

I Benelux Convention Concerning Trademarks

(of March 19, 1962)*

His Majesty the King of the Belgians,
Her Royal Highness the Grandduchess of Luxembourg,
Her Majesty the Queen of the Netherlands,

Inspired by the desire to review their legislation in respect of trademarks and to bring about unity in the trademark law of their countries;

Have resolved to enter into a Convention for the said purpose and have designated to that end as their Plenipotentiaries...

who, upon production of their full credentials found to be in due and proper form, *have agreed* upon the following provisions:

Article 1

The High Contracting Parties shall incorporate into their national legislation the Uniform Benelux Trademark Law, annexed to this Convention, in either one or both of the original texts, and shall establish an administrative office common to their countries under the name “Benelux Trademark Office” [Benelux-Merkenbureau or Bureau Benelux des Marques].

Article 2

Implementation of the Uniform Law shall be ensured by way of Executive Rules, laid down by mutual agreement by the High Contracting Parties, upon consultation of the Executive Board, provided for in Article 3, of the Benelux Trademark Office, and by way of Administrative Regulations laid down by the said Board.

The Rules and Regulations shall become binding in each country in conformity with the provisions of its domestic law.

The Rules and Regulations shall be published in the Official Journal of each of the High Contracting Parties.

Article 3

The Benelux Trademark Office shall be entrusted with the implementation of the Uniform Law and the Rules and Regulations.

The Office shall be administered by an Executive Board composed of members appointed by the High Contracting Parties, namely, one administrator and one deputy administrator per country.

The Executive Board shall annually elect its Chairman.

Article 4

The Executive Board shall regulate all matters incidental to the general operation of the Benelux Trademark Office.

It shall establish the Rules of Practice and the Financial Regulations of the Office as well as the Administrative Regulations.

**French title*: Convention Benelux en matière de marques de produits.

Entry into force (as between Belgium, Luxembourg and the Netherlands) of the Convention: July 1, 1969.

Source: Communication from the Benelux Trademarks Office.

It shall advise on and make proposals for the Executive Rules.

It shall appoint the Director of the Office, who must be a subject of one of the High Contracting Parties, and shall determine his duties.

It shall annually adopt the budget of income and expenditure, as well as any modifications thereof or additions thereto, and it shall specify, in the Financial Regulations, the manner in which superintendence of the budgets and the execution thereof shall be exercised. It shall approve the accounts drawn up by the Director.

The Board shall take resolutions by a unanimous vote.

Article 5

Half of the cost of establishing the Benelux Trademark Office shall be borne by the Kingdom of the Netherlands and the other half shall be borne by the Belgian-Luxembourg Economic Union.

The Executive Board may request the High Contracting Parties to make a contribution to cover extraordinary expenses; half of any such contribution shall be borne by the Kingdom of the Netherlands and the other half shall be borne by the Belgian-Luxembourg Economic Union.

Article 6

The operating expenses of the Office shall be defrayed out of its income, namely:

1. the fees collected under the Uniform Law;
2. the income accruing to the High Contracting Parties from application of the Madrid Agreement Concerning the International Registration of Marks, signed on April 14, 1891;
3. the charges for examinations made of prior registrations;
4. proceeds from the sale of publications and copies.

If necessary, the High Contracting Parties shall make a contribution to the Office; half of such contribution shall be borne by the Kingdom of the Netherlands and the other half shall be borne by the Belgian-Luxembourg Economic Union.

Article 7

A percentage of the fees collected in respect of operations performed through the intermediary of the national offices shall be distributed to the said offices to cover the costs which such operations entail; the said percentage shall be prescribed by the Rules.

No national fees in respect of such operations may be levied by national legislation.

The international fee in respect of applications for the international registration of marks shall be paid to the Benelux Trademark Office which shall take care of remittance to the International Bureau established by the Paris Convention for the Protection of Industrial Property, signed on March 20, 1883.

Article 8

The Benelux Trademark Office shall be placed under the protection of the Government of the Kingdom of the Netherlands; its seat shall be at The Hague.

Article 9

The authority of judicial decisions rendered in one of the three States pursuant to Article 14 or 27 of the Uniform Law shall be recognized in the two other States, and cancellation ordered by the competent courts of law shall, at the request of the first mover and under the responsibility of the Executive Board, be effected by the Office if:

1. the transcript of the decision submitted meets, according to the laws of the country where such decision was made, the prescribed requirements as to authenticity;
2. the decision is no longer open to opposition, appeal, or cassation proceedings.

Article 10

As soon as a Benelux Court of Justice has been established, it shall take cognizance of any questions of interpretation of the Uniform Law.

Article 11

Application of this Convention shall be confined to the territories of the High Contracting Parties in Europe.

Article 12

This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Government of the Kingdom of Belgium.

Article 13

This Convention shall enter into force on the first day of the month following the deposit of the third instrument of ratification.

The Uniform Law shall enter into force 18 months after the entry into force of this Convention.

Article 14

This Convention is entered into for a period of 50 years. It shall remain in force thereafter for successive periods of 10 years, unless one of the High Contracting Parties should, within one year prior to the expiration of a given period, notify the other Contracting Parties of its intention to terminate the said Convention.

Any proposals for revision made after the expiration of a period of 10 years from the entry into force of this Convention and which have not secured the agreement of all of the High Contracting Parties shall be submitted to the Benelux Interparliamentary Advisory Council.

The right to denounce this Convention shall be conferred upon the High Contracting Party on whose proposals for revision the Benelux Interparliamentary Advisory Council has expressed a favorable opinion with which the two other Contracting Parties or one of them does not concur. Such right must be exercised within a reasonable period of time.

Denunciation shall not take effect until five years have elapsed from the date of the notice thereof given to the two other Contracting Parties.

In witness whereof the Plenipotentiaries have signed this Convention and affixed their seals thereto.

Done in Brussels this 19th day of March 1962 in triplicate in the Dutch and French languages, both texts being equally authentic.