

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

**Fortieth Session
Geneva, November 12 to 16, 2018**

PROPOSAL BY THE DELEGATION OF SPAIN

Document prepared by the Secretariat

In a communication dated October 10, 2018, the Delegation of Spain transmitted to the International Bureau of the World Intellectual Property Organization (WIPO) the proposal contained in the Annex to the present document.

[Annex follows]

Proposal by the Delegation of Spain for a Study on the Protection of Industrial Designs at Trade Shows in Member States

BACKGROUND

1. In accordance with article 11 of the Paris Convention for the Protection of Industrial Property, temporary protection is provided at some international exhibitions for inventions, utility models, industrial designs and trademarks.

2. Article 11 reads as follows:

“(1) The countries of the Union shall, in conformity with their domestic legislation, grant temporary protection to patentable inventions, utility models, industrial designs, and trademarks, in respect of goods exhibited at official or officially recognized international exhibitions held in the territory of any of them.

(2) Such temporary protection shall not extend the periods provided by Article 4. If, later, the right of priority is invoked, the authorities of any country may provide that the period shall start from the date of introduction of the goods into the exhibition.

(3) Each country may require, as proof of the identity of the article exhibited and of the date of its introduction, such documentary evidence as it considers necessary.”

3. As mentioned in the Guide to the Application of the Paris Convention for the Protection of Industrial Property (revised at Stockholm in 1967), by Professor G. H. C. Bodenhausen, Director of BIRPI, the failure to adequately protect industrial property at international exhibitions was one of the very reasons for concluding the Convention in 1883.

4. Article 11 provides for the obligation on Member States to enact and enforce legislation on the temporary protection of industrial property for products exhibited at certain trade shows. It gives Member States the freedom to decide how best to provide such protection. Some countries grant property rights similar to those referred to in article 4 of the Convention. It is also possible to rule that, for a certain length of time, exhibiting products does not destroy their novelty.

5. There is no harmonized definition of “official or officially recognized international exhibitions”. Certain Member States and supranational organizations have adopted the definition provided in the Convention Relating to International Exhibitions, signed in Paris on November 22, 1928. However, as indicated by Professor Bodenhausen, this definition cannot be applied to article 11, given its purpose.

6. This lack of harmonization is having a very detrimental effect on users of the system, who may encounter different approaches depending on the Member State where protection is sought.

PROPOSAL

It is proposed that the Secretariat of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications should prepare and conduct a survey among Member States to determine how the protection provided for under article 11 of the Paris Convention is implemented and how the term “official or officially recognized international exhibitions” is interpreted.

[End of Annex and of document]