

法規名稱：ARRANGEMENT FOR THE PROTECTION OF INDUSTRIAL PROPERTY RIGHTS BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN NEW ZEALAND AND THE NEW ZEALAND COMMERCE AND INDUSTRY OFFICE

簽訂日期：民國 87 年 10 月 30 日

生效日期：民國 89 年 12 月 19 日

The Taipei Economic & Cultural Office in New Zealand and the New Zealand Commerce and Industry Office (hereinafter referred to as "the Parties"),

Recognizing the need to promote extensive, close and friendly commercial, cultural and other relations;

Desiring to facilitate the expansion of trade and commerce on a non-discriminatory basis; and

Considering the need to provide adequate and effective protection of industrial property rights, particularly in respect of patents, trademarks (including service marks), industrial designs and patents for design on a reciprocal basis;

Have reached the following understanding:

Implementing Authorities

- 1.The authorities implementing this Arrangement will be the National Bureau of Standards in Taipei and the New Zealand Ministry of Commerce, in Wellington.

Scope of this Arrangement

- 2."Industrial property rights" will be understood in the broadest sense and will apply not only to industry and commerce, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.
3. "Territory" means:
 - (a) in respect of the Ministry of Commerce, the area to which the industrial property rights legislation of New Zealand applies:

- (b) in respect of the National Bureau of Standards in Taipei, the area to which the industrial property rights legislation of the geographical area of Taiwan and other outlying islands under the same jurisdiction applies.
- 4.(a) "Patents" will include the various kinds of industrial patents recognized by the Laws in the Implementing Authorities' respective territories, such as petty patents, patents of addition, utility models etc.
- (b) "Trademarks" (including "service marks") shall include the various kinds of marks recognized by the Laws in the Implementing Authorities' respective territories, including certification marks and collective marks.
- 5.A "protected person" for the purposes of this Arrangement will mean an individual who under the laws of either territory would be considered a citizen or national of that territory, and includes a legal person or a company incorporated under the laws in force in the respective Parties' territories.

National Treatment

- 6.A protected person of either territory will enjoy in the other territory the advantages that the respective industrial property rights laws of the other territory now grant, or may hereafter grant, to its own protected persons; all without prejudice to the rights specially provided for in this Arrangement. Consequently, they will have the same protection as the latter, and the same legal remedy against any infringement of their rights, provided that the conditions and formalities imposed upon protected persons are complied with.
- 7.However, no requirement as to domicile or establishment in either territory where protection is claimed may be imposed upon a protected person of the other territory for the enjoyment of any industrial property rights.
- 8.The provisions of the laws of each of the territories relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appoi-

ntment of an agent, which may be required by the laws on industrial property rights are expressly reserved.

Priority Rights

9. Any protected person who has duly filed an application for a patent as so stipulated in paragraph 4, or for the registration of an industrial design, or of a patent for design, or of a trademark (including a service mark), in one territory, or his/her successor in title, will enjoy, for the purpose of filing in the other territory, a right of priority during the periods hereinafter fixed.
10. Any filing by a protected person in one territory that is equivalent to a regular national filing under the domestic legislation of that territory will be recognized as giving rise to the right of priority in the other territory.
11. By a regular national filing is meant any filing that is adequate to establish the date on which the application was filed in the territory concerned, whatever may be the subsequent fate of the application.
12. Rights acquired by third parties before the date of the first application that serves as the basis for the right of priority are reserved in accordance with the domestic legislation of each territory.
13. The periods of priority referred to in paragraph 9 will be twelve months for patents and six months for industrial designs, patents for design, and trademarks (including service marks).
14. The periods referred to in paragraph 13 will start from the date of filing of the first application; the day of filing will not be included in the period.
15. If the last day of the period of priority is an official holiday, or a day when the office of the implementing authority is not open for the filing of applications in the territory where protection is claimed, the period will be extended until the first following working day.

16. A subsequent application concerning the same subject as a previous first application within the meaning of paragraph 14, above, filed in the same territory will be considered as the first application, of which the filing date will be the starting point of the period of priority, if, at the time of filing the subsequent application, the said previous application has been withdrawn, abandoned, or refused, without having been laid open to public inspection and without leaving any rights outstanding, and if it has not yet served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.
17. Any protected person desiring to take advantage of the priority of a previous filing will be required to make a declaration indicating the date of such filing. Each implementing authority will determine the latest date on which such declaration must be made.
18. The particulars referred to in paragraph 17 will be mentioned in the publications issued by the implementing authority, and in particular in the patents and the specifications relating thereto.
19. The implementing authorities may require any protected person making a declaration of priority to produce a copy of the application (description, drawings, etc.) previously filed. The copy, certified as correct by the authority which received such application, will not require any authentication, and may in any case be filed, without fee, at any time within three months of the filing of the subsequent application. They may require it to be accompanied by a certificate from the same authority showing the date of filing, and by a translation.
20. No other formalities may be required for the declaration of priority at the time of filing the application. Each implementing authority will determine the consequences of failure to comply with the formalities provided for in paragraphs 9 to

- 27, but such consequences will in no case go beyond the loss of the right of priority.
21. Any protected person who avails himself/herself of the priority of a previous application will be required to specify the number of that application; this number will be published as provided for by paragraph 18, above.
22. Where an industrial design or patent for design is filed in a territory by virtue of a right of priority based on the filing of a utility model, the period of priority will be the same as that fixed for industrial designs or patents for design .
23. Furthermore, it is permissible to file a utility model, if the laws of that territory so allow, by virtue of a right of priority based on the filing of a patent application, and vice versa.
24. Neither implementing authority may refuse a priority or a patent application on the ground that the applicant claims multiple priorities, or on the ground that an application claiming one or more priorities contains one or more elements that were not included in the application or applications whose priority is claimed, provided that, in both cases, there is unity of invention within the meaning of the law of the territory. With respect to the elements not included in the application or applications whose priority is claimed, the filing of the subsequent application will give rise to a right of priority under ordinary conditions.
25. If the examination reveals that an application for a patent contains more than one invention, the applicant may divide the application into a certain number of divisional applications and preserve as the date of each the date of the initial application and the benefit of the right of priority, if any.
26. The applicant may also, on his/her own initiative, divide a patent application and preserve as the date of each divisional application the date of the initial application and the benefit of the right of priority, if any. Each implementing



authority will have the right to determine the conditions under which such division will be authorized.

27. Priority may not be refused on the ground that certain elements of the invention for which priority is claimed do not appear among the claims formulated in the application in the other territory, provided that the application documents as a whole specifically disclose such elements.

Most-favored-nation Treatment

28. Each implementing authority will endeavor to ensure that the relevant authority in its territory takes steps, as regards the protection of industrial property rights, to accord immediately and unconditionally to the protected persons of the other Party's territory, any advantage, favor, privilege or immunity granted to the nationals of any other country.

Commencement, Implementation and Review

29. Either party or implementing authority may, at any time, request consultations on any matter relating to the implementation or application of this Arrangement.
30. This Arrangement will enter into effect after each Party has notified each other in writing of the completion of legal procedures necessary for the implementation of this Arrangement. The date of entry into effect will be the date of the last of these two notifications.
31. Either of the Parties may terminate this Arrangement upon giving six (6) months' prior written notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Arrangement.

Done in Taipei on this 30th day of October, 1998 in duplicate in the Chinese and English languages, both texts having equal validity.

FOR THE TAIPEI ECONOMIC & CULTURAL OFFICE,

NEW ZEALAND

NAME : F. C. LIN

TITLE : REPRESENTATIVE

FOR THE NEW ZEALAND COMMERCE AND INDUSTRY OFFICE

NAME : M. BRIDGE

TITLE : DIRECTOR