



Treaty Series No. 69 (1947)

Agreement

between the Government of the United Kingdom
and the Government of Denmark

relating to certain rights in respect of Industrial
Property which have been affected by the War

London, 19th August, 1947

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

HIS MAJESTY'S STATIONERY OFFICE

ONE PENNY NET

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF DENMARK RELATING TO CERTAIN RIGHTS IN RESPECT OF INDUSTRIAL PROPERTY WHICH HAVE BEEN AFFECTED BY THE WAR

London, 19th August, 1947

THE Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Denmark, desiring to re-establish certain rights in respect of industrial property which have been affected by the war, have agreed as follows:—

ARTICLE 1

1. The territories to which the present Agreement applies are, on the one hand, the United Kingdom of Great Britain and Northern Ireland and any territory to which it has been made applicable by the Government of the United Kingdom under Article 7 below, and, on the other, the Kingdom of Denmark and any territory to which it has similarly been made applicable by the Government of Denmark; and the term "territory" or "territories" in relation to either of the contracting Governments shall denote the territory or territories to which the Agreement applies in respect of that Government.

2. The term "nationals of the contracting Governments" shall denote, in relation to the Government of the United Kingdom, British subjects belonging to the United Kingdom and, upon extension of the Agreement to any territory by notification under Article 7, British subjects and protected persons belonging to that territory, and, in relation to the Government of Denmark, Danish subjects and protected persons belonging to territories to which the Agreement applies in respect of Denmark; and shall in either case include companies and other juridical entities respectively incorporated in or established under the laws of any of the said territories.

ARTICLE 2

1. Nationals of either of the contracting Governments shall, on request made to the appropriate authority within a period of twelve months commencing from the coming into force of the present Agreement, be entitled in the territories of the other contracting Government to obtain without supplementary fee or penalty—

- (a) restoration of the priority rights stipulated in Article 4 of the International Industrial Property Convention of Paris of 20th March, 1883, as revised at London on 2nd June, 1934,⁽¹⁾ for the deposit of applications for patents or for the registration of trade marks and industrial designs or models, which had not expired on 3rd September, 1939, and of the priority rights which have arisen during the war or might have arisen if the war had not taken place in consequence of an application for a patent or for the registration of a trade mark or industrial design or model;
- (b) restoration of their applications for patents, or for the registration of trade marks and industrial designs or models, deemed to have been abandoned or expired since 3rd September, 1939, on condition of the accomplishment of all acts, of the fulfilment of all formalities,

(1) "Treaty Series No. 55 (1933)," Cmd. 5833.

of the payment of all taxes and generally of the fulfilment of all obligations prescribed by the laws and regulations of each country for obtaining or maintaining in force rights of industrial property;

- (c) restoration of rights of industrial property which have expired since 3rd September, 1939, in consequence of failure to accomplish any act, to fulfil any formality or to make any payment of fees, on condition that the said act, formality or payment is accomplished, fulfilled or made.

2.—(a) The restoration of a patent or design pursuant to paragraph 1 of this Article shall not entitle the patentee or registered proprietor of the design to commence any proceedings or recover any damages in respect of any infringement of the patent or design during the period between the date when the patent or design registration ceased and the date of restoration. Nevertheless, third parties who have *bona fide* commenced the exploitation of inventions or of industrial designs or models before the date of restoration shall on application be entitled to receive a non-exclusive licence for such exploitation after the date of restoration. In default of agreement between the parties, the conditions of the licence shall be fixed in accordance with the respective laws of the contracting Governments.

(b) The period of twelve months provided for in paragraph 1 of this Article may be extended on such conditions as may be fixed by agreement between the contracting Governments.

ARTICLE 3

Nationals of either contracting Government who establish that by reason of the war they have, as patentees, suffered loss or damage shall be entitled in the territories of the other to an extension of the term of their patents under the conditions prescribed by the laws of that territory.

ARTICLE 4

The period between 3rd September, 1939, and the date of the coming into force of the present Agreement shall be excluded from the periods prescribed for the exploitation of a patent, for the use of trade marks, or for the exploitation of industrial designs or models; further, no patent, or registration of a trade mark or industrial design or model, which was in force on 3rd September, 1939, shall be revoked or cancelled solely on the ground of non-exploitation or non-use before the expiration of a period of two years commencing from the coming into force of the present Agreement.

ARTICLE 5

The conditions of compulsory licences granted since 8th April, 1940, for the exploitation of rights of industrial property shall be reviewable at the request of any interested party, made in accordance with the legislation in force in the territory concerned. Any such review shall take into account all the relevant circumstances, including any damage suffered by the proprietor of the right by reason of its exploitation by the licensee under compulsory licence.

ARTICLE 6

The renewal of trade mark registrations which have reached the end of their normal period, if effected before the expiration of the period provided by Article 2, shall have the effect of ante-dating the term of the new period of protection to the date of expiration of the said normal period.

ARTICLE 7

1. The present Agreement is applicable as regards patents, trade marks, and industrial designs or models to those which are applied for or registered, in Denmark, at the Service of Industrial Property, and, in the United Kingdom, at the Patent Office.

2. Either Government may at any time by notification made to the other extend the present Agreement to any of its colonies, overseas territories, or territories under its suzerainty, protection, mandate or trusteeship, and the Agreement shall thereupon become applicable to all patents, trade marks and industrial designs or models applied for or registered in the territory or territories specified in the notification; provided, however, that the present Agreement shall not in respect of the provisions of sub-paragraphs 1 (a) and 2 (b) of Article 2 apply to any territory to which the International Convention of Paris of 20th March, 1883, as subsequently revised, has not been applied.

ARTICLE 8

The present Agreement shall come into force on the date of its signature.

In witness whereof, the undersigned, duly authorised by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

Done, in London, in duplicate, this 19th day of August, 1947, in the English language.

(L.S.) O. G. SARGENT.

(L.S.) WILHELM EICKHOFF.

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