

“for non-working until the expiration of a minimum period of three years commencing from the date of the deposit of his application in the country in question, and in case the patentee fails to give satisfactory reasons for his inaction.”

Article VI. provides that a trade mark which has been duly registered in the country of origin shall be admitted for registration and protected in all the other States of the Union. The country of origin is that in which the applicant has his chief seat of business or that to which he belongs. Registration may be refused if the mark is contrary to morality or public order.

Paragraph 4 of the Final Protocol annexed to the International Convention qualifies this article as follows :—

“Part I. of Article VI. is to be understood as meaning that no trade mark shall be excluded from protection in any State of the Union, from the fact alone that it does not satisfy, in regard to the signs composing it, the conditions of the legislation of that State; provided that on this point it comply with the legislation of the country of origin, and that it had been properly registered in said country of origin. With this exception, which relates only to the form of the mark, and under reserve of the provisions of the other Articles of the Convention, the internal legislation of each State remains in force.”

It is also provided that the use of public armorial bearings and decorations comes within the meaning of the expression “contrary to public order.”

As showing the interpretation which is put upon Article VI. by the British Government, attention may be called to the following Declaration made by the British Delegates at the Conference of the International Union at Brussels in 1900 :—

“Her Britannic Majesty’s Government adhere to a proposal of the French Government for the maintenance of the actual text of Article VI. of the Convention of 1883 and paragraph 4 of the Final Protocol, provided that it be clearly understood that all the Contracting States remain at liberty to keep their existing law on the subject.

“It is understood, however, that in this respect foreigners shall be treated equally with native subjects or citizens.”

Article VII. provides that the nature of the goods on which the trade mark is to be used shall not be an obstacle to registration.

Article VIII. provides for the protection of a trade name without registration in all the States of the Union whether it forms part of a trade mark or not.

Article IX., as modified by the Additional Act of 1900, provides that goods illegally bearing a trade mark or trade name may be seized on importation into a State of the Union where the mark or trade name is protected. The seizure may be effected at the request either of the Public Prosecutor or of the interested party. In those States of the Union where the legislation does not permit of seizure, importation may be prohibited. The authorities are not compelled to effect the seizure in the case of goods in transit.

Article X., which has also been modified by the Additional Act of 1900, provides that Article IX. shall apply to all trade marks giving false indications of origin, when such indication is associated with a trade name of a fictitious character or assumed with a fraudulent intention. An interested party is defined as follows :—

“Any producer, manufacturer, or merchant engaged in the production, manufacture or sale of such goods and established either in the locality falsely described as the place of origin or in the district where that locality is situated.”

Article X. *bis*, which was inserted by the Additional Act of 1900, provides that subjects or citizens of the States parties to the Convention shall enjoy in all States of the Union the protection granted to natives against dishonest competition.

Article XI., as modified by the Additional Act of the 14th of December, 1900, provides that the High Contracting Parties shall, in conformity with the legislation of each country, grant temporary protection to patentable inventions, industrial designs or models, and to trade or commercial marks for articles exhibited at official or officially recognized International Exhibitions which have been organised in the territory of one of them.

Article XII. provides that each of the Contracting States shall establish “a special department for industrial property, and a central office for the communication to the public of patents of invention, industrial designs or models, and trade or commercial marks.”