

3. The concurrent use of the same mark on identical or similar goods by industrial or commercial establishments who, under the provisions of the national law of the country where protection is claimed, are considered as co-proprietors of the mark, shall not prevent the registration nor prejudice in any manner the protection granted to the said mark in any country of the Union, provided that such use does not result in misleading the public, and is not contrary to the public interest.

D. No sign or mention of the patent, of the utility model, of the registration of the trade mark or of the deposit of the industrial design or model shall be required upon the product as a condition of recognition of the right to protection.

ARTICLE 5 bis

1. An extension of time of not less than three months shall be allowed for the payment of the prescribed fees for the maintenance of industrial property rights, on condition (if the national legislation of a country so provides) of the payment of a supplementary fee.

2. In the case of patents, the countries of the Union further undertake, either to increase the above-mentioned extension of time to not less than six months, or to provide for the restoration of a patent which has expired by reason of the non-payment of fees, subject in each case to the conditions prescribed by the domestic legislation.

ARTICLE 5 ter

In each of the countries of the Union the following shall not be considered as infringements of the rights of a patentee.

(1) The use on board vessels of other countries of the Union of a patented invention in the body of the vessel, in the machinery, tackle, apparatus and other accessories, when such vessels penetrate temporarily or accidentally into the territorial waters of the country, provided that such invention is used exclusively for the actual needs of the vessel.

(2) The use of a patented invention in the construction or working of aircraft or land vehicles of other countries of the Union, or of the accessories to such aircraft or vehicles, when such aircraft or vehicles penetrate temporarily or accidentally into the country.

ARTICLE 6

A. Every trade mark duly registered in the country of origin shall be admitted for deposit and protected in its original form in the other countries of the Union, subject to the reservations indicated below. These countries may, before proceeding to final registration, require the production of a certificate of registration in the country of origin, issued by the competent authority. No legalization shall be required for this certificate.

B. 1. Nevertheless, registration of the following may be refused or cancelled:

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

(2) Marks which have no distinctive character, or which consist exclusively of signs or indications which serve in trade to designate the kind, quality, quantity, destination, value, place of origin of the goods or date of production, or which have become customary in the current language, or in the *bona fide* and recognized customs of the trade of the country where protection is claimed. In arriving at a decision as to the distinctive character of a mark, all the circumstances of the case must be taken into account, including the length of time during which the mark has been in use.