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FRANCE

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This guide provides a basic profile of this jurisdiction's trademark law and practice and is not intended to take the place of professional advice given with full knowledge of the specific circumstances of each case and proficiency in the law of this jurisdiction such as might be provided by a local trademark attorney.

For more information about particular areas of practice, please see INTA's companion online publications: [International Opposition Guide](#), [Trademark Cancellations](#), [Practitioner's Guide to Madrid Agreement and the Madrid Protocol](#), [Global Portal](#).

CONTRIBUTOR: Aurelia Marie, Cabinet Beau De Lomenie, Paris, France

PRINCIPAL EDITOR: Robert D. Weston, Phillips & Leigh, London, United Kingdom

PRINCIPAL EDITOR: Christine James, Kilpatrick Townsend & Stockton LLP, Atlanta, United States

PRINCIPAL EDITOR: John Weston, Phillips & Leigh, London, United Kingdom

PRINCIPAL EDITOR: Christian Ernst, De La Barra, Ernst & Siebel, Santiago, Chile

I. GENERAL

A. Rights Afforded by Registration

- Registration is mandatory to establish rights to a trademark; this is a "first to file" jurisdiction.
- Use of an unregistered mark for any goods or services is legal.

B. Time Frame for Obtaining Registration

- The approximate time from application to registration (for a regular prosecution, without opposition) is: four months.

C. Advantages of Registration

- The advantages of registering a trademark include the following:
 - it is the sole means of obtaining right or title to the trademark (Rights come from registration, and registration allows the owner to claim trademark protection.);
 - it provides prima facie evidence of ownership and validity (When a trademark is registered it is opposable to third parties, and only a court decision can cancel the trademark because of prior rights or lack of validity.);
 - it provides national/regional protection (A French registration gives rights in the entire French territory, including Corsica, overseas departments and overseas territories, Mayotte and Saint Pierre et Miquelon.);
 - it allows use of "Registered Trademark" or other suitable abbreviations to demonstrate ownership of the trademark (Even if marking is not compulsory when the trademark is registered, "Registered Trademark" is information that can be given to third parties.);
 - it allows access to bring actions in particular courts (Registration allows the owner to claim trademark protection against identical or similar signs used without authorization or registered after the trademark; when the application is not registered, courts have to suspend the procedure and wait for registration.);
 - it helps to deter others from unlawfully using the trademark;

- it encourages licensees and provides the opportunity to generate royalties through licensing.

II. PRE-FILING

A. Registrable Trademarks

- The following signs that can be reproduced graphically and are capable of distinguishing the goods or services of one person or entity from another are registrable as a trademark:
 - words;
 - names;
 - devices;
 - certain three-dimensional shapes;
 - colors;
 - slogans;
 - sounds;
 - trade dress/get-up;
 - holograms.

For general information about non-traditional marks, see:

Topic Portal: <http://www.inta.org/Advocacy/Pages/NontraditionalMarks.aspx>

Fact Sheet:

<http://www.inta.org/TrademarkBasics/FactSheets/Pages/NontraditionalTrademarksFactSheet.aspx>

For information about protecting trade dress, see:

<http://www.inta.org/TradeDress/Pages/TradeDress.aspx>

- The special requirements for the registration of three-dimensional shapes are: The trademark shall not be functional; the shape shall be imposed by the nature of the designated product and shall not give to the designated product its substantial value. This applies to all figurative trademarks, whether two- or three-dimensional.
- There are no special requirements for the registration of colors.
- The special requirements for the registration of sounds are: The sound shall be represented graphically in a way that is clear, precise, complete, easily accessible, durable and objective.
- There are no special requirements for the registration of trade dress.
- There are no special requirements for the registration of holograms.
- Marks registered in black and white or grayscale are construed broadly to protect the mark both as registered and in other color combinations.
- In addition to regular trademark registrations, the following types of trademarks are registrable:
 - collective marks;
 - certification marks;
 - well-known marks;
 - service marks.
- Retail services are registrable provided that the nature of the retail services is clearly identified.
- The following are not registrable as trademarks:
 - marks contrary to moral standards or public order;
 - generic terms;
 - names, flags or symbols of states, nations, regions, or of international organizations;
 - non-distinctive trademarks absent a showing of acquired distinctiveness (secondary meaning);

- marks that function principally as geographic location names (but not Geographic Indications or Appellations of Origin) (When the name identifies the origin of the goods and/or services, it is considered as descriptive of the origin or misleading.).
- Geographical indications (GIs) are protected in this jurisdiction.
- GIs are protected by way of:
 - special laws for the protection of geographical indications or appellations of origin;
 - laws against unfair competition;
 - consumer protection laws;
 - specific laws or decrees that recognize individual geographical indications
- The following products or categories are subject to GI protection in this jurisdiction: food products and wines/alcoholic beverages, handcrafted and manufactured products.

B. Searching

- While conducting a private pre-filing search is not mandatory, it is recommended in that it can:
 - save the applicant the time, effort and cost entailed in developing, adopting and applying to register a trademark in which someone else has prior rights. There is no examination of prior rights in France.
- The national office is accessible online at the following URL: www.inpi.fr.
- The official register can be searched online. However, only identical searches can be done. For a full search, it is advisable to work with a trademark attorney.

C. Use

- An applicant does not benefit from pre-filing use of a trademark.
- When a mark is not registered, use of that mark may provide the following benefits:
 - Special protection against infringement may be available for a well-known trademark that is not registered. Proving that a trademark is well known is very difficult.

D. International Treaties

- France is a member of the following international treaties relating to intellectual property:
 - Paris Convention;
 - Trademark Law Treaty;
 - Singapore Treaty;
 - Madrid Agreement;
 - Madrid Protocol;
 - Nice Agreement;
 - Vienna Agreement;
 - Lisbon Agreement.

III. FILING

A. Requirements

- If the applicant is not domiciled in this jurisdiction, a local address for service must be provided.
- Joint applicants are permitted in this jurisdiction. In case the application is filed in the name of joint applicants, it is recommended that they draft regulations between them for the use of the trademark and the way it should be managed (renewals, litigations, contracts, etc.).
- Neither actual use nor intent to use is required for application.

- The following information is required to complete an application:
 - name and address of the applicant;
 - state or country of incorporation;
 - representation of trademark (a depiction of the mark an applicant seeks to register);
 - list of goods/services;
 - power of attorney (however, no power of attorney is required when the filing is done through an IP attorney);
 - official filing fee.
- While ALL of the items noted in the list immediately above are required to COMPLETE an application, ONLY THE FOLLOWING ITEMS from that list are required in order to SECURE A FILING DATE:
 - name and address of the applicant;
 - state or country of incorporation;
 - representation of trademark (a depiction of the mark an applicant seeks to register);
 - list of goods/services;
 - power of attorney (however, no power of attorney is requested when the filing is done through an IP attorney);
 - official filing fee.
- The list of goods and services in this jurisdiction may specify:
 - the relevant Class heading (if it gives a clear definition of the goods or services);
 - a list of the common commercial names for the specific goods or services of interest;
 - the relevant entire (long) alphabetic class listing.
- The following number of copies of the trademark must be submitted: Five copies of the application must be filed, and when the application concerns a collective certification mark, ten copies of the regulation are to be filed.
- In this jurisdiction, the following type of registration is available:
 - national;
 - regional;
 - international.
- This jurisdiction is a member of both the Madrid Protocol and the Madrid Agreement and may be designated in international applications.
- This country is a member of the European Union; a Community Trade Mark registration is effective in this jurisdiction. (See the entry for the Community Trade Mark.)
- No multinational regional registrations are available in this jurisdiction.
- An international application is subject to the same registrability requirements and examination procedure as a locally filed application. (See the entry for the Madrid Agreement and Protocol.)
- Applications can be filed online at the following URL: www.inpi.fr.
- The official file cannot be accessed online.
- Applications are not officially searched as to prior trademarks.

B. Priority

- If an applicant's home country is a member of the Paris Convention, the filing date of its home application can be claimed as the filing date in this jurisdiction, provided that its home application was filed within the fixed period of six months preceding the application in this jurisdiction.
- If an applicant's home country is a member of the World Trade Organization, it should be possible to claim the home filing date. (Consult a local trademark attorney.)

- An International registration can be based on a national application or registration in this jurisdiction.

C. Classification

- This jurisdiction uses the Nice Classification System.
- If a trademark covers more than one class of goods and/or services, one application can cover multiple classes of goods or services.
- For a multi-class application, the applicant must pay additional class fees if the goods/services fall into more than the following number of classes: three.

D. Representation

- An application to register a trademark may be filed directly in this jurisdiction by:
 - the applicant, but only if a citizen of or domiciled in the jurisdiction;
 - a trademark representative/attorney/agent, even if not a citizen of or domiciled in the jurisdiction (This representative/attorney/agent can be from another country of the European Union.).

IV. APPLICATION

A. Publication

- The filing particulars of an application are made available to the public.
- The filing particulars are made available to the public:
 - through publication and online.
- The following application details are made available to the public:
 - mark;
 - name of applicant;
 - address of applicant;
 - state or country of incorporation of applicant;
 - citizenship of applicant;
 - application number;
 - application date;
 - goods/services;
 - priority claim information;
 - representation of trademark.

B. Examination

- Applications are examined in respect of:
 - formalities, i.e., for compliance with the filing requirements;
 - classification, i.e., to ensure that the goods or services fall within the class(es) listed in the application;
 - descriptiveness, i.e., to check whether a trademark functions solely to provide information about the goods and services affiliated with the trademark;
 - distinctiveness, i.e., to ensure that trademarks are capable of being represented graphically and of distinguishing goods or services of one individual or organization from those of other individuals or organizations;
 - deceptiveness, i.e., to check whether a trademark of such a nature as to deceive the public (for instance as to the nature, quality or geographic origins of the goods or services).
- This jurisdiction does not have disclaimer practice (i.e., a practice whereby the applicant must disclaim any exclusive right to an element of a trademark that is not distinctive).
- The order of the application process is as follows:

- Examination, publication, registration.

C. Prosecution

- Accelerated examination may not be requested.
- The following rights are established by a pending application:
 - the filing date of the application establishes a home filing date for purposes of priority;
 - the pending application can be used in a third party opposition proceeding against a subsequent (later filed) conflicting application;
 - the pending application establishes a prima facie proof of ownership of a trademark.

D. Opposition

- An application can be opposed.
- The following can be grounds for opposition:
 - proprietary rights, such as an earlier conflicting registration;
 - rights under Article 6 bis of the Paris Convention (notorious or well-known mark).
- An application is published for opposition purposes after formal examination of the application.
- The opposition period begins on the following date: as of the publication of the application.
- The opposition period ends on the following date: two months after the publication of the application.
- The following parties may oppose an application:
 - the owner of an earlier right;
 - a licensee (A registered exclusive licensee may oppose an application instead of the trademark owner unless the license contract provides otherwise.).
- Oppositions can be filed online.

E. Proof of Use

- Proof of use is not required prior to the issuance of a registration or the issuance of a notice of allowance/acceptance.

V. ASSIGNMENT AND LICENSING OF AN APPLICATION

A. Assignment

- An application can be assigned.
- An assignment of an application must be for the entire territory covered by the application.
- An assignment of an application can be for some or all of the goods or services listed in the application.
- Goodwill need not be included in an assignment of an application.
- A written assignment for an application requires:
 - name of the assignor;
 - address of the assignor;
 - citizenship of the assignor;
 - name of the assignee;
 - address of the assignee;
 - citizenship of the assignee;
 - details of the trademark being assigned;
 - the territory being assigned;

- the effective date of the assignment;
 - signature by the assignor;
 - signature by the assignee;
 - consideration (either actual or nominal).
 - The validity of an assignment is subject to contract law. There is no legal requirement attached to what is required for assignment in the French Intellectual Property Code.
- Legal verification of a written assignment document is not required.
 - An assignment of an application must be recorded to be effective.

B. Licensing

- An application can be licensed.
- A license of an application can be made for a portion of the territory covered by the application.
- A license of an application can be for some of the goods or services listed in the application.
- A license of an application can be exclusive (only one licensee, with the owner excluded).
- A license of an application can be sole (only one licensee and the owner).
- A license of an application can be non-exclusive (multiple licensees and the owner).
- Use, by a related company, of a mark that is the subject of an application need not be licensed.
- A license of an application can be made with a time limitation.
- A license document for an application requires:
 - the name of the licensor;
 - the address of the licensor;
 - the citizenship of the licensor;
 - the name of the licensee;
 - the address of the licensee;
 - the citizenship of the licensee;
 - details of the trademark to be licensed;
 - the goods and services being licensed;
 - the commencement date of the license;
 - the term of the license;
 - without limitation of time;
 - the territory of the license;
 - signature by the licensor;
 - signature by the licensee.
 - Licenses are subject to general contract law. There is no disposition as to what license contracts require in the French Intellectual Property Code.
- Legal verification of a written license agreement is not required.
- A license of an application need not be recorded to be effective. However, it is still recommended in order to have the license opposable to third parties and for third parties to be informed of the license. The recordal can be done by extract.

VI. REGISTRATION

A. Requirements

- A fee is not required for issuance of the registration.
- The following documentation is required for issuance of the registration:
 - none.

B. Rights

- The following rights are established by registration:
 - the exclusive right to use the registered trademark;
 - the right to oppose subsequent conflicting applications;
 - the right to bring a cancellation action against a subsequent conflicting registration;
 - the right to sue for infringement against confusingly similar third party trademark use;
 - the right to license other third parties to use the trademark;
 - the right to apply for seizure by customs authorities for importation of counterfeit goods;
 - the right to obtain damages for infringement.
- A trademark becomes incontestable, that is, the validity of the registration cannot be challenged, after the following time period:
 - never. The validity of a registration can always be challenged after registration on several grounds (e.g., non-use, genericness, descriptiveness).
- The territorial limit of registration is: metropolitan France; Corsica; Martinique; Guadeloupe (including Saint-Barthelemy and the French part of Saint-Martin); French Guyana; Reunion; French Polynesia; New Caledonia; Wallis and Futuna; French Antarctic Territories; Mayotte and Saint-Pierre et Miquelon. Note: When Law No. 2004-192 of 27 February 2004 regarding the autonomous status of French Polynesia came into force, French industrial property rights ceased to extend to this territory and therefore no longer gave protection there. French Polynesia has now adopted the following laws and regulations to fill this legal void: Applications in French Polynesia are possible as of January 1, 2014; trademarks that have been issued by the French Intellectual Property Office and are still in force may be extended to French Polynesia, allowing the trademarks to be protected in French Polynesia under the same conditions as in continental France, particularly in terms of the duration of protection. This recognition is automatic for titles issued before the entry into force of Law No. 2004-192 and optional for titles issued after the entry into force of Law No. 2004-192. Owners of the above-mentioned rights have a period of two years from the entry into force of the implementing regulations to exercise their option with French Polynesia.

C. Term

- The initial term of a registration is:
 - ten years.
- The beginning of the term of a registration is calculated from the:
 - application date.

D. Marking Requirements

- Marking is not compulsory for registered trademarks, but is advisable because: it provides information to third parties.
- Any marking should be in the form(s) mentioned below. Please consult with your local attorney in case of doubt.
 - There is no compulsory form for the marking.
- The use of ® is not legally recognized.

VII. ASSIGNMENT AND LICENSING OF A REGISTRATION

A. Assignment

- A registration can be assigned.
- An assignment of a registration must be for the entire territory covered by the registration.

- An assignment of a registration can be for some or all of the goods or services listed in the registration.
- Goodwill need not be included in an assignment of a registration.
- An assignment document for a registration requires:
 - the name of the assignor;
 - the address of the assignor;
 - the citizenship of the assignor;
 - the name of the assignee;
 - the address of the assignee;
 - the citizenship of the assignee;
 - details of the trademark being assigned;
 - the goods and services being assigned;
 - the effective date of the assignment;
 - signature by the assignor;
 - signature by the assignee;
 - consideration (either actual or nominal).
 - The validity of a registration can always be challenged after registration on several grounds (e.g., non-use, genericness, descriptiveness).
- Legal verification of a written assignment document is not required.
- An assignment of a registration must be recorded to be effective. Only a transfer or modification of rights in a registered trademark that is recorded in the National Register of Marks will have effect against others. Recordal can be made by extracts.

B. Licensing

- A registration can be licensed.
- In this jurisdiction recordation of a registered trademark user is the sole means of registering the rights of another to use the mark. In addition, when the licensee is exclusive, the registration of the license is necessary for allowing him to act instead of the trademark owner in opposition procedures or before the courts.
- A license of a registration can be made for a portion of the territory covered by the registration.
- A license of a registration can be for all or some of the goods or services listed in the registration.
- A license of a registration can be exclusive (only one licensee, with the owner excluded).
- A license of a registration can be sole (only one licensee and the owner).
- A license of a registration can be non-exclusive (multiple licensees and the owner).
- Use, by a related company, of a registered mark need not be licensed.
- A license of a registration can be made with or without a time limitation.
- A license document for a registration requires:
 - the name of the licensor;
 - the address of the licensor;
 - the citizenship of the licensor;
 - the name of the licensee;
 - the address of the licensee;
 - the citizenship of the licensee;
 - details of the trademark to be licensed;
 - the goods and services being licensed;
 - the commencement date of the license;
 - the term of the license;
 - the territory of the license;

- simple signature by the licensor (see below for execution requirements);
- simple signature by the licensee (see below for execution requirements);
- Note: There is no relevant provision under trademark law. This issue is a contractual one and the conditions shall be those applicable to contracts.
- Legal verification of a written license agreement is not required.
- A license of a registration need not be recorded, but could help in enforcement, to demonstrate use of the mark.
- The license for a renewed registration need not be re-recorded.

VIII. POST-REGISTRATION

A. Use Requirements

- Attack on the ground of non-use is available.
- To avoid being attacked on the ground of non-use, a trademark must be used within the following period of time: five years after last use.
- To satisfy the use requirement, the amount of use:
 - must be on a commercial scale.
- Use of the trademark must occur in:
 - this jurisdiction.
- The consequences of a trademark's not being used are as follows: A court action for cancellation can be introduced against the non-used trademark by any interested third party.
- Periodic statements of use or other mandatory filings by the trademark owner setting forth use of the trademark are not required.
- An action for non-use of a trademark can be brought by:
 - any interested third party.
- Non-use can be excused under the following circumstances: none, unless the judge decides to do so depending on the circumstances evidenced by the defendant.
- Resumption of use after non-use for the prescribed period (see above) may cure non-use provided that, in the interim, no third party has:
 - filed an action for cancellation of the trademark on the ground of non-use. Use started three months before the action when the trademark owner was aware that an action was intended to be filed is not effective and is not acceptable.
- Use of a registered trademark in a modified form would not affect the enforceability of a registration and is allowed if the difference is slight and provided that the modification does not materially alter the distinctive character of the trademark. A local trademark attorney should be consulted.
- Amendment of a registration to conform to a modified form is not possible. Depending on the circumstances, a new application to register the modified trademark might be necessary. Consult a local trademark attorney.

B. Cancellation

- Cancellation is available against registrations.
- The following can be grounds for cancellation:
 - the mark is descriptive, i.e., it consists of a sign or indication that may serve in trade to designate the kind, quality, quantity, intended purpose or value of goods or of rendering of services or other characteristics of goods or services;
 - the mark is not distinctive;
 - the mark is misleading, deceptive or disparaging;
 - the mark is functional;
 - rights under Article 6 ter of the Paris Convention (protection of armorial bearings, flags and other State emblems);

- the mark is generic, i.e., the mark consists exclusively of signs or indications that have become customary in the current language or in the bona fide and established practices of the trade;
- the mark consists of a geographical indication;
- the mark is against public policy or principles of morality;
- the mark includes a badge or emblem of particular public interest;
- the mark is prohibited in this jurisdiction;
- the application for or registration of the mark was made in bad faith;
- the mark infringes prior rights.
- See Section V.G. Use Requirements.
- There is a deadline for bringing a cancellation action.
- The cancellation period begins on the following date: it depends on the ground of cancellation; most often, the period begins at the date of registration.
- The following parties may bring a cancellation action:
 - any interested party.
- Cancellation actions cannot be filed online.

C. Renewal

- The following documentation is required for renewal:
 - none.
- The first renewal date of a registration is:
 - 10 years from the application filing date.
- Subsequent renewals last for the following period of time:
 - 10 years from the renewal date of the registration.
- The renewal pre-payment period is:
 - no more than the following number of months before the renewal date: six months.
- There is a grace period for renewing registrations once the renewal date has expired.
- The grace period after the renewal date has expired is:
 - six months. The trademark can be renewed without penalty until the last day of the month of its anniversary date. After that date, the trademark can be renewed with the payment of a fine during the time period of six months starting on the day following the last day of the month of the anniversary date of the trademark.
- The penalty for late renewal is:
 - payment of additional official fees.
- Renewal can be effected online at the following URL: <http://www.inpi.fr/fr>.

IX. DOMAIN NAMES

- A domain name may be protected as a trademark only if the domain name is not merely a Web address but is used or intended to be used in connection with goods or services. A domain name filed as a trademark shall comply with the conditions attached to trademarks.
- The following approved registrars can register a domain name in this jurisdiction: AFNIC is in charge of managing ".fr" and the associated gTLD. The list of registrars can be found at <http://www.afnic.fr/fr/votre-nom-de-domaine/comment-choisir-mon-nom-de-domaine/annuaire-des-bureaux-d-enregistrement/>.
- Availability of domain names in this jurisdiction can be searched through the following website(s): It is recommended that an attorney be contacted to do such searches and advise on the availability of the domain name.
- The Country Code Top-Level Domains (ccTLDs) for this jurisdiction are:".fr," ".re," ".yt," ".pm," ".wf," ".et," ".tf."
- To obtain a domain name under the ccTLD in this jurisdiction, the following is required:

- a local address (The local address can be in a country of the EU or in Ireland, Liechtenstein, Norway, or Switzerland, and not necessarily in France.)
- Domain name registrations can be assigned. While there is no regulation in this respect, nothing is opposed to it.
- Domain name registrations can be licensed. While there is no regulation in this respect, nothing is opposed to it.
- A domain name registration may be contested in this jurisdiction through the following mechanisms:
 - a Uniform Domain-Name Dispute-Resolution Policy (UDRP) proceeding, filed through the following locally-approved domain-dispute resolution service provider (s) in the jurisdiction: The UDRP procedure is provided by AFNIC (<http://www.afnic.fr/fr/resoudre-un-litige/actions-et-procedures/syrel-systeme-de-resolution-de-litiges-20.html>).
- Once a registration lapses due to failure to renew, it cannot be revived or restored.
- The application to register a domain name as a trademark will not be examined for conflicts with prior trademarks.
- An earlier-filed domain name registration will create an obstacle to a later-filed trademark registration application filed by another only if the domain name is being used as a trademark in addition to being used as an address. In some other cases, where the domain name is used as a commercial name and not necessarily a trademark, it can also be an obstacle to a later-filed trademark registration.
- In general, the courts apply the same principles for domain name disputes as are applied for trademark disputes.

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phone +1 (212) 642-1700 | fax +1 (212) 768-7796 | www.inta.org | memberservices@inta.org