



**International Trademark Association**

1133 Avenue of the Americas, New York, NY 10036-6710 USA

Telephone: 212-768-9887 Fax: 212-768-7796

**International Use and Recognition of**  
**Trademark Forms of Notice**

**International Trademark Association**  
**Forms of Notice Subcommittee**  
**Issues and Policy Committee**  
**Spring 2000**

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**TABLE OF CONTENTS**

<b>I.</b>	<b>INTRODUCTION</b>	. . . . .	<b>1</b>
<b>II.</b>	<b>METHODOLOGY</b>	. . . . .	<b>1</b>
<b>III.</b>	<b>RESULTS</b>		
	<b>A. Accepted Forms of Notice</b>	. . . . .	<b>2</b>
	<b>B. Failure to Indicate that a Registered Mark is Registered</b>	. . . . .	<b>3</b>
	<b>C. Falsely Indicating that a Mark is Registered When It Is Not</b>	. . . . .	<b>3</b>
	<b>D. Defenses to Falsely Representing that a Mark Is Registered</b>	. . . . .	<b>4</b>
	<b>E. Enforcement Practices.</b>	. . . . .	<b>4</b>
<b>IV.</b>	<b>CONCLUSION</b>	. . . . .	<b>5</b>

**APPENDICES**

- A. APPENDIX A – Data Chart**
- B. APPENDIX B – INTA Forms of Notice Subcommittee**
- C. APPENDIX C – INTA Board Resolution: Relaxation of Trademark Registration Notice Requirements and Sanctions**

**Report on International Use and Recognition of Trademark Forms of Notice  
Forms of Notice Subcommittee, Issues and Policy Committee  
Spring 2000**

**I. Introduction**

Forms of notice law and practice on a global scale is an important issue to the member companies of INTA. Trademark owners want to be assured when they market products and services around the world that product packaging and promotional materials comply with all relevant local laws and practices. With this consideration in mind, INTA perceived a utility in obtaining and summarizing global forms of notice information.

In order to achieve an effective overview of forms of notice practices throughout the world, INTA's Issues and Policy Committee formed the Forms of Notice Subcommittee. Through a survey of many INTA members world-wide, the Forms of Notice Subcommittee was able to solicit and compile information regarding accepted forms of notice, ramifications (if any) for failure to identify a mark as registered or for falsely identifying a mark as registered, and defenses and prosecution practices with respect to the foregoing actions.

**II. Methodology**

The Subcommittee's first task was to create a survey questionnaire to send to at least one INTA member in each of INTA's member countries. The questions ultimately listed in the questionnaire are as follows:

- (1) What are the accepted Forms of Notice indicating that: (a) a trademark is registered? (b) trademark rights are claimed, but an application is pending? (c) trademark rights are claimed, but the trademark is not the subject of an application or registration?
- (2) What are the ramifications/sections (if any) for failing to indicate that: (a) a registered mark is registered? (b) a trademark is the subject of a pending application?
- (3) What are the ramifications/sanctions of falsely indicating that: (a) a trademark is registered, when it is not? (b) a trademark is the subject of a pending application, when it is not?
- (4) Based on your answer to Question Number 3, is it a defense to claim that the trademark is registered or applied for: (a) in the country from which the goods have been exported? (b) in the country of origin of the owner? (c) anywhere?
- (5) As a practical matter, to what extent do the relevant authorities enforce the sanctions for falsely representing that a trademark is registered or applied for?

Survey questionnaires were sent out in the autumn of 1998. Collection of responses to the questionnaires started in October 1998 and continued until the end of the 1998-1999 INTA Committee year. A final set of completed survey questionnaires were assembled in the spring of 1999. A list of subcommittee members who participated in this project is provided as Appendix B to this report.

Completed questionnaires were grouped by country into the following five regions: Asia/Pacific, Africa and the Middle East, Western and Eastern Europe, Central and South America, and North America and the Caribbean. Five Subcommittee members were then assigned to assess the responses, one member per region. From the completed surveys, data was compiled in chart form with respect to all surveyed countries, which chart is attached as Appendix A to this report. The data in the charts was also summarized in paragraph form, as set forth below.

### III. Results

#### A. Accepted Forms of Notice

The ® symbol appears to be universally recognized in the Asia/Pacific region to connote registration of the trademark with which it is associated. Other forms of notice to indicate registration of a mark include the words “Registered Trade Mark” and “Registered Mark.” The ™ symbol is also commonly recognized and use of this symbol appears to be permitted in connection with both registered and unregistered marks in every jurisdiction. It is noteworthy that trademark laws in certain countries, including Australia, Bangladesh, Hong Kong and New Zealand, do not have any provisions regarding required or recommended forms of notice.

In Africa and the Middle East, the ® symbol is generally accepted. In some of the countries, while there are no provisions in the law indicating what is legally accepted, in practice the ® is accepted. In some African and Middle Eastern countries, the words “registered” or other equivalent words were accepted. In Iran, display of the trademark registration number is also accepted. Because laws in several of the countries contain no provisions regarding notification, trademark owners in those countries are left to use whatever wording or symbols they wish.

In Europe, the ® symbol is a generally accepted form of notice to indicate that the trademark is registered (with the exception of Finland, whose legislation does not provide for any form of notice). The ™ symbol is generally accepted as a form of notice in Europe to indicate that rights are claimed in an unregistered trademark. This symbol may also be replaced by wording in local language that is equivalent in meaning.

With respect to South American countries, the ® symbol is accepted only in Paraguay and Ecuador. Central American countries accept other forms of notice besides the ® symbol. In North America and the Caribbean, the ® symbol is a generally accepted form of notice for trademarks registered in the country concerned, as is the ™ symbol for

unregistered trademarks. An exception is reported in the Bahamas, where the full indications “Registered Trademark” and “Trademark,” respectively, should be used.

**B. Failure to Indicate that a Registered Mark is Registered**

Countries in the Asia/Pacific region do not impose penalties for not indicating that a trademark is registered if, in fact, it is. The trademark laws in some of these countries, the Philippines in particular, do provide certain procedural benefits to including the registration notice if an infringement action is brought involving a registered mark. In general, trademark counsel in these countries feel that inclusion of the registration symbol ® with marks registered in their respective jurisdictions is always a good idea.

In general, there are not any ramifications in Africa or the Middle East for failure to indicate that a mark is registered when it is. In Iran, however, pharmaceutical products, toiletry articles and foodstuffs bearing registered marks must also bear the registration number and the date of registration. Similarly in Europe, there are no reported ramifications for not indicating that the trademark is registered.

There are no consequences for not indicating that a trademark is registered in any South or Central American country. In North America and the Caribbean, there are no sanctions for failing to indicate that a trademark is registered; although it is to be noted that in the United States a registrant may not recover profits or money damages in a suit for infringement if he failed to use the ® symbol or to notify the defendant of his registration.

**C. Falsely Indicating that a Mark is Registered When It Is Not**

Indicating that a mark is registered when, in fact, it is not, merits sanctions in most countries in the Asia/Pacific region. In particular, trademark laws in many countries, including Brunei, India, Japan, Korea, Malaysia, Pakistan and Sri Lanka provide for both fines and imprisonment. Laws in other jurisdictions, such as Australia, New Zealand and Singapore, only impose fines. In yet other jurisdictions, varying forms of reprimand or punishment may be imposed, including seizure of the offending goods (China) and refusal to register the mark at a later date (Pakistan).

In several Middle Eastern and African countries, both criminal and civil penalties exist for falsely indicating that a trademark is registered. By contrast, in some European countries there are no specific provisions against falsely indicating that the trademark is registered. However, civil liability may be involved for statements and indications in conflict with Marketing Practices and/or Unfair Competition Legislation (in Denmark, Estonia and Sweden). In some other countries (such as Iceland, Ireland, Italy and Portugal) administrative or criminal sanctions, including imprisonment, may be imposed.

With respect to South America and Central America, there are ramifications for falsely indicating that a trademark is registered only in Columbia, Ecuador, Guyana and Peru. Civil and criminal sanctions, are provided in most countries of North America and the Caribbean for falsely indicating that a trademark is registered. Fines are generally imposed, but in some cases (as in Canada and the Bahamas) imprisonment or summary conviction may result.

#### **D. Defenses to Falsely Representing that a Mark Is Registered**

Most countries in the Asia/Pacific region that impose penalties for false indication of a registered mark do not generally recognize registration of the mark elsewhere as a defense to such a misrepresentation. However, in certain limited circumstances, representing that a mark is registered when it is not locally registered may be excused. Such circumstances include when an unequivocal statement is made on product packaging that the mark is registered elsewhere<sup>1</sup> (Australia, India, Japan, Korea, Malaysia, New Zealand and Pakistan) or when the mark is affixed to goods intended for export only (Brunei, China, India, Malaysia, New Zealand and Singapore).

In the Middle East region, and specifically in Iran, Kuwait and Yemen, registration of the mark elsewhere may be a defense to use of the registration symbol when the mark is not registered in one of these countries. For example, in Yemen, the mark can be registered in the country to which the goods are being exported. In Iran, registration in the country of origin could be a defense. In Egypt, Jordan and Syria, however, registration of a mark elsewhere would not act as a defense. In Israel, registration elsewhere may be a defense in view of the broad principal of good faith adopted into local law.

While registration elsewhere is not a defense in most European countries, in Denmark it may be, provided that the trademark is registered in one or more of the countries which are members of the European Union. In Iceland, registration elsewhere is a defense. In Central and South America, registration elsewhere is a defense if a cancellation proceeding is brought against the mark falsely indicated as registered. In North America and the Caribbean, registration elsewhere is not generally considered a valid defense, unless indication is given that the registration symbol refers to that other country.

#### **E. Enforcement Practices**

In most of the countries surveyed in the Asia/Pacific region, law enforcement agencies are relatively lax about enforcing laws and imposing sanctions for falsely indicating that a mark is registered. Actions will in some instances be undertaken by the local registrar of trademarks or by local authorities if an aggrieved party brings such a false indication to their attention. In at least one jurisdiction (Bahrain) the local laws

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<sup>1</sup> e.g., "This mark is registered in \_\_\_\_\_."

regarding registration misrepresentations are “strictly enforced” and in at least one other jurisdiction (Taiwan), such laws are never enforced.

In Egypt and Syria, penalties against those who falsely represent that a trademark is registered are reported to be strictly enforced. With the exception of Qatar, where there are no provisions in the trademark law that regulate trademark indications, penalties and sanctions in other Middle Eastern countries are not strictly enforced or enforcement is often left to a third party that brings the false indications to the attention of the appropriate government authority.

In Africa, Eastern and Western Europe, Central and South America, and the Caribbean and North America, sanctions for falsely indicating that a trademark is registered are not enforced “ex officio,” but only upon the initiative of concerned third parties through notification to the appropriate government authority.

#### **IV. Conclusion**

This report is not intended to pass judgement on global forms of notice law and practices. Rather, this report is intended to assist companies in better anticipating labeling and advertising requirements for goods and services offered in international commerce. In addition, the hope of the Forms of Notice Subcommittee in providing this overview of forms of notice laws and practices is to enable INTA to formulate and pursue policy regarding harmonization of such laws and practices.

The Forms of Notice Subcommittee has made every effort to verify the accuracy of responses to the survey questionnaires. However, since many countries continue to amend their laws and modify practices, some of the information contained herein may have changed by the time of publication of this report. In addition, inaccuracies may result from necessary generalizations made with respect to entire regions because responses were not received from every country in the region. Finally, irregularities may have arisen due to differences in the interpretation of local law and practices by the individuals who responded to the questionnaires. This report is intended to be a working document and will be updated with new information from time to time. Anyone wishing to suggest revisions or corrections may contact INTA.



**APPENDIX A**

**DATA CHART**

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Argentina	No. The ® symbol is not an accepted form of notice.	Yes. "Marca Registrada" is the accepted form of notice.	No.			
Australia	Yes. The ® symbol is accepted and used to indicate that a mark is registered although use of this symbol is not prescribed by local law.	Yes. "regd. trade mark" and "regd. ™" can also be used to indicate that a mark is registered. The ™ symbol can be and is used in connection with all marks, whether registered or not.	No.	Yes. A fine may be imposed for this criminal offense and third-party causes of action may be brought.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____").	Local authorities are not actively enforcing sanctions for false representation that a mark is registered, although if such actions are brought to the attention of the authorities by an injured third party, enforcement may be undertaken.
Bahamas	No. The ® symbol is not an accepted form of notice.	Yes. "Registered Trademark" is the accepted form of notice.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No.	No known enforcement of law imposing fines for falsely indicating that a mark is registered.
Bahrain	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The ™ symbol can be used in connection with all marks, whether registered or not.	No.	Yes. Local trademark law provides for "punishment."	No.	Local law regarding misrepresentation that a mark is registered is "strictly enforced."

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Bangladesh	Yes. The ® symbol is commonly used, although use of this symbol is not prescribed by local law.	No regulated forms of notice.	No.	No.	N/A	
Belarus, Republic of	Yes. The ® symbol is accepted.	No.	No.	No.	N/A	No administrative investigations or court hearings for false use of registration symbols have been carried out.
Bermuda	Yes. The ® symbol is accepted.	Yes. The ™ symbol is also accepted.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____").	
Bolivia	No. The ® symbol is not an accepted form of notice.	Yes. "Marca Registrada" is the accepted form of notice.	No.	No.	N/A	
Brazil	No. The ® symbol is not an accepted form of notice.	Yes. "Marca Registrada" is the accepted form of notice.	No.	No.	N/A	
Brunei	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The ™ symbol can be used in connection with all marks, whether registered or not.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No. Unless the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Canada	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol, “MD” “Marque Déposée” and “Registered Trade Mark” are also accepted.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	Yes.	
Chile	No. The ® symbol is not an accepted form of notice.	Yes. “Marca Registrada” is the accepted form of notice.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.		
China	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The Chinese characters to note “Registered Mark” or the Chinese registration symbol can also be used to show that a mark has been registered. Although the ™ symbol is commonly used, this form of notice is not regulated.	No.	Yes. A fine may be imposed, and the notice-bearing goods may be seized for indicating that a mark is registered if it is not.	No. Unless the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	
Columbia	No. The ® symbol is not an accepted form of notice.	Yes. “Marca Registrada” is the accepted form of notice.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.		
Denmark	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ and SM symbols are also accepted.	No.	No. A false statement may, however, be in conflict with Marketing Practices Legislation.	Yes. There may be a defense if the mark is registered or an application is pending in another European Community member country.	

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Ecuador	Yes. The ® symbol is an accepted form of notice.	Yes. "Marca Registrada" is also an accepted form of notice.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.		
Egypt	Yes. The ® symbol is an accepted form of notice.	Yes. "Registered Trademark" is also an accepted form of notice.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No.	Local law regarding misrepresentation that a mark is registered is "strictly enforced."
Estonia	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol is also accepted.	No.	No. Yet general civil liability could be imposed in cases of "false indication."	Yes. Registration of the mark in the country from which the goods are exported or in the country of origin of the owner will be a defense.	
Finland	No regulated forms of notice.	No regulated forms of notice.	No.	Yes. Under local business law, ones own business activities must not use untruthful or misleading expressions.		
Georgia	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol or statement "Trademark Registered in Georgia" are also accepted.	No.	No.	N/A	
Guyana	No. The ® symbol is not an accepted form of notice.	Yes. "Registered Trademark" is the accepted form of notice.	No.	Yes. Punishable under the Merchandise Marks Act.		
Hong Kong	No regulated forms of notice.	No regulated forms of notice.	No.	Yes. The party may be subject to a reprimand from the Registrar and third-party causes of action.	No.	Local authorities are not actively enforcing sanctions for false representation that a mark is registered.

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Iceland	Yes. The ® symbol is an accepted form of notice.	Yes. “Skrásett vörumerki” can also be used to indicate that a mark is registered. The ™ symbol or word “vörumerki” can be used in connection with a mark if an application is pending.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No.	
India	Yes. The ® symbol is commonly used, although use of this symbol is not prescribed by local law.	Yes. Although the ™ and ® symbols are commonly used, there are no regulated forms of notice.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., “This mark is registered in _____.”) or if the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	Local authorities are not actively enforcing sanctions for false representation that a mark is registered, although admonishment and making the guilty party agree never to repeat such activities is common..

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Iran		Yes. The trademark registration number may be posted. Pharmaceutical products, toiletry articles and foodstuffs must bear the number and date of registration.		Yes.	Yes. Registration in the country of origin may be a defense if a copy of the registration can be provided.	The registrar does not actively enforce sanctions for false representation that a mark is registered. Enforcement action is left to interested parties.
Ireland	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol or other word or symbol to show that trademark rights are claimed may be used.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	Yes. Registration in any other country is a defense.	
Israel	Yes. The ® symbol is an accepted form of notice.	Yes. "Registered" or any words implying such may be used.	No. Although providing notice makes it easier to prove an intentional infringement.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	Perhaps. Given broad principles of good faith under local law, defenses may be entertained.	No known enforcement of law imposing fines for falsely indicating that a mark is registered.

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Italy	Yes. The ® symbol is an accepted form of notice.	Yes. The words “Marchio Registrato” and “Marca Registrata” can also be used to show that a mark has been registered. The ™ symbol and words “Marchio Depositato” can be used in connection with a mark for which there is a pending application.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No.	
Japan	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The words “Registered Mark” can also be used to show that a mark has been registered. The ™ symbol can be and is used in connection with a mark for which there is a pending application.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., “This mark is registered in _____.”)	
Jordan	Yes. The ® symbol is an accepted form of notice.		No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No.	Fines will only be imposed if the mark indicated as registered is the subject of an existing registration under local law.



Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Korea	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	None mentioned.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____.")	Local authorities are not actively enforcing sanctions for false representation that a mark is registered.
Kenya	No regulated forms of notice.	No regulated forms of notice.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.		Local authorities do not enforce sanctions for false representation that a mark is registered.
Kuwait				Yes. Fines may be imposed for indicating that a mark is registered if it is not.	Yes.	
Latvia	Yes. The ® symbol is an accepted form of notice.	Yes. Any work that gives notice of a trademark registration may be used.	No.	Yes. Local law prohibits trademark owners from misleading the public by affixing notice when a mark is not registered.	Yes.	
Lebanon	No regulated forms of notice.	No regulated forms of notice.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.		

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Lithuania	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol is accepted if an application is pending.	No.	No.		
Malaysia	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The ™ symbol can be and is used in connection with all marks, whether registered or not.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____.") or if the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	The registrar does not actively enforce sanctions for false representation that a mark is registered. Enforcement action is left to interested parties.
Moldova	Yes. The ® symbol is an accepted form of notice.	Yes. Any work that gives notice of a trademark registration may be used.	No.	No.	N/A	

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
New Zealand	Yes. The ® symbol is accepted and used to indicate that a mark is registered although use of this symbol is not prescribed by local law.	Yes. "Registered Trade Mark" and "Regd ™" can also be used to indicate that a mark is registered. The ™ symbol can be and is used in connection with all marks, whether registered or not.	No.	Yes. A fine may be imposed for indicating that a mark is registered if it is not.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____.") or if the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	There are no known cases in which sanctions have been enforced for false representation that a mark is registered.
Oman	Yes. The ® symbol is an accepted form of notice.		No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not.		
Pakistan	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The ™ symbol can be and is used in connection with all marks, whether registered or not, although there are no regulated forms of notice.	No.	Yes. Fines and imprisonment may be imposed for indicating that a mark is registered if it is not. In addition, the mark may be later refused registration.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____.")	Local authorities are not actively enforcing sanctions for false representation that a mark is registered but such sanctions might be enforced by the Registrar if brought to its attention by an aggrieved party.

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Paraguay	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol is also accepted.	No.	No.	N/A	
Peru	No. The ® symbol is not an accepted form of notice.	Yes. “Marca Registrada” or “MR” are the accepted form of notice.	No.	Yes. Confiscation of the goods bearing the false indication or destruction of falsely identifying signs may be imposed.		
Philippines	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. The words “Registered Mark” can also be used to show that a mark has been registered.	No. Although, there may be legal ramifications if an infringement action is brought by the owner of a registered mark that does not display the registration symbol – the burden on the trademark owner to prove that the infringer had knowledge of the registration is higher.	Yes. Philippine penal code provides for sanctions.	Yes, unless it could be established that the owner of the mark making the representation that the mark is registered was acting with malice.	Local authorities are not actively enforcing sanctions for false representation that a mark is registered.
Portugal	Yes. The ® symbol is an accepted form of notice.	Yes. “Marca Registrada” or “M.R.” are also accepted forms of notice for registered marks.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No.	
Qatar	Yes.					No provisions in local trademark law regulating forms of notice.

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Russian Federation	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol or words "Registered Trademark" are also accepted forms of notice.	No.	No.	N/A	
Singapore	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	The ™ symbol can be used in connection with all marks, whether registered or not.	No.	Yes. Fines may be imposed for indicating that a mark is registered if it is not.	No. Unless the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	Local authorities are not actively enforcing sanctions for false representation that a mark is registered.
Spain	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol is also accepted.	No.	Yes. Local law could consider such indications false statements.		
Sri Lanka	The ® symbol is accepted and used to indicate that a mark is registered.	The ™ symbol is also used to indicate that a mark is registered.	No.	Yes. Fines and imprisonment may be imposed for stating that a mark is "Registered" if it is not. However, use of the ® or ™ symbols are not subject to such sanctions.	Registration elsewhere may be a defense.	

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Sweden	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol, the words "This is a Registered Trademark" or a footnote with asterisk indicating "A Trademark of _____" are also accepted.	No.	Yes. Such indications could violate unfair competition law.		
Syria	Yes. The ® symbol is an accepted form of notice.		No.	Yes. Criminal and civil penalties may be imposed for falsely indicating that a mark is registered.	No.	Local law regarding misrepresentation that a mark is registered is "strictly enforced."
Taiwan	The ® symbol is accepted and used to indicate that a mark is registered.	The ™ symbol can be used in connection with all marks, whether registered or not.	No.	Not available.	Yes.	Local authorities rarely enforce sanctions for false representation that a mark is registered.
Turkey	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol, standing for "Tescilli Marka" or "Registered Trademark" is also accepted to indicate that a mark is registered.	No.	No.	N/A	

Country	Is the ® symbol accepted?	Are any other forms of notice accepted? List.	Are there ramifications for not indicating TM is registered?	Are there ramifications for falsely indicating TM is registered?	Is registration elsewhere a defense? If so, where?	Comments
Ukraine	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol is accepted if an application is pending.	No.	No.	N/A	
United States	Yes. The ® symbol is accepted and used to indicate that a mark is registered.	Yes. "Registered in U.S. Patent and Trademark Office" or "Reg. U.S. Pat. & TM Off." may also be used to indicate registered marks. The ™ symbol can be used in connection with all marks, whether registered or not.	Yes. If notice is not displayed, the trademark owner may not recover profits or monetary damages in an infringement action unless the defendant had actual notice. Damages may be available under state law.	Yes. Entity giving false indication may be subject to claim of fraud.	No. Unless the statement clearly stated that the mark is registered in another country (e.g., "This mark is registered in _____.")	The Patent and Trademark Office does not actively enforce sanctions for false representation that a mark is registered. Enforcement action is left to interested parties.
Uruguay	No. The ® symbol is not an accepted form of notice.	Yes. "Marca Registrada" is the accepted form of notice.	No.	No.	N/A	
Venezuela	No. The ® symbol is not an accepted form of notice.	Yes. "Marca Registrada" is the accepted form of notice.	No.	No.	N/A	
Yemen	Yes. The ® symbol is an accepted form of notice.	Yes. The ™ symbol or words "Registered Trademark" are also accepted.	No.	Yes. The registration process may be interrupted until the false indication is removed.	No. Unless the goods to which the mark and registration symbol are affixed are exported and the mark is registered in the importing country.	Local authorities do not enforce sanctions for false representation that a mark is registered unless a third party opposes such representations, which is rare.

## **APPENDIX B**

### **INTA – Forms of Notice Subcommittee**

**Alfredo G. Brito (Brito & Vasquez, Ecuador)**  
**Amy E. Carroll (Drinker Biddle & Reath, USA)**  
**Mark Foreman (Rouse & Co. International, UK)**  
**Joanne Ludovici-Lint (McDermott, Will & Emery, USA)**  
**Carlo Mezzanotte (Jacobacci & Perani, Italy)**  
**Camille M. Miller (Woodcock Washburn Kurtz Mackiewicz & Norris LLP, USA)**  
**Laura Genovese Miller (Woodcock Washburn Kurtz Mackiewicz & Norris LLP, USA)**  
**Douglas Pulitzer (Pulitzer Law Firm, USA)**  
**Brent Routman (Merchant & Gould, USA)**  
**Paul Walsh (Bristows, UK)**  
**Nancy A. Zoubek (Pennie & Edmonds LLP, USA)**



**APPENDIX C**

**INTA Board Resolution**

**Relaxation of Trademark Registration Notice Requirements and Sanctions**

## **REQUEST FOR ACTION BY THE INTA BOARD OF DIRECTORS**

### **Relaxation of Trademark Registration Notice Requirements and Sanctions**

**March 2, 1999**

**ACTION REQUEST:** The Forms of Notice Subcommittee of the Issues and Policy Committee requests that the Board of Directors adopt a resolution approving the relaxation of: (1) requirements to indicate that a trademark is registered; and (2) sanctions and liabilities for indicating that a trademark is registered when it is not, in a country in which the goods bearing the mark are supplied or circulating.

#### **PROPOSED RESOLUTION:**

**WHEREAS,** in some countries once a trademark is registered, it is mandatory to indicate such registration on packaging; and

**WHEREAS,** most countries do not permit companies to indicate that the trademark is registered (by whatever means) on packaging when it is not so registered in that country; and

**WHEREAS,** in some countries there are significant penalties for violating notice rules; and

**WHEREAS,** these requirements make it difficult for trademark owners to market the same package in multiple countries;

**BE IT RESOLVED,** that it is the position of the International Trademark Association that:

- 1) It should not be mandatory to represent that a trademark is registered**
- 2) The ® should be one of the legally permissible designations to indicate that a trademark is registered.**
- 3) Absent an intent to mislead, it should not be a civil wrong or criminal offence in a country where a mark is not registered, to represent that it is registered by use of a legally permissible designation, provided said mark is registered in:**
  - (a) the country in which the trademark owner has either a domicile or a seat; or**
  - (b) the country in which the product was first manufactured; or**
  - (c) the country in which the product was first marketed.**

## **BACKGROUND**

**With the evolution of global trade, companies frequently market their products in packaging that facilitates their sale throughout the world. Uniform packaging enables companies to quickly meet demand and to benefit from substantial cost savings in the marketing and packaging of their products. The recent ability of companies to offer their products for sale over the Internet reflects the further globalization of markets and the need to create standard packaging for multiple markets.**

**Because of the substantial expense, companies often do not register their trademarks in every country into which they might sell their products either on a structured basis or in response to ad hoc orders, or where their products might be sold by third party distributors.**

**In this highly competitive environment, companies should be free to market their products in any manner they so choose providing they do not infringe prior rights or mislead the consumer. Accordingly, there should be no requirement that a trademark owner indicate that its mark is registered in any particular country (this should be for the trademark owner to decide), and it should be permissible to use ®, arguably the most widely accepted symbol of registration.**

**Although legislation in this regard appears to be rarely enforced, the possible sanctions are in some instances quite draconian. For example, in Oman and South Korea, representing that a trademark is registered, when it is not, can result in imprisonment of up to three years. The same act in Malaysia can result in imprisonment of up to five years. In addition to or as an alternative to imprisonment, fines can be imposed, as in the case of Panama, ranging from US\$10,000 to US\$200,000. Penalties also can be accompanied by suspension of the license to conduct business.**

**For the foregoing reasons, the Forms of Notice Subcommittee requests that the Board of Directors adopt this Resolution so that INTA may oppose this type of legislation and encourage the international harmonization of notice requirements.**

**PASSED WITH AMENDMENTS**