

By the President of the United States of America
A PROCLAMATION

Whereas a General Inter-American Convention for Trade Mark and Commercial Protection was signed by the respective Plenipotentiaries of the United States of America, Peru, Bolivia, Paraguay, Ecuador, Uruguay, Dominican Republic, Chile, Panama, Venezuela, Costa Rica, Cuba, Guatemala, Haiti, Colombia, Brazil, Mexico, Nicaragua, and Honduras, at Washington on the twentieth day of February, one thousand nine hundred and twenty-nine, and a Protocol on the Inter-American Registration of Trade Marks was signed on the same day by Plenipotentiaries of the said countries except Uruguay, Chile, and Guatemala, which Convention and Protocol are word for word as follows:

**GENERAL INTER-AMERICAN CONVENTION
FOR TRADEMARK
AND COMMERCIAL PROTECTION**

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

Considering it necessary to revise the "Convention for the Protection of Commercial Industrial, and Agricultural Trade Marks and Commercial Names" signed at Santiago, Chile, on April 28, 1923, which replaced the "Convention for the Protection of Trade Marks" signed at Buenos Aires on August 20, 1910, with a view of introducing therein the reforms which the development of law and practice have make advisable.

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

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

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

[Editor's Note: The list of delegates provided within the original Convention has been omitted from this site]

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

CHAPTER I
Equality of Citizens and Aliens as to Trade Mark
and Commercial Protection

Article 1

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

CHAPTER II
Trade Mark Protection

Article 2

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

Article 3

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

Registration or deposit may be refused or canceled of marks.

1. The distinguishing elements of which infringe rights already acquired by another person in the country where registration or deposit is claimed.
2. Which lack any distinctive character or consist exclusively of words, symbols, or signs which serve in trade to designate the class, kind, quality, use, value, place or

origin of the products time of production, or which are or have become at the time registration or deposit is sought, generic or usual terms in current language or in the commercial usage of the country where registration or deposit is sought, when the owner of the marks seeks to appropriate them as a distinguishing element of his mark.

In determining the distinctive character of a mark, all the circumstances existing should be taken into account, particularly the duration of the use of the mark and if in fact it has acquired in the country where deposit registration or protection is sought, a significance distinctive of the applicant's goods.

3. Which offend public morals or which may be contrary to public order.
4. Which tend to expose persons, institutions, beliefs, national symbols, or those of associations of public interest, to ridicule or contempt.
5. Which contain representations of racial types or scenes typical or characteristic of any of the Contracting States, other than that of the origin of the mark.
6. Which have as a principle distinguishing element, phrases, names or slogans which constitute the trade name or as essential or characteristic part thereof, belonging to some person engaged in any of the other Contracting States in the manufacture, trade or production of articles or merchandise of the same class as that to which the mark is applied.

Article 4

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

Article 5

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

Article 6

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

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

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

Article 7

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

Article 8

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

- (a) That he enjoyed legal protection for his mark in another of the Contracting States prior to the date of the application for the registration or deposit which he seeks to cancel; and
- (b) That the claimant of the interfering mark, the cancellation of which is sought, had knowledge of the use, employment, registration or deposit in any of the Contracting States of the mark for the specific goods to which said interfering mark is applied, prior to adoption and use thereof or prior to the filing of the application or deposit of the mark which is sought to be canceled; or

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

Article 9

When the refusal of registration or deposit of a mark is based on a registration previously effected in accordance with this Convention, the owner of the refused mark shall have the right to request and obtain the cancellation of the mark previously registered or deposited, by proving, in accordance with the legal procedure of the country in which he is endeavoring to obtain registration or deposit of his mark, that the registrant of the mark which she desires to cancel, has abandoned it. The period within which a mark may be declared abandoned for lack of use shall be determined by the internal law of each country, and if there is no provision in the internal law, the period shall be two years and one day beginning from the date of registration or deposit if the mark has never been used, or one year and one day if the abandonment or lack of use took place after the mark has been used.

Article 10

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

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

Article 11

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

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

of the country in which it is to be effective.

Article 12

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

Article 13

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

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

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

CHAPTER III Protection of Commercial Names

Article 14

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

Article 15

The names of an individual surnames and trade names used by manufacturers, industrialists, merchants or agriculturists to denote their trade or calling, as well as the firm's name, the name or title legally adopted and used by associations, corporations,

companies or manufacturing, industrial, commercial or agriculture entities, in accordance with the provisions of the respective national laws, shall be understood to be commercial names.

Article 16

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

- (a) to prohibit the use or adoption of a commercial name identical or deceptively similar to one legally adopted and previously used by another engaged in the same business in any of the Contracting States; and
- (b) to prohibit the use registration or filing of a trade mark the distinguishing elements to which consist of the whole or an essential part of a commercial name legally adopted and previously used by owner domiciled or established in any of the Contracting States, engaged in the manufacturing, sale or production of products or merchandise of the same kind as those for which the trade mark is intended.

Article 17

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

Article 18

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

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

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

Article 19

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

CHAPTER IV Repression of Unfair Competition

Article 20

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

Article 21

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

- (a) Acts calculated directly or indirectly to represent that the goods or business of a manufacturer, industrialist, merchant or agriculturist are the goods or business of another manufacturer, industrialist, merchant or agriculturist of any of the other Contracting States, whether such representation be made by the appropriation or simulation of trademarks, symbols, distinctive names, the imitation of labels, wrappers, containers, commercial names, or other means of identifications;
- (b) The use of false descriptions of goods, by words, symbols, or other means tending to deceive the public in the country where the acts occur, with respect to the nature, quality, or utility of the goods;
- (c) The use of false indications of geographical origin or source of goods, by words,

symbols, or other means which tend in that respect to deceive the public in the country in which these acts occur;

- (d) To sell, or offer for sale to the public an article, product or merchandise of such form or appearance that even though it does not bear directly or indirectly an indication of origin or source, gives or produces, either by pictures, ornaments, or language employed in the text, the impression of being a product, article or commodity originating manufactured or produced in one of the other Contracting States;
- (e) Any other act or deed contrary to good faith in industrial commercial or agricultural matters which, because of its nature or purpose, may be considered analogous or similar to those above mentioned.

Article 22

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

CHAPTER V

Repression of False Indications of Geographical Origin or Source.

Article 23

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

Article 24

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

Article 25

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

Article 26

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

Article 27

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

Article 28

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

CHAPTER VI Remedies

Article 29

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

Article 30

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

Article 31

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

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

CHAPTER VII General Provisions

Article 32

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

Any differences which may arise with respect to the interpretation or application of the principles of this Convention shall be settled by the courts of justice of each State, and only in case of the denial of justice shall they be submitted to arbitration.

Article 33

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

Article 34

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

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

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

Article 35

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

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

Article 36

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

Article 37

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

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

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

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

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

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