevent other producers and dealers from innocently adopting a mark which had become the property of another,2 it follows that not only should the formalities necessary to be complied with in registering a mark be made as simple as possible, but the registrant should not be burdened with any considerable expense in securing registration. This is fully recognized in foreign countries, in nearly all of which the fees for registration are much less than in the United States, in many countries being less than \$5, or merely sufficient to pay the actual expense of recording, and in few countries more than \$15. The fees for renewal of registration are generally less than or but little over \$5. A comparison between the fees required in foreign countries for the grant of patents and for the registration of trademarks is significant of the recognized difference in the nature of the thing protected. In but three countries, Bolivia, Russia and Serbia, are annual taxes required for keeping registration of trademarks in force.

¹ See § 139.

² See & & 134 and 135.

³ See § 175.

⁴See & 85.

CHAPTER VIII.

OF THE TRANSFER AND ENFORCEMENT OF THE RIGHT TO THE TRADEMARK.

Sec. 177. Trademarks transferable only with the business in which they are used.

The generally accepted principles regarding the transfer or assignment of trademarks are thus stated by the United States Supreme Court in the case of Kidd v. Johnson:

"It is true, the primary object of a trademark is to indicate by its meaning or association, the origin of the article to which it is affixed. As distinct property, separate from the article created by the original producer or manufacturer, it may not be the subject of sale. But when the trademark is affixed to articles manufactured at a particular establishment and acquires a special reputation in connection with the place of manufacture, and that establishment is transferred either by contract or operation of law to others, the right to the use of the trademark may be lawfully transferred with it."

In most foreign countries it is provided by law that the right to a trademark is transferable only with the transfer of the business in which it is used,* but in the laws of Canada, Chili, Costa Rica, France, Guatemala, Italy, Roumania, Spain, Turkey and Venezuela, there is either no restriction on the trans-

^{1 100} U. S. Rep., 617.

²See, for example, Patents, etc., Act of 1883 of Great Britain, Article 70; Law of 1894 of Germany, Article 7: Law of 1890 of Austria, Article 9: Law of 1879 of Belgium, Article 7; Law of 1887 of Brazil, Article 13; Law of 1893 of Bulgaria, Article 3; Law of 1890 of Denmark, Article 8; Law of 1889 of Finland, Article 5; Law of 1893 of Greece, Article 5: Law of 1899 of Japan, Article 6; Law of 1883 of Luxemburg, Article 10, Law of 1889 of Mexico, Article 11; Law of 1885 of Norway, Article 8; Law of 1893 of Netherlands, Article 20; Law of 1896 of Portugal, Article 86; Law of 1896 of Russia, Article 16; Law of 1884 of Serbia, Article 7; Law of 1884 of Sweden, Article 8; Law of 1890 of Switzerland, Article 11.

fer of marks or a provision, without restriction, that trademarks may be transferred.

Sec. 178. Enforcement of the rights of the owner of a trademark.

In all countries in which registration is attributive of the exclusive right to the mark the owners of registered marks only are recognized as entitled to sue infringers. In most of the countries in which registration is declaratory of the right to the mark, the owners of marks are entitled to bring action against infringers only after they have registered their marks, or at least regularly deposited their marks for registration. This provision, which is in effect a requirement that all trademarks in which an exclusive right is claimed shall be registered, is not to be understood as preventing the bringing of suits on the ground of unfair competition against those who with fraudulent intent use a commercial name or a name of a locality of origin which they have no right to use, or in other ways give to their goods, with deceptive intent, an appearance of being the goods of another producer or trader without making use of a trademark owned by another. In the United States registration is not required, and suit may be brought for infringement of a trademark to which the right has been acquired by use and which has not been registered. In France the owner of a trademark which has not been registered may, it seems, bring suit against those who make use of it for the purpose of unfair competition, but it does not appear that the owner of a trademark has any remedy, unless he has registered the mark, against others who have adopted and use the same mark in good faith.2

In foreign countries generally the right of the owner of a registered trademark is enforced by the courts to the full extent of the law, wilful infringers on such rights being very generally punished not only by the assessment of heavy damages, but by fine and imprisonment.³

¹ See | 145 and notes thereunder. ² See | 145 and notes thereunder.

³ See Propriété Industrielle, 1898, page 109.

Sec. 179. Penalties for wilful counterfeiting of a registered trademark.

In practically all countries which have laws providing for the registration of trademarks' and in many countries in which registration is not provided for, the wilful counterfeiting of a trademark is under the law an offense punishable by fine or imprisonment. The owner of a trademark may under such laws not only recover damages for the injury done to his business by the unlawful use of his trademark, but has the further protection of a penal statute against deliberate and wilful infringement of his rights. In many of the several states of the United States' wilful infringement of a trademark is made an offense punishable by fine or imprisonment, but under the present United States law the only remedies are the common law remedies of damages and injunction.

¹ See Tabular Statement, § § 182-214.

² See § 142.

³ See & 141.

CHAPTER IX.

COMPARATIVE TABULAR STATEMENT OF THE ESSENTIAL FEATURES OF THE TRADEMARK LAWS OF THE PRINCIPAL COUNTRIES.

Sec. 180. The statement of essential features. Explanatory note. Laws not included.

The statement of the essential features of the trademark registration laws of the principal countries of the world which follows, has been prepared from a study of the text of the laws and official rules of each of the countries included in it, together with such other information bearing on the construction placed on such laws and rules as could be obtained from reliable sources, such as Marafy's Dictionnaire International de la propriété industrielle, the Propriété Industrielle and Sebastian's Law of Trademarks. While it includes but thirty-three countries, it covers practically all countries of commercial importance by reason of the fact that the laws of many of the countries not included are substantially identical in essential features with the laws of some one of the countries included.

The trademark laws of the following countries are substantially identical with the trademark law of Great Britain: British New Guinea, New Zealand, Queensland, South Australia, Tasmania, Victoria, and Western Australia.

The laws of the following countries in their definition of a trademark and in other essential features follow closely the trademark laws of Great Britain: British South Africa, Cape Colony, Ceylon, Fiji Islands, Hong Kong, Jamaica, Leeward Islands, Natal, Orange Free State, and Trinidad and Tobago.

The trademark laws of the Dutch East Indies and the Dutch West Indies are substantially identical with the trade-

mark law of the Netherlands; those of Paraguay and Uruguay are substantially identical with that of the Argentine Republic; that of Newfoundland is substantially identical with the trademark law of Canada; that of Congo Free State is substantially the same as that of Belgium and that of Tunis is substantially identical with that of France.

Sec. 181. The statement of essential features. The purpose of the tabular statement.

While the preparation of an application for the registration of a trademark in the various foreign countries is much less difficult than the preparation of an application for patent, no elaborate description or precisely drawn claims being required and in many countries little being required so far at least as resident applicants are concerned beyond a clear statement of who the applicant is, a copy of the mark and a statement of the class of goods it is used on, it will be found a matter of no little difficulty for one unacquainted with the practice in the several countries to so prepare his application even if he knows foreign languages sufficiently to prepare the necessary papers as to satisfy fully the requirements, even if the laws of the various countries permitted a non-resident to file an application for registration other than through a resident agent or representative. The tabular statement is, like the tabular statement of the patent laws,' intended not to enable owners of trademarks themselves to file applications for trademarks, but rather to furnish such information as may enable them to determine whether their marks are registrable in foreign countries and under what general conditions.

¹ Part I, § § 107 to 130.

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COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
PUBLIC. Law of August 14, 1876.	mark must apply for registration therefor. The absolute ownership of the trade-mark shall belong to the registrant. Foreign trademarks may be registered only by their owners or their duly authorized agents. Priority is determined by date of applica-	vices, monograms, engravings or prints, seals, vignettes and reliefs, letters and numbers with special designs, casings or wrappings of articles, and any other mark whereby the productions of a factory or articles of a trade are distinguished may be registered. NOT REGISTRABLE. (1) Letters, words, names or distinctive marks which the State uses or is to use; (2) the form given to products by the manufacturer; (3) the color of products; (4) terms or expressions which have come into general use; (5) words usually employed to indicate the nature of products or the class to which they belong;	(1) Two copies of the mark. (2) A description in duplicate of the mark, and a statement of the character of articles which it is to be used on and whether they are articles of manufacture or of commerce. (3) A receipt for the fee. (4) A power of attorney, unless applicant appears in person.	Fees. For registration, forty dollars in coin.	Patent Office, appeal may be taken to the Minister	use of a registered trade-mark is punishable by fine of from \$20 to \$500 in coin, or by imprisonment of from 15 days to 1 year.
AUSTRIA. Law of January 6, 1890. Law of June 10, 1891. Treaty of November 25, 1871.	clusive right to a mark must obtain registration therefor. Registration of trade-marks of foreigners is granted in accordance with the treaties or conventions concluded with the countries in question. Priority is determined by date of application for registration.	certain products or goods from other similar products or goods. Marks exclusively composed of portraits of the emperor or of the royal house, of the arms of the State or other public arms; of numbers, letters or words, or generally used terms, or of immoral, untrue or deceptive representations, may not be registered. Trade-marks of the subjects or citizens of certain foreign countries (of which the United States is one) are admitted to registration, if registered in the country of origin, even if they consist only of names, firms, or other words	establishing the status of the proprietor of the establishment for which the mark is to be used, the name of the establishment and its locality. (2) A statement of the goods on which the mark is used. (3) Four specimens of the mark. (4) A block (cliché) of the mark. (5) A statement of the manner in which the mark is applied. (6) The registration fee. (7) If the mark is intended to be stamped or impressed on articles of metal, etc., three specimens bearing the mark. (8) If the mark comprises the portrait of the emperor, public arms, etc., the applicant must file a document showing his authority to make use of such mark. A foreign applicant must furnish a certificate of registration in the country of origin.	Fees. For registration, 5 gulden (\$2.00). For renewal, 5 gulden (\$2.00). Gulden = 40 cents. Fees for transfer the same as for registration.	Registration may be canceled if the Minister of Commerce decides that the mark was Lot lawfully registered. Registration will be canceled if within three months the mark is not registered in Hungary	authorized use is punishable by fine (500 to 2,000 florins) or imprisonment (3 months to 1 year), or both. Instead of the compensation due on his rights, the injured party may, upon his application therefor, receive a monetary fine to the amount of 5,000 florins.
BELGIUM. Law of April 1, 1879. Decree of July 7, 1879. Treaty of March 8, 1875. Treaty of April 7, 1884. International Convention.	to registration. No one can claim the right to the exclusive use of a mark if it has not been filed for registration. Foreigners who have industrial or com-	an industry or articles of trade is considered a trademark. The name of an individual or firm in the distinctive form given to it by the interested party is registrable as a trade-mark.	The applicant must furnish a receipt showing that the registration fee has been paid; three specimens of the mark on separate sheets traced within a space 8 by 10 centimeters; a wood or metal printing block not exceeding the above dimensions; a statement of the name and address of the applicant and that of his attorney, his profession, residence, and the industry in which the mark is to be used. The application should contain a brief description of the mark, and should mention whether the mark is depressed or in relief upon the goods, and whether it has been reduced so as not to exceed the required dimensions. The application may be filed at a Belgian consulate in any country.	Perpetual. Fees. For registration, 10 francs (\$1.93). Franc = \$0.193.	The registration of a mark by one who has no right to it may be declared null and void on application of any interested party. A trade-mark cannot be transferred except with the transfer of the establishment the goods of which it serves to distinguish. The transfer is without effect as regards third parties unless recorded.	use, application or sale are punishable by imprisonment (8 days to 6 months) or fine (26 francs to 2,000 francs), or both. Those who aid in effecting fraud may also be punished, and repeated offences are pun-

COUNTRY.	WHO MAN DECICED					DESTAT DECITORE
	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Sec. 188. CHILI. Law of November 12, 1874.	The exclusive right to the mark belongs to the first applicant for registration.	stamps, dies, vignettes, monograms, devices, legends, and all other distinctive marks which serve to characterize the products of a particular manufacture or the goods of a particular trader. NOT REGISTRABLE.	cile, the location of his factory or establishment and the kind of industry or trade in which the mark is used, and should include a facsimile of the mark.	Ten years, renewable. Fees. For registering a	The registrant may transfer his mark or license others to use it, but such transfer or license must be registered.	lent use of a registered mark is punishable under
Sec. 189. COSTA RICA. Law of May 22, 1896. Regulations of September 11, 1896.	tional on, and determined by, registration.	all distinctive marks which serve to distinguish the products of a particular manufacture or the goods of a particular trading establishment. NOT REGISTRABLE. Pictures, engravings or vignettes contrary to good morals. The arms of the Republic or the national flag	attorney, giving the name of the proprietor and his attorney, if any, his domicile, profession, business and nationality, and the manufacture or commerce in which the mark is used. Two specimens of the mark drawn, engraved or printed of a size not greater than 12 centimeters	Fifteen years, renewable. Fee. For registration,	Registration cannot be canceled or amended except by request of the registrant, or his representative, or by order of court.	ishable under the penal code.
Law of April 11, 1890. Law of December 19, 1898. Regulation of April 11, 1890. Order of September 28, 1894. Treaty of June 15, 1892. International Convention.	the Kingdom manufactures, agriculture, mining, commerce or industry. Any such person located in a foreign country, provided the country in which he is located accords reciprocal rights to Danish citizens, may register his mark previously registered in the country of origin. If, under conditions of reciprocity, a foreign applicant files an application for registration in Denmark within four months from the date of filing an application, therefor abroad, such application will be considered as filed simultaneously with the foreign application.	letters or words not distinctive in form, or if the words do not amount to an invented term; (2) which contain unlawfully the personal or commercial name of another or of property belonging to another; (3) which contain public arms or insignia; (4) which contain pictures or other representations of a scandalous nature; (5) which are identical with, or so nearly resemble as to be easily confounded with, marks already	of merchandise and description of the mark. Three specimens of the mark on stout paper not more than 10 cm. in breadth. Two blocks of the same size. The registration fee. The application of a foreigner must be accompanied by proof that the applicant has fulfilled all requisite conditions for obtaining a trade-mark in his own country. A foreign applicant must appoint a representative in Denmark.	Ten years, renewable, but the term of trademarks registered by foreigners shall not exceed the term for which they were registered in the country of origin. For registration, 40 crowns (\$10.72). For renewal, 10 crowns (\$2.68).	From the refusal to register appeal may be taken. A trade-mark shown to have been improperly registered may be removed from the register.	intentionally improper use may be punished by fine (200 to 2,000 crowns), and in case of repetition by imprisonment (or by fine).

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COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of October 14, 1887. Treaty of September 24, 1878. International Convention.	reciprocity in regard to the protection of trade-marks, if registry in the country of origin has been effected, and certificate of registry deposited in the Junta Commercial of Rio de Janeiro and published in the Diario Official. Priority is determined by date of application. But the application of a foreigner who is a citizen of a country belonging to the International Union for registration of a mark already registered in such foreign country is entitled to priority from the date of such registration, if application is made within four months.	nomination, firm, designation or signature, or letters or ciphers only, will serve for this purpose if in distinctive form. NOT REGISTRABLE. Exceptions: Coats of arms or other insignia, either public or private, domestic or foreign, unless expressly authorized; commercial or firm names which the applicant cannot legally use; the indication of a fixed locality or establishment other than that where the goods are produced; words, designs or representations offertive to individuals or to public decorum.	special attorney accompanied by (1) three specimens of the mark; (2) a representation by means of drawing, engraving or printing of the mark with all its accessories, including the colors with which it may be used; (3) its explanation or description; (4) a statement of the article for which the mark is intended, the occupation of the petitioner and his residence. The petition and specimens must be on substantial paper, 33 centimeters long and 22 wide,	Fifteen years, renewable. Fees. The fees are those paid in the several localities for registry of contracts and 20 per cent. additional. Amount to about \$3.50.	registered mark does not make use of it within three years. The registration may be nullified by an action brought by any one who can prove prior commercial or industrial use of the mark, but such action can be brought only before the expiration of six months from	tion or use is punishable by fine (500 to 5,000 milreis) and imprisonment (1 to 6 months); unauthorized use of arms or insignia, and use of offensive marks or o marks deceptively indicate ing origin, is punishable by fine (100 to 500 milreis). The foregoing does no exempt delinquents from payment of loss to partie
Sec. 186. BULGARIA.	Any one except subjects or citizens of countries which do not accord the rights of registration to Bulgarians. Right to exclusive ownership is conditional on, and determined by, registration.	By the word "mark" is included any sign that merchants or manufacturers place upon articles which they sell in order to distinguish them from similar articles sold by others. The following may serve as marks: The name of the firm or the manufacturer or merchant in distinctive form; the monogram of the manufacturer or vender; the representation of an animal, picture of a building, allegorical figures, etc.	Request for registration must be addressed to the prefect of a district and be accompanied by three specimens of the mark, each bearing a stamp of the value of four francs, and fifteen specimens unstamped. Foreigners must address their applications to the prefecture of Sophia.	Term. Ten years, renewable. Fees. A stamp of the value of 4 francs (\$0.77) is	Preliminary examination is made in order to prevent registry of marks previously registered for the same goods. If the registration is not renewed at the end of the term the mark is considered abandoned, and may be	Whoever knowingly im tates the mark belonging to another, or offers for sall products carrying mark thus counterfeited, is pur ishable by a fine of from 100 francs to 1,000 france Besides this, damages may be collected by the injure
Sec. 187. CANADA. Law of May 15, 1879. Revised Statutes of 1886. Law of March 26, 1890.	Right to exclusive use is conditional on, and determined by, registration.	business devices adopted for use by any person in his trade, business, occupation or calling for the purpose	cluding drawing and description, and a declaration that the mark was not to the knowledge of the applicant in use by others prior to his adoption of it.	General trade-mark perpetual. Specific trade-mark 25 years, renewable. Fees.		by a fine of from \$20 t

		COMPARATIV	VE TABLE OF TRADE-MARK LAWS. (4	ļ.)		FINLAND. FRANCE.
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
FINLAND. Law of February 11, 1889.	products has the right to acquire by registration the exclusive right to make use of a special mark in order to distinguish his products in general commerce from those of others. Every trader of a foreign country in which Finnish citizens enjoy similar advantages may, upon complying with the regulations in force with respect to trade-marks in the Grand-Duchy, register a mark which he has formally deposited in his own country and obtain protection therefor in Finland	particular form or by certain arrangements or additions these signs constitute a figure mark, or also unless the words indicate the name or the firm of the depositor or his ownership. (3) If the mark is composed substantially or entirely of signs or emblems generally employed in a particular trade. (4) If the mark contains unlawfully the name of a third person or words which may be confounded therewith. (5) If the mark contains representations contrary to good morals, to public order, or if it is of a scandalous or manifestly deceptive character. (6) If the mark contains public arms or the insignia of chivalric	If the depositor claims the mark only for certain products, a statement of what such products are. The petition must be accompanied by— Two specimens of the mark printed upon strong paner, 15 cm. long and 10 cm. wide. Two blocks (clichés) of the same size suitable for the reproduction of the mark. Receipt for the tax. If more than one mark is applied for, the complete documents for each mark must be sent. When a mark from abroad is offered, it must be accompanied by a certified showing of registry in the country of origin.	Ten years, renewable. But trade-marks registered by foreigners are protected only so long as they are protected in the country of origin. Fees. For registration, 25 marks (\$4.83). For renewal, 10 marks (\$1.93).	Whoever claims to be injured by the registration of a mark may apply to the courts to have it canceled. Transfer of the business in which the mark is used carries with it the transfer of the mark, unless otherwise expressly stipulated.	of a mark or of a substantial imitation thereof, or sale of goods bearing such mark, is punishable by fine (50 to 1,000 marks), or imprison-
Law of June 23, 1857. Law of May 3, 1890. Regulations of February 28, 1891. Treaty of April 16, 1869. International Convention.	France, whether a French citizen or a foreigner. Foreigners and French citizens whose establishments are located outside of France enjoy likewise the benefits of the law for the products of their establishments, if in the countries where they are located, by diplomatic conventions or by law, reciprocity for French	All the provisions of the present law are applicable to wines, spirits, and other beverages, animals, grains, meals, and generally to all the products of agriculture. Designs contrary to good morals and the cross of the Legion of Honor are prohibited.	tached sheets. This copy may consist of a drawing, engraving or print executed in a manner to clearly represent the mark and in permanent ink. The paper must be 18 cm. square. Indication should be made upon these papers as to whether the mark is in intaglio, or relief upon the products, whether it has been reduced to meet requirements, and whether it has any other peculiarity, either by one or several	Fifteen years, renewable. Fees. The entire charges connected with the registration of a mark are 9.38 francs (\$1.80). Franc = \$0.193.	Exclusive right to a trade-mark cannot be transferred unless it is registered.	and unlicensed use are pun-

		COMPARATIV	E TABLE OF TRADE-MARK LAWS. (5.	•)	GER	MANY. GREAT BRITAIN.
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of May 12, 1894. Regulations of June 30, 1894, and July 21, 1894. Treaty of December 11, 1871.	ment in Germany may have the benefit of this law when the country in which he is located affords the same protection to German marks. This must be claimed through a representative domiciled in Germany. The foreign applicant for registration must show that he has registered the mark in his own country. Right to exclusive use is conditional on, and determined by, registration.	(1) Free marks; (2) marks which consist exclusively of letters or numerals, or (3) words containing indications of the mode, time or place of production, or (4) of the quality, destination, price, quantity or weight of the merchandise; (5) which contain the arms of German or foreign states, or those of a locality, parish or union of towns situated in the country; (6) which contain scandalous representations or indications evidently at variance with the facts and liable to cause deception. Canceled marks cannot be registered by another than the last proprietor until after two years	the applicant or his representative and containing—(1) Statement of name, profession, domicile and establishment of applicant. (2) Request for registration of the mark. (3) Statement of use of the mark. (4) Statement of class of goods on which the mark is to be used. (5) Statement of the papers, etc., accompanying the request. Request must be accompanied by a representation of the mark, and, if necessary, by description and by models or specimens of merchandise bearing the mark. If the trade-mark is found to be registrable, the applicant before registration will be required to furnish a block from which the mark	Fees. For registration, 30 marks (\$7.14). For renewal, 10 marks (\$2.38). Mark = \$0.238.	shown that the mark has been previously registered in the name of the complainant, or that the business with which it was used has ceased to exist, or that it is misleading. If a request for the cancellation of a registration is made by any one other than the registrant, the latter is notified. If he fails to reply within one month, the registration will be canceled. If he replies, the ones.	(50 to 5,000 marks) or imprisonment (not exceeding 6 months). Indemnity must also be paid. Foreign goods unlawfully marked with a German mark are subject to seizure.
Law of August 25, 1883. Law of August 23, 1887. Law of December 24, 1888. Law of May 11, 1891. Rules of December 31.	prietor of a trade-mark. Registration is deemed the equivalent of public use of the trade-mark registered. After five years from registration, the right of exclusive use is conclusively determined to belong to the registrant. Priority is accorded to applications for registration filled under the International Convention.	least one of the following particulars: (a) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or, (b) a written signature or copy of a written signature of the individual or firm applying for registration thereof as a trademark; or, (c) a distinctive device, mark, brand, heading, label, or ticket; or, (d) an invented word or invented words; or, (e) a word or words having no reference to the character or quality of the goods, and not being a geographical name. Registry must be for goods of a particular class. There are fifty recognized classes. Registry in one class does not preclude the use of the mark by another in other classes. Words in general use and scandalous designs	clusive rights to the remainder. The exact list of goods must also be stated, and if any foreign language appears on the mark a translation (and, if necessary, a phonetic rendering also) must be given. From two to six additional copies of the mark are also required. The number varies, some classes requiring more than others. A wood block or electrotype is also required.	Fourteen years, renewable. Fees. On filing application for registration, 5 shillings (\$1.22). For registration, 1 pound (\$4.87). Pound = \$4.866.	Applications accepted by the comptroller are advertised for such period as he may direct, and opposition to the registration may be made by any person interested. If opposition is made the parties are allowed to present evidence and the comptroller determines from the evidence, subject to appeal, whether the trade-mark shall be registered or not. Trade-marks shown to have been improperly regis-	is punishable by a fine of five pounds. Unauthorized use of the royal arms is punishable by a fine of twenty pounds. Counterfeiting or unauthorized use of a trade-mark is punishable by fine or imprisonment, varying according to circumstances.

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COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of March 1, 1899. Treaty of January 13, 1897. International Convention.	Priority is, however, accorded to applications filed under the provisions of the International Convention. Right to the exclusive use of the mark is conditional on, and determined by, registration.	Words, representations or marks (1) identical with or similar to the Imperial arms (chrysanthemum); (2) identical with or similar to the national flag or medals of honor of the Empire, or the national flag of foreign countries; (3) which are offensive to public order or good morals, or are calculated to deceive; (4) identical with or similar to a trade-mark registered by another for the same class of goods, unless a year has clapsed since the expiration of such registration; (5) identical with or similar to a trade-mark used by others prior to July 1, 1899; (6) which merely indicate the common name of the merchandise or the place of its production or its kind, quality, or shape by words, representations or marks commonly used in trade, or descriptions in ordinary writing, a or personal trade or firm name not in distinctive form; (7) orna-	Class and name of goods to which the mark is to be applied. Statement of the manner in which it is to be applied. Two specimens of the trade-mark as actually used. A block of wood or type-metal having the entire design cut thereon (returnable). Statement of domicile and place of business of applicant and his attorney. Status of applicant. Signature and seal of applicant.	able. But the term of the exclusive use of a foreign registered mark shall not exceed the term for which it is registered in the country of origin. Fees. For registration, 30 yen (\$15). For renewal, 30 yen	Registration may be annulled if the owner of the mark makes use in connection with it of false statements as to origin or quality of the goods, or in case of a foreign registrant if he fails to appoint a representative resident in Japan. The right to the trade-mark expires with the abandonment of the business in which it is used.	of a registered trade-mark is punishable by imprison-ment from fifteen days to six months, or fine of not less than 10 or more than 300 yen, confiscation of the trade-mark and, if inseparable from the goods, destruction of goods.
Law of March 28, 1883. Decree of May 30, 1883.	sive right to a mark until he has deposited it	industry or articles of trade is considered a trade- mark. The name of a person or of a firm in the distinctive form given it by the party interested may serve as a mark.	The application should be made in person or by representative. It must be accompanied by a receipt for the payment of the tax; two specimens of his mark on detached card-board, not to exceed 8x10 centimeters; a block (cliché) not to exceed the above dimensions of metal in high relief (the lettering may be in intaglio but must be clearly cut); a brief description in French or German, with a statement as to whether it is raised upon or impressed into the goods, and whether the mark has been reduced in order not to exceed the required dimensions. This description must be signed by the applicant.	Ten years, renewable. But foreign trade-marks are protected only so long as they are protected in the country of origin. Fees. For registration, 10	Trade-marks are registered without preliminary examination, but registration not in accordance with the law will be declared null and void. Trade-marks cannot be transferred except with the transfer of the business. All transfers between living persons must be recorded. Unless recorded, a transfer is without effect as to third parties.	ulent use or sale are pun- ishable by fine (26 to 2,000 francs) or imprisonment (eight days to six months), or both.
Law of November 28, 1889. Law of December 17, 1897.	a citizen of Mexico or a foreigner, whether residing in Mexico or abroad. The trade-mark of a foreigner not residing in Mexico can be registered only where previously registered in the country	Form, color, words and designations which do not constitute marks determining the origin of the product and marks contrary to good morals are not registrable.	cant's establishment, residence of the proprietor, and the kind of business or industry with which the mark is to be used. With the application should be filed a power of attorney, if necessary, and two copies of the mark.	Perpetual. But a trade-mark is considered abandoned if the establishment with which it is used abandons the production of the article for more than a year.	The application is published for opposition, but no preliminary examination is made. A trade-mark shown to have been unlawfully registered may be canceled by order of court. Trade-marks may be transferred only with the establishment the goods of which they serve to distinguish. The transfer is not subject to any special formality.	feiting of registered marks is punishable under the penal code, and in addition damages may be recovered.

COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of February 10–22, 1893. Regulations of December 18–30, 1893.	Foreigners and Greek subjects carrying on	manufactures, of agriculture, of stock breeding, or of commerce in general. The name of the manufacturer or merchant or a firm is considered a trade-mark.	of the mark upon detached paper 8 cm. by 10 cm., a metal typographic block of the same dimensions, and a brief description of the mark, the products it is applied to, and whether used in relief or in intaglio. When the applicant resides abroad he must prove registry in his own country, elect a representative in Athens and submit to the jurisdiction of the Athenian	Ten years, renewable. In case of foreign marks protection in Greece terminates with the termination of the protection abroad, or if the convention by which reciprocity is secured ceases to be in force. Fees. The application must bear a stamp of the value of 2 drachmas (\$0.39). For registration, 60	The title to a trade-mark cannot pass to another except with the right to deal in the product. The transfer shall have no effect with respect to third parties until after the deposit and publication of an extract from the instru-	fraudulently marked, is punished by imprisonment (6 months or more) or by fine (not more than 1,000 drachmas), or by one of these penalties with indemnity. Destruction of fraudulent marks may also be ordered. In case of a repetition of the
GUATEMALA.	Right to exclusive use is conditional on, and determined by, registration.	monograms, letters and numbers in distinctive form, and any other mark selected to distinguish products of a particular man-	Two specimens of the mark. A description in duplicate and a statement of the class of goods to which the mark is to be applied. A receipt for the fee. A power of attorney if the application is not pre-	Ten years, renewable. Fees. For registration, 30 pesos (\$13.95).	Registration may be canceled by order of court.	ized use of registered trade- marks, is punishable under the penal code. The injured party may collect damages.
Sec. 197. HUNGARY.	Registration of trade-marks of foreigners is granted in accordance with the treaties or conventions concluded with the countries in question. Priority is determined by date of application for registration.	goods from others. Marks exclusively composed of portraits of the emperor or of the royal house, of the arms of the State or other public	mark; a statement of the class of goods to which the mark is to be applied; three specimens, if the mark is intended for materials such as metal, glass, etc. A statement giving the name of the applicant, his commercial name, and the name and location of his	Ten years, renewable. Fees.	Registration will be canceled if within three months the mark is not registered in Vienna. The right to the mark goes with, expires with, and is transferred with the transfer of the business for which it is intended. Transfer must be registered within three months or the right to	ized use is punishable by fine (500 to 2,000 florins); repetition of the offense by fine and imprisonment. Instead of the compensation due on his rights, the injured party may, upon his application therefor, receive
Law of August 30, 1868. Law of January 16, 1898. Regulations of February 7, 1869. Treaty of June 1, 1884.	tinguish the products of his industry, merchandise in which he trades, or animals of a breed belonging to him. Individuals, corporations and associations may register their marks. Collective marks may also be registered. Foreigners may register their lawful trade-marks. Citizens or subjects of countries with which Italy has concluded treaties or conventions on the subject are entitled to priority, provided they make application for registration within a specified time after the appli-	previously lawfully used by others, and should so indicate the place of origin, the manufacture or the trade as to amount to the name of a person, the firm name of an association, or the title of the establishment from which originate the products or articles of merchandise. If it relates to animals or small objects, a special abbreviation or some other equivalent sign should be	Statement for what it is to be used. Detailed description of the mark. Statement whether the mark is used by a foreigner, and details if so.	Perpetual. Fees. For registration, 40	ities of the application are concerned.	by a fine (50 to 3,000 lires), and in some cases by imprisonment (3 to 18 mo.). Counterfeiting is punished by fine (500 to 5,000 lires) and imprisonment (1 mo. to 2 years). Introduction of falsely marked goods into the country is also punished by fine (500 to 5,000 lires) or imprisonment (1 mo. to 2 years).

		COMPARATIVE	TABLE OF TRADE-MARK LAWS. (8.) 	NELITELL	ANDS. NUKWAI. PERU.
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of September 30, 1893. Diplomatic notes, February 10 and 16, 1883.	The right to the exclusive use of a trade-mark is acquired by the person who first used it in the Kingdom in Europe, or in the colonies. Any one who has regularly deposited his mark in one of the countries of the International Union will be considered to have used it in the Kingdom.	Marks containing words or representations contrary to morality or public order, or arms of the Kingdom, a province, commune or other public body recognized by law.	which the mark is intended and the address of the applicant.	Twenty years, renewable. Registration of the mark of a foreigner becomes null and void on its ceasing to be in force in the country of origin. Fees. For registration, 10 flor- ins (\$4).	within six months from the publication of the registration, such registration may be declared	ports or sells or offers for sale goods bearing salesly the trade-mark belonging to another, is punishable by imprisonment of three months or more, or by a
NORWAY. Law of May 26, 1884. Decree of December 29, 1884. International Convention.	kingdom manufacturing, agriculture, metal- lurgy, commerce or industry may, by regis- tration in accordance with the law, acquire the right to use special marks to distinguish his products from those of others. Any person engaged in any such industry in an- other country, provided the country in which he is located accords reciprocal rights to Norwegian subjects, may register his mark previously registered in his own country. If, under conditions of reciprocity, a for- eign applicant files an application for registra- tion in Norway within four months from the date of filing an application therefor abroad,	(1) Marks consisting exclusively of numerals, letters or words not distinctive in form; (2) which contain unlawfully the personal or commercial name of another or of property belonging to another; (3) which contain public arms or insignia; (4) which contain pictures or other representations of a scandalous nature; (5) which are identical with, or so nearly resemble as to be easily confounded with, marks already registered for the same class of merchandise. But the marks of foreigners may, under conditions of reciprocity, be registered in the form registered abroad, even though consisting solely of numerals,	containing a clear and precise description of the mark, with a complete showing of the personal or commercial name, the calling and address of the depositor, and, when the mark is to be applied to only certain kinds of merchandise, the designation of such kinds. There must be annexed to the petition— 1. An imprint of the mark upon strong paper in triplicate 10 or more cm. high and 15 cm. or more wide. 2. Two blocks (clichés) of similar dimensions.	Ten years, renewable. But marks registered by foreigners are protected only so long as they are protected in the country of origin. Fees. For registration, 40 crowns (\$10.72). For renewal, 10 crowns (\$2.68). Crown == \$0.268.	Registration may be canceled at the request of the registrant, by order of court, by order of the Crown,	or imitation of a registered mark is punishable by imprisonment or by a fine (2,000 crowns), with indemnity in each case.
PERU. Law of December 19,	application for registration. Right to exclusive use is conditional on, and determined by, registration.	form, emblems, monograms, and in general any mark serving to distinguish products of manufacture or articles of commerce from others of the same kind. NOT REGISTRABLE. 1. Letters, expressions, names or marks used by the government. 2. Form given by the manufacturer to a product. 3. Color. 4. Terms in general use. 5. Designations usually employed to indicate the nature of products or the class to which they belong. 6.	Description and drawing in duplicate. Statement of the class of goods for which the mark is to be used. Receipt for the registration fee. Power of attorney when the application is	Fees. For registering the trademark of a foreigner, 20 soles silver (\$8.24). For registering the trademark of a resident, one-fourth of this fee.	Any protest by an interested party must be	of property in a new mark is punishable by a fine of from 25 to 500 soles or im- prisonment of from forty days to six months.

·	· ····································		INDEE OF IRADE-MARK LAWS. (9.	<i></i>		PUKTUGAL KOUMANIA.
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of May 21, 1896. Regulation of March 28, 1895. International Convention.	located in Portugal. Marks may be registered in favor of an individual, firm, association, corporation or collection of individuals. The industrial and commercial marks of Portuguese residing abroad are registered on the same conditions as those of residents. The marks of foreigners residing abroad are also registered on the same conditions provided in the country in which they are located reciprocal rights in favor of subjects of Portugal are secured by convention or law. In order that the exclusive right to a mark be secured, it is essential that it be registered. Priority is determined by date of filing, but the first user may secure the right to the mark against a prior applicant, provided he makes application within six months from	NOT REGISTRABLE. (1) Marks offensive to morals or religion; (2) which contain pictures representing officers of the state, members of reigning families, escutcheons, arms, or decorations, unless specially authorized; (3) contain the names of individuals, firms or associations which the applicant cannot legally use; (4) contain representations of decorations accorded by the Portuguese government; (5) contain reference to medals, diplomas, etc., to which the applicant has no right; (6) contain false indications of origin; (7) when on	tuguese or in French, for registration of the mark, stating the class or particular goods for which it is intended and containing a brief but precise description of the mark or a reference to the drawing, if, as is preferable, a block (cliché) of the mark is furnished. (2) Three specimens of the mark; three specimens reduced if the mark exceeds prescribed dimensions and six additional specimens. (3) A power of attorney in favor of the person who signs the request if presented by an attorney. (4) In case the mark contains matter which is not registrable unless specially authorized, a document giving such authority. The request must be on paper 30 by 20 centimeters. The specimens must not exceed a square of 15 centimeters.	Fees. For registration, 2500 reis (\$2.70). For renewal, 2000 reis (\$2.16). Mil reis = \$1.08.	Registration of a mark may be annulled at the request of a third party, claiming to be injured, if within one year from the date of registration the interested party shows that it is an imitation or identical with a previously registered mark. A trade-mark may be transferred to others with the establishment whose products it is used to distinguish.	proper or fraudulent use is punishable by a fine (10,000 to 100,000 reis), or by fine and imprisonment (one to six months). Simulation or the use of a simulated mark is punishable by a fine (5,000 to
ROUMANIA. Law of April 15-27, 1879. Regulations of May 30, une 11, 1879.	turists. Foreigners owning in Rou- mania industrial or commercial estab- lishments. Roumanians and foreigners whose industrial or commercial estab- lishments are located out of Roumania, if in the countries in which such estab- lishments are located reciprocity for Roumanian trade-marks is established	Letters or monograms, or the arms of the state or of a commune which is commonly placed upon products.	party, or his duly authorized agent, to the Registrar of the Tribunal of Commerce in his district. The applications of foreigners must be made to the Registrar of the Tribunal of Commerce of the District of Illfor. The name of the owner of the mark and of his agent, the business and domicile of the owner and the industry in which it is intended to use the mark must be	Fees. For registration, 20 francs (\$3.86). Franc = \$0.193.	Right to exclusive use of a trade-mark ceases if the business in which it is used is abandoned. Trade-marks are at all times transferable, but the assignee must, within three months, request the entry of the transfer. Unless recorded within that time the right to the mark expires.	use is punishable by fine (50 to 2500 francs) or imprisonment (three months to three years) or both. Fraudulent imitations, not actual counterfeiting, are punishable by fine (50 to 2500).

		COMPARATIVE	IABLE OF TRADE-MARK LAWS. (1	1.)	SWEDEN.	SWITZERLAND. TURKEY.
· COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of July 5, 1884, modified by law of March 5, 1897, and law of June 25, 1897. Decree of December 31, 1895.	provided the country in which he is located accords reciprocal rights to Swedish subjects, may register his mark previously registered in his own country. If, under conditions of reciprocity, a foreign applicant files an application for registration in Sweden within four months from the date of filing an application therefor abroad, such application will be considered as filed simultaneously with the foreign application.	Marks composed wholly of figures, letters or words not in special form, or if the words do not amount to an invented term; marks which contain without permission the name of a person other than the applicant; those which contain public arms or stamps; those which contain pictures or other representations of a scandalous nature; those which are identical with or closely resemble marks previously registered. But marks already registered in a foreign country which enjoys reciprocity with Sweden may be registered and protected, even though composed exclusively of figures, letters or words and not otherwise	Surname and given names of the applicant in full or his trade name, together with his profession and post-office address. (2) Description of the mark which must be restricted to the essential features. (3) If the applicant claims the right to the mark only for certain goods, a statement of such goods. (4) If the applicant claims a right to the mark or a part thereof as constituting a designation specially created for certain kinds of goods, a definite statement to this effect with a statement of the goods to which the designation is applied. (5) If the applicant is located in a foreign country which accords reciprocity in the matter of trade-marks, a designation of a representative resident in, and authorized to represent the applicant in Sweden in all matters relative to the mark. 6. A list of the docu-	Ten years, renewable. But marks registered by foreigners are protected only so long as they are protected in the country of origin. Fees. For registration, 40	A mark which is found to contain public arms or stamps or to contain scandalous matter may be canceled. When a mark is made up of signs or marks commonly employed in a certain industry, any one engaged in such industry may ask its cancellation. Any person who considers himself injured by a registration may bring action before the courts for its cancellation. The right to a deposited mark can be transferred only with the establishment in connection with which the mark is employed. When the establishment passes to a third person, the	or exposure for sale, can be punished by a fine of from 20 to 2,000 crowns. Under circumstances particularly aggravating, the offender may be punished by imprisonment of from one month to two years. A compensation for damages and the destruction of goods so marked at the cost of the offender may also be inflicted.
Law of September 26, 1890. Regulations of April 7, 1891. Diplomatic notes, May 14, 1883. International Convention.	Manufacturers or other producers whose establishment is in Switzerland, and others who are engaged in regularly established business there. Second, manufacturers, producers, and others in those states which accord reciprocity to Swiss citizens, provided that they furnish proof that their marks are protected at the place of their establishment or location; third, associations of manufacturers, producers, traders, who satisfy the conditions just enumerated. The term "producers" is used with a very wide meaning; it includes, for instance, vine growers, bee farmers, and growers of live stock. Right to exclusive use is conditional on, and determined by, registration.	and commerce: 1. Commercial firms (names). 2. Marks applied to products or articles of merchandise and agriculture, or to their wrappers in order to distinguish them or to determine their place of origin. Public arms and all other signs considered as common property of the state or as government property which are placed upon marks of particular individuals cannot be afforded protection. The use of marks contrary to good morals is forbidden. A mark which has been canceled may not be registered by another person within five years from the date of cancellation.	Italian, with a memorandum according to form, in duplicate. The mark or its exact reproduction imprinted by means of a block, mounted upon a sheet of strong white paper with the date and signature, in duplicate. A block of the mark of 24 mm. in thickness, whose other dimensions may be within the limits of from 15 to 100 mm. A declaration setting forth the name and locality of the applicant or depositor, in case of a foreigner proof of his registration abroad and of the location of his establishment.	Fees. For registration, 20 francs (\$3.86). For renewal, 20 francs (\$3.86). Franc = \$0.193.	If within six months from the expiration of the term registration is not renewed, the mark is canceled. If the registrant sails to make use of the mark for three consecutive years, he forfeits his right to protection. A mark cannot be transferred except with the business to which it relates. The transfer is effective as	pation of, sale or exposure for sale, aiding in any of these, refusal to declare the origin of products in one's possession when marked with false or unlawfully applied mark may be punished by a fine of from 30 to 2,000 francs, or imprisonment of from three days to one year, or both; if the offense per repeated the penalty is
	trade are entitled to register.	articles to indicate to the public the place of origin, its name, or the name and residence of a manufacturer or merchant. Representations contrary to public order, good	if the mark consists of a design or emblem, an exact copy in duplicate should be filed. The necessary signature must be added, with a statement of the name and residence of the proprietor and the nature of the merchandise for which it is intended.	Fisteen years, renewable. A property of the second	examination.	Counterfeiting and fraudulent use or sale are punishable by a fine of from two to fifty pounds Turkish, or by an imprisonment of from one to six months, or both. Fraudulent modification of a mark, false indication of origin, sale of goods provided with improperly modified marks are also punished by lesser penalties. Failure to apply a mark declared obligatory is also punishable. In case of a repetition within a period of five years, confiscation of the goods and products may be inflicted.

		COMPARATIVE	TABLE OF TRADE-MARK LAWS. (10.)		RUSSIA. SERBIA. SPAIN.
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of February 26-March 9, 1896. Treaty of January 27, 1868. Declaration of March 16-28, 1874.	treaty or convention, accords reciprocal rights to the marks of Russian subjects. Registration gives the registrant for a specified term the exclusive right to use the mark, but the right of the registrant may be contested at any time within three years from the date of	Representations contrary to public order, good morals and civic decorum, including images of saints or of warriors with an aureole about the head, portraits of members of the Imperial family, portraits of persons notorious by their deeds against the government, or criminals, the standard of the Imperial Russian Marine, the words "Czar" and "Livadia." Those which are evidently false or deceptive. Marks not different from other marks used for articles of the same sort. Marks in general use. Marks composed entirely of figures, words and	copy in triplicate of the mark executed in India ink or other durable color and an indication of the class of merchandise. APPLICATION. The marks deposited should contain in Russian a statement of the name of the applicant and the location of the establishment. These statements are not admitted when in a foreign tongue, save as a complimentary act. (French, German and English seem to be admissible. If in any other language the statement must be accompanied by a Russian translation.)	One to ten years, renewable. Fees. On each sheet of the application a stamp of the value of 80 copecks (\$0.62). For the certificate of registration, 3 roubles (\$2.32) for the first year and 1 rouble (\$0.77) for each year thereafter. Copeck = \$0.077.	the owner of the mark closes his establishment; if registration is not renewed at the expiration of the term; if after transfer or change of location of the establishment or of one of the parties notice is not given to the Department of Commerce and Manufactures within six months; if it is decided by a court that the registrant has no right to exclusive use of the mark. The right to the exclusive use of the mark may be transferred to a new owner only in case the business is transferred, and preserves the same name with the consent, duly certified, of the	or sale is punishable by imprisonment (four to eight months), or by fine (one to two hundred roubles).
	Right to exclusive use is conditional on, and determined by, registration.	dustry, or articles of commerce from similar products or articles is considered a trade-mark. No person can enjoy the exclusive right to a mark which is in general use in commerce, or which consists of a single letter, figure or word. The reproduction of the national arms as a trade-mark is, as a rule, interdicted. Marks which have an immoral character, or might be prejudicial to public order,	Application must be made to the tribunal of the locality where the applicant is established. Foreign owners must apply to the tribunal of Commerce of Belgrade. Three specimens of the mark must be furnished, together with a list of the goods on which the mark is to be used. If the mark is intended for articles of metal, glass or the like, specimens bearing the mark must be furnished. The name of the applicant must be given and the registration fee in stamps must be furnished.	Fees. Twenty dinars in stamps must accompany the application and 20 dinars must be paid for each year the registration continues	or by judicial decision, or for sailure to renew. The exclusive right to the use of a mark attaches to the business for which it has been secured. The right expires with the termination of the business and may be transferred with it, but in case of transfer the new owner must register the mark in his	lent use or sale or importation of goods fraudulently marked is punished by a fine (50 to 500 dinars) for the benefit of the party injured. The latter may demand damages in place of fine. For a second offense the
Law of November 20, 1850. Law of July 11, 1851. Law of April 11, 1858. Law of August 14, 1873. Law of September 1, 1888. Law of February 12, 1889. Convention of June 10.	Spaniards and residents of the Peninsula, another for Spanish subjects of the colonies and a third for the marks of foreigners not residing upon Spanish territory. By a decree of the Republic, August 14, 1873, reciprocity in the matter of marks appears to have been established. Right to exclusive use is conditional on, and determined by, registration.	There may be considered as marks of manufacture, of commerce, of agriculture, or of any other industry, the names of the makers, merchants, farmers, manufacturers of every class, as well as of companies formed by them, emblems, and other signs, whatever be their form, which merchants, farmers, manufacturers and companies formed by them may make use of to mark their products and articles in order to enable the public to know and to distinguish them without confounding them with others.	A statement describing the mark and its use in detail. Two specimens of the mark. The registration may be kept secret upon request until a suit occurs.	Perpetual. Fees. For registration, accord-		proper use or sale of goods

COMPARATIVE TABLE OF TRADE-MARK LAWS. (12.)						
COUNTRY.	WHO MAY REGISTER.	SUBJECT-MATTER OF REGISTRATION.	REQUIREMENTS FOR REGISTRATION.	TERM. FEES.	EXAMINATION, FORFEITURE, TRANSFER.	PENAL PROVISIONS.
Law of March 3, 1881. Law of August 5, 1882. Rules of November 1, 1898.	commerce with foreign nations or with the Indian tribes, who is domiciled in the United States or located in any foreign country or tribes, which by treaty, convention or law afford similar privileges to citizens of the United States. Any citizen or resident of the United States wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent	Marks (1) which are merely the names of the applicants; (2) which are identical with a known or registered trade-mark owned by another or so nearly resemble such mark as to be likely to cause confusion in the mind of the public or deceive purchasers, or (3) which are merely descriptive in their nature (Rule 20).	Patents and must be signed by the owner of the trade-mark. It must comprise (1) A brief letter of advice, requesting registration, signed by the applicant. (2) A statement or specification which in addition to setting forth the name, status, and domicile of the applicant, must also discriminate between the essential and non-essential features of the trade-mark, and if the applicant be a corporation, it must set forth under the laws of what State or nation incorporated. (3) A declaration or oath that the applicant has a right to the use of the trade-mark sought to be registered and that no other has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with for-	Thirty years, renewable. But when the trade-mark is claimed for and applied to articles not manufactured in the United States, the registration shall cease to have any effect at the time the trademark ceases to be protected elsewhere. Fees. For registration, \$25; for renewal, \$25.	Transfers of the right to use trade-marks may be recorded in the Patent Office. Nothing in the law is to be construed as unfavorably affecting a claim to a trade-mark after the term of registration has expired.	1876, which provided for the punishment of the coun- terfeiting of trade-marks, is not now in force.
VENEZUELA. Law of May 24, 1877.	in the Republic or any corporation cre-	The mere name of a person, association, or corporation unaccompanied by a distinguishing mark is not registrable.	name and residence of applicant, location of his establishment, statement of the class of goods to which the mark has been or is to be	Thirty years, renewable. But marks applied to articles manufactured abroad and protected only so long as they are protected	False registration is punishable under the Penal Code. The trade-mark may be transferred independently of the business with which it is used.	falsifies, copies or imitates a registered mark or makes unlawful use of such mark is liable for damages, and

PART III.

CONVENTIONS AND TREATIES

RELATING TO PATENTS AND TRADE-MARKS TO WHICH THE UNITED STATES IS A PARTY.

Sec. 215. The International Convention for the Protection of Industrial Property concluded at Paris, March 20, 1883. Text and notes.

ARTICLE I.

The Governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Serbia and of Switzerland, have constituted them-

1 Adhesions and Withdrawals.

Great Britain adhered to the Convention, March 17, 1884,

Tunis adhered to the Convention, March 20, 1884.

The Dominican Republic adhered to the Convention, October 20, 1884, withdrew March 15, 1888, again adhered July 11, 1890.

Sweden adhered to the Convention, July 1, 1885.

Norway adhered to the Convention, July 1, 1885.

The United States adhered to the Convention, May 30, 1887.

The Dutch East Indies adhered to the Convention, October 1, 1888.

Surinam and Curação adhered to the Convention, July 1, 1890.

New Zealand and Queensland adhered to the Convention, September 7, 1891.

Denmark adhered to the Convention, October 1, 1894.

Japan adhered to the Convention, July 15, 1899.

Austria-Hungary gave notice, in 1897, of adhesion to the Convention under reserve of ratification by the parliaments of the respective countries.

Salvador withdrew from the Convention, August 17, 1886.

Guatemala withdrew from the Convention, November 8, 1894.

Ecuador adhered to the Convention, December 21, 1883, and withdrew December 26, 1885.

The following countries are now members of the Union:

selves into a state of Union for the Protection of Industrial Property.

ARTICLE 2.

The subjects or citizens of each of the contracting States shall enjoy, in all the other States of the Union, so far as concerns patents for inventions, trade or commercial marks, and

Belgium, Brazil, Denmark, with the Faroe Islands, Dominican Republic, France, with Algeria and the French Colonies, Great Britain, with New Zealand and Queensland, Japan, Netherlands, with the Dutch East Indies, Surinam and Curação, Norway, Portugal, Serbia, Spain, Sweden, Switzerland, Tunis, United States.

The following countries not now members of the Union may be said to be at the present time seriously considering the question of becoming members, from the fact that they each sent one or more delegates to the Conference of the Union held at Brussels in 1897, some of these delegates taking quite an active part in the deliberations of the conference:

Austria-Hungary, (see above, under Adhesions and Withdrawals), Chili,

Ecuador, (see above, under Adhesions and Withdrawals),

Germany. The German delegates submitted a proposition stating the conditions under which Germany would join the Union. Germany has already conventions with Austria-Hungary, with Italy, and with Switzerland, similar to the International Convention and even more liberal in their provisions respecting the right of priority.

Mexico, Turkey.

"Industrial property," under this Convention, applies not only to the production of manufacturing industries, but also to the productions of agriculture and to mineral products which are traded in. (See paragraph 1 of Final Protocol.)

²Under "patents for inventions" are included not only patents for inventions such as are granted in the United States, but patents for industrial models, design patents, patents for improvements sometimes termed "patents of addition," caveats, provisional patents, patents of importation, patents for the introduction of new

the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as the latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each State.

ARTICLE 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.²

ARTICLE 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 determined.

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;

industries, in short, all kinds of patents by which an exclusive right to industrial property is granted by any of the countries of the Union. (See paragraph 2 of the Final Protocol.)

The last sentence of this article is to be read with paragraph 3 of the Final Protocol.

This article is given full force and effect in all the countries which belong to the Union, except that in the United States so far as the filing of caveats by foreigners is concerned, being in conflict with the statute (Revised Statutes, Sec. 4902), it is not at present considered to have any effect without further legislation. (Opinion of the Attorney General, 47 O. G., 397.)

This is Article 3 as amended at the Brussels conference of 1897. The amendment is not yet formerly ratified by all of the countries of the Union, but doubtless will be in the near future. The amendment consists in the insertion of the words bona fide (effectifs et serieux) before "industrial or commercial establishments." This article is given full force and effect in all the countries of the Union.

especially by another deposit, by the publication of the invention or its working, [by a third party] by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be six months for patents of invention, three months for designs or industrial models, as well as trade or commercial marks. They shall be augmented by one month for countries beyond the seas.

¹ This Article was amended at the Brussels conference of 1897 by the omission of the word "by a third party" (par un tiers) after the words "publication of the invention or its working." This amendment is not yet formally ratified by all the countries of the Union, but doubtless will be in the near future.

As to the mode of reckoning the periods of priority in the several countries, see Part I, § 106.

The following countries of the Union have adopted legislation giving effect to this article:

Belgium, Law of 1884.

Brazil, Law of 1882, Article 2 (Patents). Law of 1887, Articles 25, 26 (Trademarks).

Denmark, Law of 1894, Article 28 (Patents). Law of 1890, Article 14 (Trademarks).

Great Britain, Law of 1883, Article 103 (Patents, Designs and Trademarks).

New Zealand, Law of 1889, Article 106 (Patents, Designs and Trademarks).

Queensland, Law of 1884, Article 80 (Patents, Designs and Trademarks).

[Other British Colonies which, though not members of the Union, provide by law for giving effect to this article are:

Malta, Law of 1893, Article 8 (Patents).

New South Wales, Law of 1897 (Patents, Designs and Trademarks).

Tasm nia; Law of 1893, Article 100 (Patents, Designs and Trademarks).

Western Australia, Law of 1894, Article 3 (Patents, Designs and Trademarks).]

Italy, Law of 1898 (Patents, Designs and Trademarks).

Japan, Law of 1899, Article 9 (Patents and Trademarks).

Netherlands, Law of 1893, Article 3 (Trademarks).

Norway, Law of 1885, Article 33 (Patents). Law of 1884, Article 15 (Trade-marks).

Portugal, Law of 1896, Articles 9, 27 and 29 (Patents). Law of 1896, Articles 76 and 79 (Trademarks).

Sweden, Law of 1884, Article 25 (Patents). Law of 1884, Article 16 (Tradenarks).

Switzerland, Law of 1888, Article 32 (Patents), Law of 1891, Article 7 (Trademarks).

This Article is given full force and effect in France, Spain and Tunis without express legislation. Serbia, which has no patent law, does not provide in the laws relating to designs and trademarks for carrying this article into effect. See in connection with this article Part I, & § 38 to 47 and 98, and Part II, § 171.

ARTICLE 4 bis.

Patents applied for in the different contracting States by persons admitted to the benefit of the Convention under the terms of Articles 2 and 3, shall be independent of the patents obtained for the same invention in the other States adhering or not 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 as to patents already existing, either in the Union or in the new adhering State at the time of the adhesion.

ARTICLE 5.

The introduction by the patentee into countries where the patent has been granted, of articles manufactured in any other of the States of the Union, shall not entail forfeiture.²

The patentee, however, shall be subject to the obligation of working his patent conformably to the laws of the country into which he has introduced the patented articles.³

¹ This additional article was agreed to at the Brussels conference of 1897. It has not as yet been formally ratified by all of the countries of the Union, but doubtless will be in the near future.

Under the laws of the following countries of the Union a patent granted on an invention previously patented in another country is not limited to expire with such previously granted patent (see Part I, § 81):

Denmark, Great Britain, Japan, Norway, Portugal, Spain (see § § 34 and 73), Sweden, Switzerland, United States.

In the following countries of the Union the law requires that a patent granted on an invention previously patented in a foreign country shall be limited to expire with such previously granted patent (see Part I, § 82):

Belgium, Brazil, France, Italy.

The only countries of the Union under the law of which such introduction of goods forfeits the patent are France. (Law of 1844, Article 32, and Tunis, Law of 1888, Article 23.) Notwithstanding this provision of the law, this article of the Convention is, however, given full force in these countries so far as patents granted to subjects or citizens of other countries of the Union are concerned.

In the protocol adopted by the conference at Rome, in 1886, it was proposed to add to this article the following:

"Each country shall determine for itself the interpretation to be given to the word 'working.'"

Substantially the same provision with respect to the interpretation to be given

ARTICLE 6.

Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the Union.

Shall be considered as country of origin, the country where the depositor has his principal establishment.

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

The deposit may be refused, if the object, for which it is asked, is considered contrary to morals and to public order.

ARTICLE 7.

The nature of the production upon which the trade or com-

to this word is found in the 4th protocol, adopted by the conference at Madrid in 1890. Because of other provisions contained in them, both of these protocols failed of ratification, but the adoption of this provision by the successive conferences clearly shows that, in the opinion of the delegates to the conferences, each of the countries of the Union is free to enforce such requirements as to working as are found in its present law.

This translation does not give the correct meaning of the words sera admise au dépôt et protégée telle quelle of the text of the Convention. A better translation is that given by Great Britain which is "shall be admitted for registration and protected in the form originally registered." that is, marks regularly registered in the country of origin shall be registered and protected in all the other countries of the Union whatever their nature, whether registrable or not under the laws of the particular country. (See paragraph 4 of the Final Protocol.)

This article is given full force and effect by legislation in the following countries: Denmark, Law of 1890, Article 14 (7), see Part II, § § 157 and 160.

Norway, Law of 1884, Article 15 (7), see Part II, § § 157 and 160.

Sweden, Law of 1884, Article 16 (7), see Part II, § § 157 and 160.

The laws of the following countries appear to permit the registration of any mark not open to the objection of being contrary to morals or to public order (see Part II, & § 155 and 163), which would be registrable in any other country of the Union: Belgium, Brazil, France, Italy, Japan, Netherlands, Portugal, Serbia, Spain, Switzerland, Tunis.

This article is not given full force and effect so far as the admission to registration of marks previously registered in another country which are not under the laws of the particular country considered registrable trademarks in Great Britain or the United States.

See in connection with this article Part II, § 155.

mercial mark is to be affixed cannot in any case be an obstacle to the deposit of the mark.*

ARTICLE 8.

The commercial name shall be protected in all the countries of the Union without obligation or deposit, whether it forms part or not of a trade or commercial mark.

ARTICLE 9.

Every production bearing unlawfully a trade or commercial mark or a commercial name may be seized upon importation into those of the States of the Union in which such mark or such commercial name has a right to legal protection.

The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each State.

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

The authorities shall not be required to effect seizure in case of goods in transit.3

ARTICLE 10.

The provisions of the preceding Article shall be applicable to every product 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.

¹ There is not in the laws of any of the countries which are members of the Union any provision inconsistent with this article.

²Commercial or trade names are protected in all the countries of the Union. See Part II, § 137.

The paragraphs in italics were added by amendment agreed to at the Brussels Conference of 1897. This amendment has not as yet been formally ratified by all the countries of the Union, but will doubtless be ratified in the near future.

This article as originally proposed provided that importation into and even transit through the countries of the Union of goods so marked should be prohibited. As finally adopted it seems rather to permit than to require seizure or prohibition of importation of falsely marked goods.

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

ARTICLE 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 trademarks, for the productions which may figure at official or officially recognized International Expositions organized upon the territory of one of them.

ARTICLE 12.

Each one of the High Contracting parties engages to establish a special service of Industrial Property and a Central Depot for giving information to the public concerning patents

This is Article 10 as amended at the Brussels Conference of 1897. The amendment consists of the insertion of the words in italics. The amendment has not as yet been ratified by all of the countries of the Union, but doubtless will be in the near future.

This is Article II as amended at the Brussels Conference of 1897. The amendment consists in the substitution of the words in italics in lines I and 2 for the words "engage between themselves to accord," and the addition of the words in italics at the end of the article. The amendment has not yet been ratified by all the countries of the Union, but doubtless will be in the near future.

The following countries of the Union have adopted laws under which the protection provided for by this article may be had:

Brazil, notice required, term of protection not stated in the law.

Denmark, no notice required, protection six months.

France, notice required, protection until three months after close of exhibition.

Great Britain, notice required, protection six months.

New Zealand, notice required, protection six months.

Queensland, notice required, protection six months.

Japan, notice required, protection six months.

Norway, no notice required, protection six months.

Spain, notice required, protection six months.

Sweden, no notice required, protection six months.

Switzerland, notice required, protection six months.

Tunis, notice required, protection until three months after close of exhibition.

See in connection with this article Part I, § § 48 to 50.

of invention, industrial designs or models and trade or commercial marks.'

ARTICLE 13.

An International Office shall be organized under the title of "International Bureau of the Uuion for the Protection of Industrial Property."

This Bureau, the cost of which shall be supported by the Governments of all the contracting States, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its supervision. Its power shall be determined by common accord between the States of the Union.²

¹This article is understood to require the publication in each country of an official periodical. (See paragraph 5 of the Final Protocol.)

Such official periodicals are published by the following countries of the Union: Belgium, Recueil Spécial des Brevets d'Invention; Recueil Officiel des Marques de Fabrique et de Commerce.

Denmark, Dansk Patenttidende.

France, Bulletin Officiel de la Propriété Industrielle et Commerciale.

Great Britain, Illustrated Official Journal; Trademark Journal.

Italy, Bolletino dell Privative Industriali del Regno d'Italia.

Netherlands, Nederlandsche Staatscourant.

New Zealand, New Zealand Gazette.

Norway, Norsk Patentblad, Norsk Registreringstedense for Varemaerker.

Portugal, Boletin da Propriedade Industrial.

Queensland, Queensland Government Gazette.

Spain, Bolletin Oficial de la Propreedad Intelectual é Industrial.

Sweden, Tighning for Patent och Varumarken: Registreringstedning for Varumarken.

Switzerland, Liste des Brevets; Marques de Fabrique et de Commerce enregistrées en Suisse.

United States, Official Gazette of the United States Patent Office.

The duties of the International Bureau are more fully defined in paragraph 6 of the Final Protocol in which, as amended at the Madrid Conference of 1891, the arrangement for the payment by the several governments of the cost of the Bureau is fully set forth. The Bureau provided for by this article is located at Berne, Switzerland, and is under the direction of H. Morel. The official organ of the Union under the name of La Propriété Industrielle is published monthly and contains full information of the changes made from time to time in the legislation of the several countries of the Union, as well as of other countries, in reference to patents, trademarks and other industrial property, information as to important cases respecting industrial property decided by the courts of the several countries, statistics of the several countries, and other general information of importance

ARTICLE 14.

The present convention shall be submitted to periodical revisions 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.

ARTICLE 15.

It is understood that the High Contracting parties respectively reserve the right to make separately, between themselves, special arrangements for the protection of industrial property so far as these arrangements shall not interfere with the provisions of the present convention.²

ARTICLE 16.

The States that have not taken part in the present Con-

respecting industrial property. The price of this journal is 5 fr. 50, (about \$1.10) a year. The Bureau has also published two volumes of a collection of the patent and trademark laws and rules of practice of all the countries of the world, under the name of Recueil General de la legislation et de traites concernant la propriété industrielle, Berne, 1896, and has the final volume in preparation. The two volumes published, containing the laws of European and Asiatic countries, are sold at 30 fr. (about \$6.00).

The words "the next meeting shall take place in 1885 at Rome," appear in this article as originally adopted. These words were canceled by amendment adopted at the Brussels Conference of 1897.

Conferences have been held as follows: Rome, 1886; Madrid, 1890; Brussels, 1897.

Restricted Unions have been entered into by countries which are members of the Union as follows: For the suppression of false indication of origin under the Agreement signed at Madrid, April 14, 1891, to which the following members of the Union are parties: Brazil, Spain, France, Great Britain, Portugal, Switzerland and Tunis.

For the International registration of Trademarks under the agreement signed at Madrid, April 14, 1891, to which the following members of the Union are parties: Brazil. Belgium, Spain, France, Italy, Netherlands, Portugal, Switzerland and Tunis. Under this Union trademarks registered in one of the countries of the Union are registered in all the other countries of the Union, through the International Bureau at Berne, on payment of a single fee of 100 fr. (\$20). The number of trademarks so registered up to the close of 1898 was 1700. The term of registration is twenty years, renewable, but expires earlier if the registration is not kept in force in the country of origin.

vention 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 to the other Unionist States, unless a later date shall have been indicated by the adhering State.

ARTICLE 17.

The execution of the reciprocal engagements contained in the present Convention is subordinated so far as needful, to the accomplishment of the formalities and rules established by the constitutional laws of such of the High Contracting parties as are bound to ask the application thereof, which they agree to do within the shortest delay possible.

ARTICLE 18.

The present Convention shall be put into execution within a month after exchange of ratifications, and shall remain in force during a period of time not determined until the expiration of one year from the day upon which the denunciation shall be made.

This denunciation shall be addressed to the Government empowered to receive adhesions. It shall only produce its effect as regards the State making it, the convention remaining executory for the other contracting parties.

ARTICLE 19.

The present Convention shall be ratified and the ratifica-

¹The words in italics were added by amendment agreed to at the Brussels Conference of 1897. For countries which have adhered to the Convention, see note under Article I.

² Notice of withdrawal.

tions shall be exchanged at Paris, within the period of one year at the latest.

In witness whereof, the respective Plenipotentiaries have signed it and affixed to it their seals.

Done at Paris, the 20th of March, 1883.

FINAL PROTOCOL:

On proceeding to the signature of the convention, concluded this day between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Serbia and Switzerland, for the protection of industrial property, the undersigned plentipotentiaries have agreed on the following:

- 1. The words *Industrial Property* are to be understood in their widest acceptation, in the sense that they apply not only to the productions of industry properly so called, but equally to the productions of agriculture (wines, grains, fruits, cattle, etc.), and to mineral productions used in commerce (mineral waters, etc.)
- 2. Under the name Patents of Inventions are included the various classes of industrial patents granted by the laws of the contracting states, such as patents of importation, patents of improvement, etc.
- 3. It is understood that the final provision of Article 2 of the Convention shall in no respect infringe upon the laws of each of the contracting states, so far as concerns the procedure before the courts and the competence of the said courts.
- 4. Paragraph 1 of Article 6 is to be understood in the sense that no trade or commercial mark shall be excluded from protection, in one of the states of the Union, by the mere fact that it may not satisfy, in respect to the signs composing it, the conditions of the laws of this state, provided that it does satisfy, in this regard, the laws of the country of origin, and that it has been in this latter country duly deposited. Saving

this exception which concerns only the form of the mark, and under reservation of the provisions of the other articles of the Convention, the domestic legislation of each of the states shall receive its due application.

In order to avoid all misinterpretation, it is understood that the use of public armorial bearings and decorations may be considered contrary to public order in the sense of final paragraph of Article 6.

- 5. The organization of a special service of industrial property mentioned in Article 12 shall include, as far as is possible, the publication in each State of an official periodical.
- 6. The expenses of the International Bureau instituted by Article 13 shall be supported by the contracting States in common. They cannot in any event exceed the sum of sixty thousand francs (about \$15,000) per annum.

In order to determine the contributory share of each of the States in this sum total of expenses, the contracting States, and those who may hereafter adhere to the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely: First class, 25 units; second class, 20 units; third class, 15 units; fourth class, 10 units; fifth class, 5 units; sixth class, 3 units.

These co-efficients shall be multiplied by the number of the States of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense:

The contracting States are classified as follows in respect to the division of the expenses:²

First class: France, Italy. Second class: Spain. Third

^{&#}x27;The words in italics were inserted by amendment adopted by the Conference in Madrid in 1891.

The countries which have adhered to the Convention since the adoption of this protocol are classified as follows: First class: Great Britain, United States. Second class: Japan. Third class: Sweden. Fourth class: Norway. Sixth class: Dominican Republic, Tunis. The share of the United States amounts to about \$700 a year.

class: Belgium, Brazil, Portugal, Switzerland. Fourth class: Netherlands. Fifth class: Serbia. Sixth class: Guatemala, Salvador.

The Swiss Government shall supervise the expenditure of the International Bureau, make the necessary advances, and state the annual account, which shall be communicated to all the other Governments.

The International Bureau shall collect information of every kind relating to the protection of industrial property, and shall compile from it general statistics, which shall be transmitted to all the Governments. It shall occupy itself with examinations of general utility which may be of interest to the Union, and shall publish, with the assistance of the documents put at its disposal by the various Governments, a periodical in the French language on questions which concern the object of the Union.

The numbers of this periodical, and all the documents published by the International Bureau, shall be partitioned among the Governments of the States of the Union in the proportion of the number of contributory units above mentioned.

The copies and supplementary documents which may be requested either by the said Governments, or by corporations or private persons, shall be paid for separately.

The International Bureau must always hold itself at the disposal of the members of the Union in order to furnish them, on questions relating to the international service of industrial property, with such special information as they may need.

The Government of the country where the next Conference is to be held shall prepare, with the assistance of the International Bureau, the work of the said Conference.

The director of the International Bureau shall be present at the sessions of the Conferences, and shall take part in the discussions without voting.

¹ Not now members of the Union. See note under Article 1.

² See note under Article 13.

He shall make an annual report on its management, which shall be communicated to all the members of the Union.

The official language of the International Bureau shall be the French language.

7. The present final protocol, which shall be ratified at the same time as the Convention concluded this day, shall be considered as forming an integral part of that Convention, and shall have the same force, value and duration.

In faith whereof the undersigned plenipotentiaries have drawn up the present protocol.

Sec. 216. Convention with Austria-Hungary relative to the protection of trademarks.

Convention relative to the protection of trademarks, concluded November 25, 1871; ratifications exchanged at Vienna, April 22, 1872; proclaimed June 1, 1872.

ARTICLE I.

Every reproduction of trade-marks which in the countries or territories of the one of the contracting parties are affixed to certain merchandise to prove its origin and quality, is forbidden in the countries or territories of the other of the contracting parties, and shall give to the injured party ground for such action or proceedings to prevent such reproduction, and to recover damages for the same, as may be authorized by the laws of the country in which the counterfeit is proven, just as if the plaintiff were a citizen of that country.

The exclusive right to use a trade-mark for the benefit of citizens of the United States in the Austro-Hungarian Empire, or of citizens of the Austro-Hungarian Monarchy in the territory of the United States, cannot exist for a longer period than that fixed by the law of the country for its own citizens. If the trademark has become public property in the country of its origin, it shall be equally free to all in the countries or territories of the other of the two contracting parties.

ARTICLE II.

If the owners of trade-marks, residing in the countries or territories of the one of the contracting parties, wish to secure their rights in the countries or territories of the other of the contracting parties, they must deposit duplicate copies of those marks in the Patent Office at Washington and in the Chambers of Commerce and Trade in Vienna and Pesth.

ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications, and shall continue in force for ten years from this date.

In case neither of the high contracting parties gives notice of its intention to discontinue this Convention twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE IV.

The ratifications of this present Convention shall be exchanged at Vienna within twelve months, or sooner, if possible.

In faith whereof the respective plenipotentiaries have signed the present Convention as well in English as in German and Hungarian, and have affixed thereto their respective seals.

Done at Vienna the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-one, in the ninety-sixth year of the Independence of the United States of America, and in the twenty-third year of the reign of His Imperial and Royal Apostolic Majesty.

(Seal.) JOHN JAY. (Seal.) ANDRASSY.

Sec. 217. Treaty and Convention with Belgium relative to the protection of trademarks.

Treaty of commerce and navigation, concluded March 5, 1875; ratifications exchanged at Brussels, June 11, 1875; proclaimed June 29, 1875.

*

ARTICLE XV...

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens, agree that any counterfeiting in one of the two countries of the trade-marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade marks in which the citizens of one of the two countries may wish to secure the right of property in the other must be lodged, to wit: the marks of citizens of the United States, at Brussels, in the office of the clerk of the Tribunal of Commerce; and the marks of Belgian citizens at the Patent Office in Washington.

It is understood that if a trademark has become public property in the country of its origin, it shall be equally free to all in the other country.

ARTICLE XVI.

The present treaty shall be in force during ten years from the date of the exchange of the ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned, and it is agreed that after the expiration of the twelve months of prolongation accorded on both sides, this treaty and all its stipulations shall cease to be in force.

ARTICLE XVII.

This treaty shall be ratified, and the ratifications shall be exchanged at Brussels within the term of nine months after its date, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed

the present treaty in duplicate, and have affixed thereto their seals at Washington, the eighth day March, eighteen hundred and seventy-five.

(Seal.) Hamilton Fish.
(Seal.) Maurice Delfosse.

Convention for securing reciprocal protection for trademarks and trade labels concluded April 7, 1884; ratifications exchanged at Washington, July 7, 1884; proclaimed July 9, 1884.

ARTICLE I.

Citizens of the United States in Belgium and Belgian citizens in the United States of America shall enjoy, as regards trade-marks and trade-labels, the same protection as native citizens, without prejudice to any privilege or advantage that is or may hereafter be granted to the citizens of the most favored nation.

ARTICLE II.

In order to secure to their marks the protection provided for by the foregoing article, the citizens of each one of the contracting parties shall be required to fulfil the law and regulations of the other.

ARTICLE III.

The present arrangement shall take effect on the day of its official publication, and shall remain in force until the expiration of the twelve months following the notice, given by either of the contracting parties, of its desire for the cessation of its effects.

The ratifications of this convention shall be exchanged at Washington as soon as possible within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and French languages, and affixed thereto the seals of their arms. Done at Washington the 7th day of April, in the year of our Lord one thousand eight hundred and eighty-four.

(Seal.) FRED'K T. FRELINGHUYSEN.

(Seal.) Th're de Bounder de Melsbroeck.

Sec. 218. Agreement with Brazil relative to the protection of trademarks.

Agreement for the reciprocal protection of marks of manufacture and trade, concluded September 24, 1878; proclaimed June 17, 1879.

The Government of the United States of America and the Government of His Majesty the Emperor of Brazil, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The citizens or subjects of the two high contracting parties shall have in the dominions and possessions of the other the same rights as belong to native citizens or subjects in everything relating to property in marks of manufacture and trade.

It is understood that any person who desires to obtain the aforesaid protection must fulfil the formalities required by the laws of the respective countries.

In witness whereof the undersigned, duly authorized to this end, have signed the present agreement and have affixed thereto the seals of their arms.

Done in duplicate at Rio de Janeiro the twenty-sourth day of the month of September, one thousand eight hundred and seventy-eight.

(Seal.) · HENRY WASHINGTON HILLIARD.

(Seal.) B. DE VILLA BELLA.

Sec. 219. Convention with Denmark relative to the protection of trademarks.

Convention for the reciprocal protection of trade-marks and trade-labels, concluded June 15, 1892; ratifications exchanged at Copenhagen September 28, 1892; proclaimed October 12, 1892.

With a view to secure for the manufacturers in the United States, and those in Denmark, the reciprocal protection of their Trade Marks and Trade Labels, the undersigned, duly authorized to that effect, have agreed on the following dispositions:

ARTICLE I.

The subjects or citizens of each of the High Contracting parties shall in the Dominions and Possessions of the other have the same rights as belong to native subjects or citizens in everything relating to Trade Marks and Trade Labels of every kind.

Provided, always, that in the United States the subjects of Denmark, and in Denmark the citizens of the United States of America, cannot enjoy these rights to a greater extent or for a longer period of time than in their native country.

ARTICLE II.

Any person in either country desiring protection of his Trade Mark in the Dominions of the other must fulfil the formalities required by the law of the latter; but no person, being a subject or citizen of one of the contracting States, shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

ARTICLE III.

This arrangement shall go into effect immediately on or after the exchange of the ratifications, and shall be in force until a year after it has been recalled by the one or the other of the two High Parties.

ARTICLE IV.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Denmark, and the ratifications shall be exchanged at Copenhagen as soon as may be within ten months from the date hereof.

In witness whereof the undersigned have signed the present convention and have affixed thereto the seal of their arms.

Done at Copenhagen in double expedition the 15. June, 1892.

(Seal.) CLARK E. CARR. (Seal.) REEDTZ THOTT.

220. Convention with France concerning trademarks.

Convention concerning trademarks, concluded April 16, 1869; ratifications exchanged at Washington, July 3, 1869; proclaimed July 6, 1869.

ARTICLE I.

Every reproduction in one of the two countries of trade marks affixed in the other to certain merchandise to prove its origin and quality is forbidden, and shall give ground for an action for damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven, just as if the plaintiff were a subject or citizen of that country.

The exclusive right to use a trade mark for the benefit of citizens of the United States in France, or of French subjects in the territory of the United States, can not exist for a longer period than that fixed by the law of the country for its own citizens.

If the trade mark has become public property in the country of its origin, it shall be equally free to all in the other country.

ARTICLE II.

If the owners of trade marks, residing in either of the two countries, wish to secure their rights in the other country, they must deposit duplicate copies of those marks in the Patent Office at Washington, and in the clerk's office of the Tribunal of Commerce of the Seine, at Paris.

ARTICLE III.

The present arrangement shall take effect ninety days after the exchange of ratifications by the two governments, and shall continue in force for ten years from this date.

In case neither of the two high contracting parties gives notice of its intention to discontinue this convention, twelve months before its expiration, it shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE IV.

The ratifications of this present arrangement shall be exchanged at, Washington within ten months, or sooner, if possible.

In faith whereof the respective plenipotentiaries have signed the present convention in duplicate, and affixed thereto the seal of their arms.

Done at Washington the sixteenth day of April, in the year of our Lord one thousand eight hundred and sixty-nine.

(Seal.)
HAMILTON FISH.
(Seal.)
BERTHEMY.

Sec. 221. Convention with Germany relating to trademarks.

Convention relating to the rights, privileges, immunities and duties of consuls, and to the protection of trade marks, concluded December 11, 1871; ratifications exchanged at Berlin, April 29, 1872; proclaimed June 1, 1872.

ARTICLE XVII.

With regard to the marks or labels of goods, or of their packages, and also with regard to patterns and marks of manufacture and trade, the citizens of Germany shall enjoy in the United States of America, and American citizens shall enjoy in Germany, the same protection as native citizens.

ARTICLE XVIII.

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be exchanged at Berlin within the period of six months.

In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall remain in force one year longer, and so on, from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof the plenipotentiaries have signed and sealed this Convention.

Berlin, the 11th of December, 1871.

(Seal.) (Seal.) GEO. BANCROFT.

B. KÖENIG.

Sec. 222. Declaration with Great Britain for the protection of trademarks.

Declaration for the reciprocal protection of marks of manufacture and trade, concluded October 24, 1877; ratified by President May 25, 1878; proclaimed July 17, 1878.

The Government of the United States of America and the Government of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, with a view to the reciprocal protection of the marks of manufacture and trade in the two countries, have agreed as follows:

The subjects or citizens of each of the contracting parties shall have, in the dominions and possessions of the other, the same rights as belong to native subjects or citizens, or as are now granted or may hereafter be granted to the subjects and citizens of the most favored nation, in everything relating to property in trade-marks and trade-labels.

It is understood that any person who desires to obtain the

aforesaid protection must fulfill the formalities required by the laws of the respective countries.

In witness whereof the undersigned have signed the present declaration, and have affixed thereto the seal of their arms.

Done at London, the twenty-fourth day of October, 1877.

(Seal.)

Edwards Pierrepont.

(Seal.)

DERBY.

Sec. 223. Declaration with Italy for the protection of trademarks.

Declaration for the reciprocal protection of marks of manufacture and trade, concluded June 1, 1882; proclaimed March 19, 1884.

Declaration.

The Government of the United States of America and the Government of His Majesty the King of Italy, wishing to provide for the reciprocal protection of the marks of manufacture and trade, have agreed as follows:

The citizens of each of the high contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as belong to native citizens, or as are now granted or may hereafter be granted to the subjects or citizens of the most favored nation, in everything relating to property in trade-marks and trade-labels.

It is understood that any person who desires to obtain the aforesaid protection must fulfil the formalities required by the laws of the respective countries.

In witness whereof the undersigned, having been duly authorized to this effect, have signed the present declaration, and have affixed thereto the seal of their arms.

Done in duplicate original at Washington, this first day of June, one thousand eight hundred and eighty-two.

(Seal.)

Fred'k T. Frelinghuysen.

(Seal.)

FAVA.

Sec. 224. Treaty and convention with Japan relative to patents and trademarks.

Treaty of commerce and navigation, concluded at Washington November 22, 1894; ratifications exchanged at Washington March 21, 1895; proclaimed March 21, 1895.

ARTICLE XVI.

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native citizens or subjects in regard to patents, trademarks and designs, upon fulfilment of the formalities prescribed by law.

ARTICLE XIX.

This Treaty shall go into operation on the 17th day of July, 1899, and shall remain in force for the period of twelve years from that date.

Either High Contracting Party shall have the right, at any time thereafter, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.

ARTICLE XX.

This Treaty shall be ratified, and the ratifications thereof shall be exchanged, either at Washington or Tokio, as soon as possible, and not later than six months after its signature.

In witness whereof the respective plenipotentiaries have signed the present Treaty in duplicate and have thereunto affixed their seals.

Done at the City of Washington the 22d day of November, in the eighteen hundred and ninety-fourth year of the Chris-

¹The rights secured to citizens of the United States by this treaty and convention, so far as patents are concerned, are now accorded by law (law of March 1, 1899, of Japan) to foreigners generally.

tian era, corresponding to the 22d day of the 11th month of the 27th year of Meiji.

(Seal.) Walter Q. Gresham. (Seal.) Shinichiro Kurino.

Convention securing immediate reciprocal protection for patents, trademarks and designs, concluded at Washington, January 13, 1897; ratifications exchanged at Tokyo, March 8, 1897; proclaimed, March 9, 1897.

Whereas a Convention between the United States of America and the Empire of Japan securing immediate reciprocal protection for patents, trademarks and designs, was concluded and signed by their respective plenipotentiaries at the City of Washington on the thirteenth day of January, one thousand eight hundred and ninety-seven, the original of which Convention being in the English language is word for word as follows:

The President of the United States of America and His Majesty the Emperor of Japan, being desirous of securing immediate reciprocal protection for patents, trademarks and designs, have resolved to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States, the Honorable Richard Olney, Secretary of State of the United States, and His Majesty the Emperor of Japan, Toru Hoshi, Jushii, His Majesty's Envoy Extraordinary and Minister Plenipotentiary, near the Government of the United States:

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

Article XVI. of the Treaty of Commerce and Navigation between the United States of America and Japan, concluded at Washington on the twenty-second day, the eleventh month, the twenty-seventh year of Meiji, corresponding to the twenty-second day of November, eighteen hundred and ninety-four

of the Christian Era, shall have full force and effect from the date of the exchange of ratifications of this Convention.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the Emperor of Japan, in the usual manner; and the ratifications shall be exchanged at Tokyo as soon as possible.

In witness whereof the respective Plenipotentiaries have signed this Convention and have thereunto affixed their Seals.

Done in duplicate original, at Washington, this thirteenth day of January, in the one thousand eight hundred and ninetyseventh year of the Christian Era.

RICHARD OLNEY. (Seal.)
Toru Hoshi. (Seal.)

Sec. 225. Diplomatic notes exchanged with Netherlands relative to trademarks.

The object of a convention is accomplished by the exchange of diplomatic notes, as follows:

(1) Mr. de Weckherlin to Mr. Frelinghuysen,

LEGATION OF THE NETHERLANDS, WASHINGTON, FEBRUARY 10, 1883.

MR. SECRETARY OF STATE:

I have the honor herewith to transmit to your excellency a copy of the official edition of the Dutch law relative to trademarks, bearing date of May 25, 1880.

The provisions of this law make no distinction between natives of the Nether-lands and foreigners, so that citizens of the United States of America receive the same usage in the Netherlands as my countrymen as regards everything connected with the registration and protection of their trademarks.

It consequently seems that so far as the Netherlands are concerned, the conditions of reciprocity are fulfilled which are established for the registration and protection of foreign trademarks in the United States of America by the act of Congress approved March 3, 1881, which allows the registration of trademarks whose owners reside in foreign countries, the laws of which grant the same privilege to the citizens of the United States of America.

I have, therefore, been instructed by my Government to beg your excellency to be pleased, if there are no objections, to cause the adoption of the measures necessary in order that subjects of the Netherlands may hereafter avail themselves in the United States of America of the act of Congress to which I have just referred.

Be pleased to accept, Mr. Secretary of State, etc.,

G. DE WECKHERLIN.

(2) Mr. Frelinghuysen to Mr. de Weckherlin.

DEPARTMENT OF STATE,
WASHINGTON, FEBRUARY 16, 1883.

SIR:

I have the honor to acknowledge the receipt of your note of the 10th instant, by which you communicate to me the text of the Netherlands law of the 25th of May, 1880, concerning marks of trade and commerce.

I have taken due note of your statement that this law makes no distinction between Netherlands and foreigners, so that the citizens of the United States are treated in the Low Countries on the same footing as the natives thereof in all that concerns the registration and protection of their commercial and trade marks.

As the enacting clause of the act of Congress of March 3, 1881, "to authorize the registration of trade-marks and protect the same," provides in terms as follows: "That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States, or located in any foreign country or tribes which by treaty, convention, or law afford similar privileges to citizens of the United States may obtain registration of such trade-marks by complying with" the requirements of that act, and as your declaration establishes the fact that the Netherlands law gives similar privileges to citizens of the United States located in the Low Countries, the fact of entire reciprocity of usage between the two countries in this respect may now be regarded as established and evidenced by the present exchange of diplomatic notes, and as henceforth operative without further formalities between them.

Accept, sir, etc.,
FREDERICK T. FRELINGHUYSEN.

Sec. 226. Treaty and declaration with Russia relative to trademarks.

Article respecting trademarks, additional to the treaty of navigation and commerce of December 6–18, 1832, concluded at Washington, January 27, 1868; ratifications exchanged at St. Petersburg, September 21, 1868; proclaimed October 15, 1868.

Additional Article.

The high contracting parties desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade marks affixed in the other on merchandise, to show its origin and quality, shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured party, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other must be lodged exclusively, to wit, the marks of citizens of the United States in the Department of Manufactures and Inland Commerce at St. Petersburg, and the marks of Russian subjects at the Patent Office in Washington.

This additional article shall be terminable by either party, pursuant to the twelfth article of the treaty, to which it is an addition. It shall be ratified by the President, by and with the advice and consent of the Senate of the United States, and by His Majesty the Emperor of all the Russias, and the respective ratifications of the same shall be exchanged at St. Petersburg within nine months from the date hereof, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed this convention and thereto affixed the seals of their arms.

Done at Washington the 30th day of March, in the year of our Lord 1867.

(Seal.) WILLIAM H. SEWARD. (Seal.) EDOUARD DE STOECKL.

Declaration respecting previous treaty stipulations in regard to trademarks signed March 28, 1874; proclaimed November 24, 1874.

ARTICLE I.

With regard to marks of goods or of their packages, and also with regard to marks of manufacture and trade, the citizens of the United States of America shall enjoy in Russia, and Russian subjects shall enjoy in the United States, the same protection as native citizens.

ARTICLE II.

The preceding article, which shall come immediately into operation, shall be considered as forming an integral part of

the treaty of the 6th-18th December, 1832, and shall have the same force and duration as the said treaty.

In faith whereof the undersigned have drawn up and signed the present declaration, and affixed thereto their seals.

Done in duplicate in the English and Russian languages at St. Petersburg, this 16th-28th day of March, 1874.

(Seal.)

Marshall Jewell.

(Seal.)

GORTCHACOW.

Sec. 227. Treaty with Serbia relative to trademarks.

Treaty between the United States and Serbia for facilitating and developing commercial relations, concluded at Belgrade October 2–14, 1881; ratifications exchanged at Belgrade November 2–15, 1882; proclaimed December 27, 1882.

*

ARTICLE XII.

The high contracting parties, desiring to secure complete and efficient protection to the manufacturing industry of their respective citizens and subjects, agree that any counterfeiting in one of the two countries of the trade marks affixed in the other on merchandise to show its origin and quality shall be strictly prohibited and repressed, and shall give ground for an action of damages in favor of the injured parties, to be prosecuted in the courts of the country in which the counterfeit shall be proven.

The trade marks in which the citizens or subjects of one of the two countries may wish to secure the right of property in the other, must be registered exclusively, to wit: The marks of citizens of the United States in the Tribunal of Commerce at Belgrade, and the marks of Serbian subjects in the Patent Office at Washington, subject to the conditions and restrictions prescribed by the laws and regulations of the country in which the trademarks are registered.

* * * * * *

ARTICLE XIV.

The present treaty shall remain in force for ten years from the day of the exchange of ratifications, and if twelve months before the expiration of that period neither of the high contracting parties shall have announced to the other its intention to terminate said treaty, it shall remain obligatory until the expiration of one year from the day when either of the high contracting parties shall have denounced it.

The preceding stipulations shall come into force in the two countries one month after the exchange of ratifications.

ARTICLE XV.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Highness, the Prince of Serbia, and the ratifications shall be exchanged at Belgrade as soon as possible.

In faith whereof the plenipotentiaries of the two high contracting parties have signed the present treaty in duplicate in English and the Serbian languages, and thereto affixed their respective seals.

Done in duplicate at Belgrade this 2-14 day of October, 1881.

(Seal.) Eugene Schuyler.

(Seal.) CH. MIJATOVICH.

Sec. 228. Convention with Spain for securing protection for trademarks and manufactured articles and Treaty relative to patent rights.

Convention for securing reciprocal protection for trademarks and manufactured articles, concluded June 19, 1882; ratifications exchanged at Washington, April 19, 1883; proclaimed April 19, 1883.

ARTICLE I.

The citizens and subjects of each of the two contracting parties shall enjoy, in the dominions and possesions of the

other, the same rights as the natives of the country in everything relating to the ownership of trade-marks, industrial designs or models, or of manufactures of any kind.

ARTICLE II.

Persons desiring to secure the aforesaid protection shall be obliged to comply with the formalities required by the laws of the respective countries.

ARTICLE III.

This convention shall take effect as soon as it shall have been promulgated in both countries, and shall remain in force for ten years thereafter, and further until the expiration of one year after either of the contracting parties shall have given notice to the other of its wish to terminate the same; each of the contracting parties being at liberty to give such notice to the other at the end of said period of ten years or any time thereafter.

The ratifications of this convention shall be exchanged at Washington as soon as possible, within one year from this date.

In testimony whereof the respective plenipotentiaries have signed this convention in duplicate, in the English and Spanish languages, and affixed thereto the seals of their arms.

Done at Washington, the 19th day of June, in the year of our Lord one thousand eight hundred and eighty-two.

(Seal.) FRED'K T. FRELINGHUYSEN.

Seal.) Franco Barca.

Treaty of peace signed at Paris, December 10, 1898; ratifications exchanged at Washington, April 11, 1899; proclaimed, Washington, April 11, 1899.

ARTICLE XIII.

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto

Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of this treaty.

ARTICLE XVII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of our Lord one thousand eight hundred and ninetyeight.

(Seal.) William R. Day. (Seal.) Eugenio Montero Rios.

(Seal.) Cushman K. Davis. (Seal.) B. de Abarzuza.

(Seal.) Wm. P. Frye. (Seal.) J. DE GARNICA.

(Seal.) Geo. Gray. (Seal.) W. R. de Villa Urrutia.

(Seal.) Whitelaw Reid. (Seal.) Rafael Cerero.

Sec. 229. Diplomatic notes exchanged with Switzerland relative to trademarks.

The object of a convention is accomplished by the exchange of diplomatic notes, as follows:

(1) Mr. Frey to the Secretary of State.

SWISS LEGATION, WASHINGTON, APRIL 27, 1883.

MR. SECRETARY OF STATE:

The undersigned, minister of the Swiss Confederation, has this day had the honor to receive your note of the 24th instant * * * relative to the mutual protection of trademarks.

The undersigned sees by the aforesaid note that you would prefer to make such an arrangement between the United States and Switzerland in the form of an exchange of notes, inasmuch as that form appears to you to be the most simple and the best calculated to avoid the difficulties connected with the ratification of a declaration or convention.

The undersigned has the honor to reply that, * * * by a communication of the 6th of March last, he laid before the Federal Council the text of your note of the 5th of that month, and at the same time he proposed to try an exchange of declarations which, as regards the form, would coincide with your views. The Federal Council having consented thereto by its communication of March 30, and having instructed the undersigned with full powers to make such an arrangement, the undersigned thinks that he represents the intentions of his Government by giving his adhesion to an exchange of notes.

As regards the question whether the principle of reciprocity is embodied in the Federal law of December 19, 1879, the undersigned has the honor to invite your attention to the text of Article 7, paragraph 2, of the Federal law of December 19, 1879, and also to the contents of the message of the Federal Council relative thereto. In the aforesaid paragraph of the law of December 19, 1879, it is expressly provided that producers and merchants, whose business is carried on in a State which accords the right of reciprocity to Swiss citizens, may have their marks registered in the same manner as Swiss citizens. But one condition is added, viz.: That foreigners shall be obliged to prove that these marks are already protected in the State to which they belong, the sole object of which reservation is to prevent foreigners from depositing with fraudulent intent, under the protection of reciprocity, marks for which they cannot claim protection in their own country. The Federal Council, moreover, in its message of October 13, 1879, whereby it transmitted to the Federal Chambers a bill for the protection of trademarks, made the following declaration touching trademarks: "As regards foreign trademarks, we are of opinion that Switzerland should stand upon the ground of reciprocity, and that this is the only position that should be taken by us in the interest of our industry."

In view of this declaration the Federal Chambers, in accepting without material modification the aforesaid paragraph 2 of Article 7 of the law in question, were without doubt actuated by a desire to embody the principle of full reciprocity in the law.

The undersigned takes the liberty, in conclusion, to ask your attention to the fact that the Confederation has, since the promulgation of the aforesaid law, concluded a convention with various States for the protection of trademarks upon the basis of reciprocity—for instance, with Great Britain, Belgium, and the Netherlands; and that the Confederation, previously to the promulgation of that law, guaranteed, in its commercial treaties with France, Germany and Italy, protection in Switzerland for their trademarks to the citizens or subjects of those States.

The undersigned thinks that he has, by the foregoing, furnished proof that the Confederation recognizes the principles of reciprocity as regards the international protection of trademarks as an integral part of its public law, and that the United States may, with the most perfect confidence, enter into such an arrangement with the Confederation.

The undersigned avails himself, etc.,

E. FREY.

(2) Mr. Davis to Mr. Frey.

DEPARTMENT OF STATE,
WASHINGTON, MAY 14, 1883.

Colonel: I have the honor to acknowledge the receipt of your note of the 27th ultimo, concerning the reciprocal privilege of trademarks registration in the United States and Switzerland.

It gives me much pleasure to accept your declaration as evidence that the law of Switzerland affords such a guaranty of reciprocity in the matter as will make the application of the privileges of the Act of Congress of March 3, 1881, to owners of trademarks in Switzerland proper and certain.

This exchange of notes accomplishes the end in view of securing complete reciprocity under the legislation of the respective countries, and I have, therefore, communicated your note to the Secretary of the Interior, with this reply, and requested him to make the necessary regulations for admitting Swiss trademarks to all the privileges of registration which under that act pertain to the trademarks of American origin.

Now that the immediate object of our late correspondence on the subject is attained, permit me to suggest that, with a view to rendering the engagements of this Government with foreign nations as uniform as possible, the Government should be pleased to conclude and sign with you a formal trademarks convention, similar to that lately concluded with Spain, to which I have before referred, and of which I inclose a printed copy herewith.

Our present diplomatic accord will, of course, hold good until such formal convention can be made effective by ratification and exchange.

Accept, colonel, a renewed assurance of my highest consideration.

t,

John Davis,

Acting Secretary.

PART IV.

STATISTICS

REGARDING THE GRANT OF PATENTS AND REGISTRATION OF TRADEMARKS.

Sec. 230. General statistics regarding the grant of patents and registration of trademarks.1

Country.	Patents.				Trademarks.	
	Total to December 31, 1858.	Recent Years.			Recent Years.	
		Year.	Applica- tions filed.	Patents issued.	Applica- tions filed.	Regis- trations.
Austria-Hungary	82,933	1892		4,167		· ————————————————————————————————————
Austria	17,257	1894 1895 1896	5,633 5,80S	6,634 5,052		
Bahama Islands	2	1889	5,000	5,372 	*	
Barbados	106	1894 1895 1896		6 6 12	*	
Belgium	146,772	1894 1895 1896	5,566 5,720 6,346	5,548	574 693 900	574 693 900

^{*} Has no trademark law. See § 142.

¹ For patents published in the several countries see § 105.

^{*}Granted prior to July 7, 1895, when the joint patent law of Austria-Hungary ceased to be in force.

Granted since July 7, 1895.

	Patents.				Trademarks.	
Country.	Total to	Recent Years.			Recent Years.	
	December	Year.	Applica- tions filed.	Patents issued.	Applica- tions filed.	Regis- trations
Brazil	3,135					
		1891 1893 1894	442 151	143 128	169 162	141
British Guiana		1896	• • • •	200	*	,
British Honduras	126	• • •		• • •	*	}
biitish nondaras	20	1894		2	 	
	}	1895	• • • •	: 2		•
Canada	65 480	1896		4		1
Canada	65,489	1894	2 201	2,756		
	,	1895	3, 2 91 3,074	3.074	•	Ì
	t 1	1896	3,488	3,486		ļ
Ceylon	467					
•	1	1894		25	∤ -	
		1895	, • • • • ·	32 28		
Chili	205	1896	' • • • • • • • • • • • • • • • • • • •	28		
Denmark	9,326		∤ •			
	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	1894	625		138	130
			625 987 1,116	343	194	190
		1895 1896	1,116	343 56 5	198	194
Fiji Islands	22		· ,			<u>}</u>
	,	1891	; • • • • ;	I		
Finland	£	1893		1		
riniand	87 0 ,	1801	1	ET		}
		1894 1895		51 63		
		_		63 65		
France	297,166		, , , , , , , , , , , , , , , , , , ,	-0		ĺ
		1894	10,792	10,431	6,634	6,634
	•	1895	10,549	10,257	7,936	7,936
	, 	1896	11,820	11,430	8,089	8,089
Germany	118,6942 .	· O - ·		6 -0-	-0-0-	
		1894	14,964	6,280	10,781	1,496
		1895 1896	15,063 16,486	5,720	10,736 10,882	10,958 8,881
Great Britain	265,870	1090	. 10,400	5,410	10,002	0,001
		1894	25,386	11,639	8,013	2,905
		1895	25,065	12,191	8,272	2,821
	•	1896	30,194	12,473	9,466	
Guatemala	57					
		1894		I		
		1895	!	ΙÏ		

^{*} Has no trademark law. See § 142.

¹⁰¹ this number 7,349 are government grants issued prior to the adoption in 1894 of a law providing for the grant of patents. Owing to the delay caused by the preliminary examination required under the law, no patents were issued in 1894.

²Includes patents granted prior to July 1, 1877, in Baden, Bavaria, Prussia, Saxony and Wurtemburg.

Country.	Patents.				Trademarks.	
	Total to December 31, 1898.	Recent Years.			Recent	Years.
		Year.	Applica- tions filed.	Patents issued.	Applica- tions filed.	Regis- trations.
Hawaii	148	1896 1897		10		
Hong Kong	53	1897 1894 1895 1896		7 5		
Hungary	8,7951	1		3,352		
India (British)	5,635	1895 1896 1894 1895 1896	375	2,205 266 308	*	
Italy	46,9702	1894 1895 1896	2,460 2,573 3,015	2,420 2,390 2,850		
Jamaica	149	1893 1894 1895		10 5		
Japan	3,272	1894 1895 1896		326 223 169		
Leeward Islands	15	1896		I		
Liberia	3,452	1894 1895 1896		260 226		
Malta	327	1894		279	*	
Mexico	2,216	1896 1894 1595		125 154	. [
Netherlands	4,535 ⁸	1896 1894 1895 1896	None { since { 1869.	150	655	60 46 65

^{*} Has no trademark law. See § 142.

[†] Has no trademark law and has granted no patents for many years.

² Granted since July 7, 1895. See Austria-Hungary.

² Includes patents granted in Sardinia prior to 1864.

^{*} Granted prior to 1869, when the patent law was abolished.

Country.	Patents.				Trademarks.	
	Total to December 31, 1898.	Recent Years.			Recent Years.	
		Year.	Applica- tions filed.	Patents issued.	Applica- tions filed	Regis- trations.
Newfoundland	245	1892		6		
New South Wales	8,076	1893 1894	720	3 4		
New Zealand	6,131	1894 1895 1896	720 776 858	384 560 545		
		1894 1895 1896	756 816 992	353 361 478		347 254 279
Norway	8,486	1894 1895 1896	675 887	495 660		
Portugal	2,712	1894 1895	939 86 174	958 91 116	255 257	253 75
Queensland	3,870	1896 1894	265 323	174 202	179	125
Russia	7, 988	1895 1896	359 469	231 300	220 20S	204 108
St. Helena	.1	1894 1895 1896		290 300 300	*	
Serbia	†	1894 1895			S ₁	81 57
South African Republic.	1,131	1896 1894		104	34	57 34
South Australia	4,594	1895 1894	235	169 229		
Spain	20,621	1895 1896 1894	276 392 1,478	276 389 1,328	602	A26
Straits Settlements	78	1895 1896	1,476 1,706 1,656	1,525 1,585 1,547	874 1,002 *	436 478 993
		1892 1893 1894		3 10 2		

^{*} Has no trademark law.

[†] Has no patent law.

		Pat	Trademarks.				
Country.	Total to		Recent Yea	Recent Years.			
	December 31, 1898.	Year.	Applica- tions filed.	Patents issued.	Applica- tions filed.	Regis- trations.	
Sweden	12,677	1894	1,386	Q	268		
Switzerland	16,884	1895 1896	1,360	877 839 892	268 340 347	533 279 304	
		1894 1895 1896	1,949 2,123 2,266	1,690 1,874 1,971	562 812 891	524 765 844	
Tasmania	1,639	1894	103 151	73 76	102 115	57 97 89	
Trinidad	134	1896 1894 1895		196	113	89	
Tunis	229	1895	36	9			
Turkey	622	1895 1896	32 49	35 35 46			
United States	626,327	1894 1895 1896	38,459 40,680 43,982	20,867 22,057 23,373	2,053 2,112 2,005	1,806 1,829 1,813	
Uruguay	120 0.580			23,373 * †			
A ICTOURE	9,582	1890 1891 1892	1,019 956 882	611 556			
Western Australia	1,617	1894 1895 1896	28I 443	136 118 266	193	190	

No statistics regarding the grant of patents or the registration of trademarks in the following countries are available: Argentine Republic, Bolivia, British North Borneo,‡ British New Guinea, British South Africa, Bulgaria,|| Cape Colony,

^{*}From 1865 to 1896 an average of 13 patents per year.

[†] From 1879 to 1896 an average of 6 patents per year.

[‡] Has no trademark law. See § 142.

^{||} Has no patent law.

Colombia,* Congo Free State, Costa Rica, Ecuador,* French Indo China,* Greece,† Labuan,* Mysore,* Natal, Negri Sembilan,* Orange Free State, Perak,* Peru, Roumania,† and Selangor.*

Sec. 231. Patents granted and trademarks registered by citizens of the United States in foreign countries.

The following statement shows the number of patents taken out in the foreign countries named by citizens of the United States during the years named:

Austria	1895	3 35	1896	394	1897	462
Brazil	1896	22	1897	22		
Germany	1896	535	1897	537		
Great Britain ²	1896	2725	1897	3084		
Hungary	1895	136	1896	115	1897	196
New Zealand	1895	38	1896	51	1897	56
Queensland	1896	,41	1897	39		
Sweden	1894	427				
Switzerland	1896	92	1897	123		
Western Australia	1897	22	•			

The number of trademarks registered by citizens of the United States in the following named countries during the years named is as follows:

France	•	•	•	•		٠	•	•	•	•	•	•	1896	39	1897	113
Germany	•	•	•	•	•	•	•	•	•	•	•	•	1896	46	1897	46
Hungary	•	•	•	•	•	•	•	•	•	•	•	•	1895	16		
Netherlands	•	•	•	•	•	•	•	•	•	•	•	•	1897	29		
New Zealand	•	•	•	•	•	•	•	•	•	•	•	•	1896	IC	1897	33
Switzerland.	•	•	•		•	•	•	•	•	•	٠	•	1896	2	1897	17

^{*} Has no trademark law. See § 142.

[†] Has no patent law.

¹Compiled from statistics published from time to time in the Propriété Industrielle.

² Applications filed; the number of patents issued is not available.

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