

foreigners who apply in the United Kingdom for patents under the Convention, to file with their application a complete specification setting out fully the objects and mode of working of their patents, and by shortening the period at present allowed for the acceptance of that specification. At present a period of nine months is allowed before the complete specification must be filed, and the latter specification need not be accepted until the expiration of twelve months from the date of the application. These periods may be extended to ten and fifteen months respectively.

The proposal put before the Conference was to extend the period of priority fixed by the Convention in the case of patents to twelve months, and in the case of trade-marks to four months in all cases.

We stated our readiness to agree to seven months for patents and four months for trade-marks, as now provided by English law. A vote on the extension to twelve months was eventually taken, with the following result:

Ayes, 9.—Belgium, Brazil, Spain, United States, Italy, Norway, Netherlands, Sweden, Switzerland.

Noes, 4.—France, Portugal, Servia, Tunis.

Abstention, 1.—Denmark.

Reserved Vote, 1.—Great Britain.

Germany and Austria had no votes, not being as yet parties to the Union.

As it was clear that unanimity could not be obtained, and bearing in mind the importance which is attached to the entry of Germany into the Union, we thought it best to reserve our vote, so as not to have the appearance of closing the door to possible future negotiations.

(b.) *Forfeiture of Patents for Non-working.*

Several of the contracting States are desirous of adding to the Convention provisions to mitigate the severity of the laws in force in some of the States of the Union, which provide for the forfeiture of patents which are not being worked in the countries in which they are taken out by foreigners.

The proposal on this subject, which was brought forward by the International Bureau as a basis of discussion, was to add the following two paragraphs to Article V. of the Convention of 1883:—

Nevertheless, he shall only be subject to this obligation after a minimum delay of _____ years, at the expiration of which judgment may be given in favour of the forfeiture of the patent if the patentee fail to account for his inaction.

The following shall be considered as one of the justifiable grounds of inaction: The absence of any offer to the patentee to acquire licenses from him on equitable terms after he shall have invited such offers by the publication of notices recognised as satisfactory.

Under the English law patents are not forfeited for non-working, but non-working is one of the grounds on which compulsory licenses may at any time be obtained under section 22 of the Act of 1883.

In the course of the discussions on this subject, it appeared that the proposal of the Bureau was intended to affect not only the forfeiture of patents, and was not designed in any way to modify the law as to compulsory licenses under section 22. No objection was therefore raised to our proposal to make this clear by substituting the words "*le brevet ne pourra être frappé de déchéance pour cause de non exploitation,*" for the words "*il ne sera soumis à cette obligation*" on the first line of the above paragraphs.

The proposal, as thus amended, would have had the effect of affording some protection against forfeiture to British patents taken out in foreign countries, while in no way affecting our law under section 22.

Considerable divergence of opinion was manifested as to the minimum period at the expiration of which a patent should be forfeitable for non-working, the French delegates being strongly in favour of not extending this period beyond two years, while several of the delegates, including those of Germany, were very desirous that it should be extended to three years.

The French delegates strongly objected to the second of the proposed additional paragraphs, which was supported by Germany and other States.

As it became evident that unanimity was not procurable on this subject, the question was reserved for future consideration.

Germany will probably not join the Union unless the three years can be granted.

(c.) *Article VI., relative to the obligation to Register a Trade-mark "telle quelle," or in the Form originally registered in another State of the Union.*

Article VI. of the Convention of 1883 is as follows:—

Every trade-mark duly registered in the country of origin shall be admitted for registration and protected in the form originally registered in all the other countries of the Union. That country shall be deemed the country of origin where the applicant has his chief seat of business. If this chief seat of business is not situated in one of the countries of the Union, the country to which the applicant belongs shall be deemed the country of origin. Registration may be refused if the object for which it is solicited is considered contrary to morality or public order.

Paragraph 4 of the final protocol adds the following explanations:—

4. Paragraph 1 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.

To avoid misconstruction, it is agreed that the use of public armorial bearings and decorations may be considered as being contrary to public order in the sense of the last paragraph of Article VI.