

COMMENTARY ON  
THE PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL  
PROPERTY

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## **Introduction**

The Paris Convention for the Protection of Industrial Property (“Paris Convention” or just “Convention”) is one of the first, and arguably most important, of the various multilateral treaties protecting intellectual property. It addresses patents, marks, unfair competition whether or not implicating marks, and the related industrial property of industrial designs, utility models, geographical indications, trade names, possibly trade secrets within the context of unfair competition, but not copyright. The Convention secures for nationals, those domiciled, and those having a real and effective industrial or commercial establishment within a country party to the Convention, the important procedural advantages of national treatment and priority rights in respect of patents and trademarks. The Convention for the most part neither defines the rights it purports to protect nor guarantees any minimum level of protection for these rights. The scope and quality of the protection member nations are obligated to provide under the Convention are, in most instances, left to domestic legislation and tribunals to develop and define. While the enumerated protections serve primarily industrial interests, the Convention allows party states to retain some protectionist legislation, in the form of limited working requirements and compulsory licenses. The lack of provisions defining minimum substantive rights and mandating enforcement of those rights is thought to be justification for the Agreement on Trade Related Aspects of Intellectual Property Rights (“TRIPS”), a multilateral treaty that seeks to address these observed shortcomings.<sup>1</sup>

## **History of the Convention**

The impetus of the Paris Convention appears to have been two-fold: to avoid the unwanted loss of eligibility for patent protection through publication of patent applications and participation in international exhibitions in advance of filing national patent applications; and a desire that the diverse patent laws of nations be harmonized to some degree.

Prior to the Convention, those wanting protection for inventions in multiple countries needed to file patent applications in all such countries simultaneously, and needed to do so prior to any publication or exhibition of the invention at a trade fair, in order to avoid the unintentional loss of eligibility of patent protection in one or more of the countries. The challenge then facing inventors caused many who had been invited to the Austria-Hungary international exhibition of inventions held in Vienna in 1873 to be unwilling to exhibit their inventions, leading to the enactment of a special Austrian

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<sup>1</sup> A more detailed and authoritative treatment of the Convention as prepared by the informal reporter to the 1967 Stockholm conference of revision is found in *Guide to the Application of the Paris Convention for the Protection of Industrial Property As Revised at Stockholm in 1967*, G.H.C. Bodenhausen, (World Intellectual Property; February 1, 1968).

law that secured temporary protection to exhibitors and to the Congress of Vienna for Patent Reform, convened that same year.

The Congress of Vienna led in turn to an International Congress on Industrial Property, convened at Paris in 1878. That congress resolved that an international diplomatic conference tasked with determining the basis of uniform legislation in the field of industrial property should be convened. A draft convention proposing an international “union” for the protection of industrial property was circulated by the French Government together with an invitation to attend the International Conference in Paris in 1880. The 1880 Conference adopted a draft convention containing many of the provisions that underlie the Paris Convention today. That draft convention concluded at a further Diplomatic Conference convened in Paris in 1883.

Those approving and signing the original 1883 version of the Paris Convention were Belgium, Brazil, El Salvador, France, Guatemala, Italy, the Netherlands, Portugal, Serbia, Spain and Switzerland. The Convention became effective July 7, 1884, at which time Great Britain, Tunisia and Ecuador were also adherents. The United States joined soon after in 1887. By the end of the 19<sup>th</sup> Century, the Convention had only 19 members. It was not until after World War II that the membership in the Paris Convention increased significantly. Today the Convention boasts of 172 members. Taiwan and Kuwait remain outside the Union, while Taiwan commits to recognize priority claims of Union members pursuant to Article 27 of its Patent Act.

The Paris Convention underwent revisions, in Rome in 1886, in Madrid in 1890 and 1891, in Brussels in 1897 and 1900, in Washington in 1911, in The Hague in 1925, in London in 1934, in Lisbon in 1958, and in Stockholm in 1967, and was further amended on September 28, 1979. Many of the revisions are significant, particularly those concerning unfair competition. Most Union members adhere to the latest revision concluded in Stockholm, known as the Stockholm Act.<sup>2</sup>

Concurrent with the 1967 revision at Stockholm was the establishment of the World Intellectual Property Organization (“WIPO”). WIPO assumed responsibility from its predecessor international organization, the United International Bureau for the Protection of Intellectual Property, for administering the Convention.

Nations not yet members of the Paris Union that are members of the World Trade Organization (“WTO”) are obliged to comply with the substantive provisions of the Convention from the date of their application to the WTO. Article 2 of the TRIPS Agreement requires WTO members to comply with Articles 1 through 12 and 19 of the Paris Convention.

### **The Convention’s Substantive Provisions**

The provisions of the Convention fall into four broad categories: national treatment; right of priority; common rules for patents, marks and unfair competition; and administrative framework and final clauses.

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<sup>2</sup> A current list of members, the year each joined, and the Act each member adheres to, can be found on the WIPO webpage located at:  
[http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=ALL&start\\_year=ANY&end\\_year=ANY&search\\_what=C&treaty\\_id=2](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=ALL&start_year=ANY&end_year=ANY&search_what=C&treaty_id=2).

Those eligible for the benefits of the Convention comprise nationals of the member states of the Union, those domiciled in such member states, and those having a “real and effective” industrial or commercial establishment in a member state.

A person is considered domiciled in a member country if the person is more or less permanently resident in the country. An entity is considered domiciled in a member country if it has its headquarters there. The nationality of legal entities is determined with reference to national law, or where they are headquartered.

A “real and effective” industrial or commercial establishment requires more than a mail drop or the renting of an office without commercial activity, and is determined with reference to national law.

### National Treatment

The Convention guarantees national treatment through its Articles 2 and 3. In the terms of the Convention, national treatment requires that each member state grant the same quality and quantity of protection to eligible foreigners as it grants to its own nationals in respect to the intellectual property enumerated in the Convention.

The national treatment undertaking assures foreigners, both individuals and juristic entities, not only that their patents and marks will be protected in the foreign nation, but also that they will not be disadvantaged vis-à-vis nationals in terms of the scope and quality of intellectual property protection that will be accorded them in the foreign nation.

The Convention applies the principle of national treatment in lieu of and to the exclusion of the principle of reciprocity. A nation can neither advantage nor disadvantage a foreigner in terms of the protection it accords the foreigner based upon the protection the foreigner’s nation may extend to nationals of the forum state. In other words, nation A cannot grant a national of nation B a shortened patent term simply because the patent term of nation B is short relative to the patent term of nation A.

The concept of national treatment requires an even handed approach, as between nationals and those foreigners eligible for benefits under the Convention, both in terms of the codified laws, and also in terms of the practices of member states tribunals, their national courts as well as their administrative tribunals (the patent and trademark agencies).

An exception to the principle of national treatment is found in Article 2(3), which expressly allows member states to impose conditions relating to judicial or administrative procedure and to jurisdiction, as for example requiring foreigners to designate or appoint an agent for service or to post a bond for litigation, in conjunction with making application for patent or trademark protection.

The principle of national treatment does not assure any minimum level of substantive rights. For example, even though Switzerland was an adherent of the Convention from its inception, Switzerland had no obligation to accord foreign nationals patent rights

within Switzerland during that portion of its history (until fairly recently) when Switzerland was without laws protecting patents. Similarly, although service marks are specifically recognized by the Convention, the Convention also provides that member states have no specific obligation to recognize or register service marks.<sup>3</sup> Members of the Paris Union need only extend foreigners the quality and quantity of intellectual property protection the member nation extends to its own citizens, and only with respect to those types of intellectual property in regard to which protection is assured under the Convention.

### The Right of Priority

The right of priority, sometimes referred to as the “Convention priority right, “Paris Convention priority right,” or “Union priority right,” is found in Article 4. It provides that an applicant eligible for Convention benefits who files a first regular patent or trademark application in any of the countries of the Union, can then file subsequent applications in other countries of the Union for a defined period of time which subsequent applications will have an effective filing date as of the first filed application.

For (utility) patents and utility models (petty patents), the defined period is one year. For industrial designs (design patents) and trademarks, the defined period is six months. The duration of the priority periods are designed to take into account the conflicting interests of the applicant on the one hand, and of third parties on the other.

The practical effect of the priority right described in Article 4B is that second and subsequently filed applications filed in a Union country within the priority period are treated as if filed on the date the first application was filed.

The priority right is important, in the context of both patents and trademark applications, in that all applications filed within the priority right period will have priority over any intervening application for the same or closely similar invention or mark that may have been filed in that country by some third party. So, if a national of a Paris Convention nation files a first trademark application in country A, and nine months later files a second application for the same mark in country B, but meanwhile some five months after the first application a second applicant files an application for the same or very similar mark for the same or similar goods in country B, the first applicant will have priority over the second applicant in country B because the application in country B by the first applicant, although second in time in that country, will be treated as if filed at the time of that applicant’s first application in country A.

The priority right is additionally important in the context of patent applications because it preserves the novelty of the invention within the countries of the Union notwithstanding any publication, exhibition or other act capable of destroying novelty of the invention during the priority period. So, for example, an applicant eligible for Convention benefits can file a first patent application in country A, and thereafter request early publication from the patent office of that country, describe the invention in an industry journal, exhibit the invention in a trade show, and/or offer to sell or use publicly the invention, all during the one year priority period following the filing of a

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<sup>3</sup> Convention, Article 6 *sexies*, discussed *infra*..

first application, and still file before the end of that first year period parallel patent applications in countries B, C and D of the Union, without losing eligibility for patent protection in these countries notwithstanding that countries B, C and D are all countries whose patent laws insist on absolute novelty of invention without the benefit of a grace period.

This Convention priority right allows the applicant desiring protection in several countries of the Union the advantage and convenience of not having to file multiple applications simultaneously in all Union countries in which protection is desired without risking that others, particularly imitators in the case of marks, will file on the same or similar invention or mark between the time a first application is filed and a subsequent application is made in a Union country during the priority period, and also without risking loss of novelty due to publication or some other act capable of defeating novelty that may occur in this interim.

The priority right is only applicable with respect to a “first” application for a given invention or mark. The priority period does not begin to run again in the case of a subsequently filed application for patent on an invention that incorporates in part the invention for which a patent application was previously filed, or for a mark that resembles or incorporates in part a mark previously applied for. An applicant is not permitted to elongate the priority period in this manner, but rather is obliged to file all applications for the same or related inventions and marks in the Union member countries within the applicable priority period in order to obtain the benefits of the Convention priority right.

The right of priority may be invoked by a successor in title and the subsequent applications must concern the same invention or mark, but the category of protection applied for need not be identical in each case. As such a subsequent utility model application can claim priority based upon a first patent application, and vice versa, so long as the subject matter of the two applications are the same.

Although rights of priority are limited to the same invention or mark, multiple priorities and partial priorities may be claimed with reference to first filed patent applications, and priorities may even be combined from first applications filed in different member countries.

A first application must be “duly filed”, meaning comprising elements sufficient to obtain a filing date in accordance with the applicable national law. Provisional applications, and applications filed under multinational treaties, including PCT and EU patent applications, can qualify as a “first” application for purposes of the Union priority right.

The fate of the first filed application has no impact on the priority right. Withdrawal, rejection or abandonment of the “first” correctly filed application cannot destroy or alter in any way the right of priority of subsequently filed eligible patent and trademark applications.

#### Common Rules for Patents

Among the Convention provisions that provide substantive rules protecting patents and patentees are the following:

**The Principle of Independence of Patents:** Embodied in Article *4bis* is the principle that a patent application in one country of the Union is examined and granted or denied independent of applications for patents for the same or related inventions filed in other countries within and without the Union. Also, according to Article *4bis(5)*, patent terms are measured in accordance with the applicable national law without regard to (not shortened by) a priority claim.

**Right of the Inventor to be Mentioned:** Article *4ter* provides that the “inventor has the right to be named as such in the patent.”

**Patentability not Effected by Restrictions on the Product:** Article *4quarter* provides that a patent shall not be refused or invalidated because the product patented or obtained by means of a patented process is subject to restrictions on its sale or importation under the domestic law.

**Importation of Patented Products or Products Made from Patented Processes:** Article *5A(1)* provides that importation into a member country of products for which a patent has been granted in that country manufactured in another member country cannot result in forfeiture of patent rights in the country of importation.

Article *5quarter* provides that with respect to products imported into a member country manufactured by a process patented in the country of importation, the patentee will have all the rights with respect to the imported product that would normally be accorded the patentee with respect to products manufactured in that country. This latter provision protects the patentee of a process from importation into the country of finished products manufactured by the patented process outside the country of importation, but only where the domestic patent laws of the country of importation extend the patent right to products manufactured by patented processes.

**Failure to Work and Compulsory Licenses:** Article *5A(2)* through (4) allows countries to enact protectionist legislative measures granting compulsory licenses in order to prevent abuses that might result from the exclusive rights conferred by a patent for invention, namely the failure to work or to work sufficiently the patented invention within the member country, but the failure to work an invention cannot result in forfeiture of the patent except in cases where the grant of a compulsory license would not have been sufficient to prevent the abuse, and then only pursuant to a proceeding instituted no sooner than two years following the grant of the first compulsory license. Compulsory licenses must be non-exclusive, and cannot be granted before the later of four years from the date of filing of the patent application or three years from the grant of the patent. Compulsory licenses may also be granted in special cases, without alleged abuse on the part of the patent owner, where the patent affects a vital public interest, for example, in the fields of defense or public health. Compare Article 27 of TRIPS prohibiting countries from adopting working requirements for patents.

**Grace Period for Maintenance Fees:** Article *5bis* guarantees those holding patents in member states a grace period of at least six months to pay prescribed maintenance fees, and allows member states to provide for the restoration of patents that have lapsed by reason of non-payment of maintenance fees.

**Patents in International Traffic:** According to Article 5*ter*, patented devices on board ships, aircraft or land vehicles of other member countries that enter temporarily or accidentally within the territory of another member country need not obtain the approval or license from the patent owner by virtue of the temporary or accidental intrusion.

**Inventions Shown and Marks Exhibited at International Exhibitions:** According to Article 11 of the Convention, member countries are obliged to grant temporary protection, in the form of a right of priority or other assurance against the destruction of novelty, to inventions, models, designs and marks in respect of goods exhibited at “official” or “officially recognized” international exhibitions held in the territory of a member country.

### Common Rules Concerning Trademarks

Among the Convention provisions providing substantive rules protecting marks and their proprietors are the following:

**Cancellation for Non-Use:** Article 5C(1) allows countries to enact protectionist legislation for the cancellation of marks registered but not used within the member country, but only after a reasonable period has elapsed, and then only if the owner fails to justify the non-use. What constitutes a reasonable period is left to domestic law. Compare Article 19(1) of the TRIPS Agreement, which permits cancellation of registrations only after an uninterrupted period of three years of non-use.

**Use in a Form Different from the Form Registered:** Article 5C(2) protects the use of a mark in a form different from the form in which it has been registered, as long as the distinctive character of the mark is not thereby altered.

**Concurrent Use:** Article 5C(3) allows for the concurrent use of the same mark by two or more establishments that are co-proprietors, as long as such use does not mislead the public and is not otherwise contrary to public interest.

**Grace Period for Renewal Fees:** Article 5*bis* obliges the nations of the Union to grant trademark registrants a grace period of at least six months for the payment of renewal fees.

**Independence of Trademarks:** As in the case of patents, and flowing from the principle of national treatment, Article 6 of the Convention provides that marks registered in the various countries of the Union shall be regarded as independent of one another, including of the country of origin; and that the registration of marks may not be refused, nor invalidated, on the ground that the registration or renewal of the same or related mark has not been effected in the country of origin.

**Protection of Trademarks Registered in the Country of Origin:** Article 6*quinquies* sets forth an important exception to the principle of the independence of marks embodied in Article 6. According to Article 6*quiquies*, marks duly registered (not simply applied for) in the country of origin (being a member country in which the registrant has a real and effective industrial or commercial establishment, is domiciled or is a

national) must be accepted for filing and protected *telle quelle* (as is) in the other countries of the Union, subject to enumerated reservations that justify a refusal to register, to wit, that the mark would infringe acquired rights of third parties, is devoid of distinctive character, is contrary to morality or public order, or is of a nature to be liable to deceive the public, and also subject to provisions in Article 10*bis* concerning unfair competition. Once registered pursuant to this provision, the renewal of such marks is not dependent upon renewal of the registration in the country of origin.

**Protection for Unregistered Well-Known Marks:** Another notable provision concerning marks, found in Article 6*bis*, protects unregistered marks that qualify as “well-known” in a member nation. Union nations are obliged to refuse to register, or to cancel if already registered, and prohibit the use within their territory, of marks liable to create confusion with another trademark already well-known in that country for identical or similar goods. Because the well-known mark has already acquired goodwill in the subject country, allowing the registration or use of a confusingly similar mark constitutes an act of unfair competition and misleads the public. Whether a mark is well-known is determined by the applicable domestic law, although a trademark need not have been used in the country to be well-known there. For example, the supreme court of South Africa ruled in a 1996 decision<sup>4</sup> that the mark McDonald’s® was entitled to protection as a “well-known trademark” under Article 6*bis* of the Paris Convention despite having never been used as such at that time within South Africa. Although the concept of “well-known” marks is similar to the provision found in U.S. trademark law protecting “famous marks” from dilution, the protection for unregistered well-known marks under the Paris Convention is limited to marks used on the same or similar goods, whereas the U.S. anti-dilution law protects against the use of famous mark on unrelated goods and services. Marks that have been registered for a period of five years or more in Union member countries may not be cancelled under the provisions of Article 6*bis* notwithstanding that they may conflict with an unregistered well-known mark.

**State Emblems, Official Hallmarks and Emblems of International Organizations:** Article 6*ter* obliges member states to refuse to register, and to cancel and prohibit the use within their territory, of marks that comprise enumerated distinctive signs, such as flags, emblems, hallmarks and the like, of the member countries and certain international organizations.

**Assignment of Trademarks:** Article 6*quarter* provides that in the case of member countries whose laws require for a valid assignment the concurrent transfer of the business or goodwill to which the mark belongs, it is sufficient that the business or goodwill located within the member country be transferred, but the member country is not obliged to recognize an assignment of a nature as to mislead the public.

**Service Marks:** Article 6*sexies* was introduced into the Convention in 1958 to deal with service marks, allowing but not requiring member countries to undertake to protect service marks. Compare Article 15 of the Trademark Law Treaty of 1994 (“TLT”) that requires contracting parties register service marks and apply to such marks the protective provisions of the Paris Convention concerning trademarks.

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<sup>4</sup> *McDonald’s Corporation vs. Joburgers Drive-Inn Restaurant (PTY)*, Supreme Court of South Africa, Case No. 547/95, 1996.

Registration of Marks in the Name of the Agent: Article 6*septies* protects against an agent's unauthorized registration of a mark in its own name rather than in the name of the mark's proprietor, by conferring upon the proprietor the right to oppose the registration or demand its cancellation or assignment in the proprietor's favor.

Nature of Goods not an Obstacle to Registration: Article 7 of the Convention provides that "the nature of the goods to which a trademark is to be applied shall in no case form an obstacle to the registration of the mark." Registration of marks should occur independent of whether the goods in relation to which the mark will be used may be imported or sold within the member nation.

Collective Marks: Article 7*bis* obliges member nations to accept for filing and protect collective marks belonging to "associations" as long as the existence of the association is not contrary to the laws of the country of origin, and even if the association is not constituted or recognized in the member country in which protection for the collective mark is sought.

Industrial Designs: Article 5*quinqüies* provides only that "industrial designs shall be protected in all countries of the Union." Because the Convention fails to set out what form such protection might take, member countries may choose to satisfy this obligation through industrial design specific legislation, copyright laws, or laws protecting against unfair competition.

Trade Names: Article 8 obligates members of the Union to protect trade names without the obligation of filing or registration, irrespective of whether the trade name forms a part of a trademark. No further details are offered. While member countries cannot condition trade name protection on filing or registration, they may satisfy their undertaking to protect trade names either through trade name specific legislation, or more generally, through unfair competition laws.

Appellations of Origin and Indications of Source: The protection of geographical indications, including appellations of origin and indications of source, are among the objects enumerated in the Paris Convention, Article 1(2). Article 10 protects against any direct or indirect use of a false indication of source or identity of the producer, manufacturer or merchant, and Article 10*bis*, discussed below, protects also against any act of unfair competition through the use of an indication. Remedies, if available under domestic law, include those referenced in Article 9 concerning the seizing of goods bearing false indications and the prohibition on the importation of such goods. Article 10(2) empowers interested natural persons and legal entities to prosecute actions within the affected nation, while Article 10*ter* requires member countries to allow interested federations and trade associations to take actions with a view to the repression of such acts.

#### Common Rules Concerning Unfair Competition

Many of the common rules concerning trademarks and other indications of origin, discussed above, are relevant also to the Convention's stated objective of repressing unfair competition. The Convention provisions specific to unfair competition generically are discussed below.

Unfair Competition: Article 10*ter* of the Convention obligates members of the Union “to undertake to assure to nationals of the other countries of the Union appropriate legal remedies effectively to repress all the acts [of unfair competition] referred to in Articles 9, 10, and 10*bis*.” The provision fails to explain what might constitute “appropriate legal measures” and leaves the details and standard for these measures to each country to decide. Article 9 refers to goods unlawfully bearing a trademark or trade name. Article 10 refers to goods, discussed above, bearing a false appellation of origin or indication of source. Article 10*bis* of the Convention offers a more generic concept of unfair competition. It is the Article 10*bis* generic concept of unfair competition that, modernly, has generated the most interest and debate of all the provisions of the Paris Convention.

Unfair Competition Under Article 10*bis*: Article 10*bis*, like Article 10*ter*, obligates “countries of the Union to assure nationals of such countries effective protection against unfair competition.” Article 10*bis* offers in the manner of a minimum standard the definition that unfair competition constitutes “any act of competition contrary to the honest practices in industrial or commercial matters.” The article goes on to give the following three examples of acts that constitute unfair competition: (1) “all acts that create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor,” reflecting traditional concepts trademark infringement and passing off; (2) “false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor,” as for example, trade liable and false advertising; and (3) “indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quality, of the goods,” a provision directed at protecting consumer interests rather than competitor interests. These three examples are not limitative, but rather illustrative.

Commentators have argued that the “contrary to honest practices” standard found in Article 10*bis* embodies a concept of unfair competition that is broader than the concept of unfair competition found in the laws of many countries, including in U.S. and U.K. Commentators have also taken the position that provisions of the Paris Convention, including this one, are self-executing, meaning that countries acceding to the Convention incorporate the broader concept of unfair competition into their laws merely by virtue of having ratified the treaty, irrespective of whether special legislation is adopted that mirror the treaty provisions. U.S. courts appear split on the issue of whether the unfair competition standard of the Paris Convention is incorporated into its domestic laws through Article 44 of the Lanham Act, or that the Paris Convention and Article 44 simply grant reciprocal rights.<sup>5</sup> Courts thus far generally appear reluctant to agree that Article 10*bis* injects into the domestic laws of the members of the Union a prohibition on unfair competition that is more expansive than the prohibition spelled out in their respective domestic legislation or common law. So, for example, when a U.S. court was asked recently to find that acts of misappropriation of trade secrets constituted an “act contrary to the honest practices in industrial or commercial matters” incorporated by virtue of the Paris Convention into

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<sup>5</sup> For a good summary of U.S. court decisions construing Article 10*bis* of the Paris Convention, see P. Norton, *Note: The Effect of Article 10bis of the Paris Convention on American Unfair Competition Law*, 68 *Fordham L. Rev.* 225 (1999).

U.S. unfair competition law, the court agreed that the provisions of the Paris Convention were incorporated into U.S. law through its Lanham Act, but disagreed that Article 10*bis* of the Paris Convention expanded the U.S. law on unfair competition to include the act of misappropriating trade secrets.<sup>6</sup> It seems likely that this issue, of whether and to what extent Article 10*bis* expands domestic laws concerning unfair competition, will continue to develop.

#### General and Administrative Provisions

Article 12 of the Convention obligates member states to establish a central industrial property service, either itself or through a regional organization, responsible for communicating with the public on matters of patents, trademarks and the like, which service must also publish an official periodical journal.

Article 19 of the Convention specifically permits member countries to conclude separate agreements among themselves for the protection of industrial property as long as these separate agreements do not include provisions that contravene those of the Paris Convention.

Article 28 provides that disputes not otherwise settled may be brought before the International Court of Justice, but parties adhering to the Convention may, at the time of accession, opt out of this provision.

Other administrative provisions provide for the governmental organs of the Union, comprising an Assembly composed of representatives from each member nation that meets every two years and formulates long term policy and direction; an Executive Committee composed of one fourth of the membership of the Union, that meets once yearly; and the International Bureau, headed by the Director General of WIPO, that handles the day to day administrative tasks of the Union.

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<sup>6</sup> *BP Chemicals Ltd. vs. Jiangsu Sopo Corporation (Group) Ltd.*, 429 F.Supp.2d 1179 (E.D. Mo. 2006).