

QUESTION 31

Licensing of trade marks

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Resolution

The Congress

expresses the wish that Article 5 C (3) of the Convention be replaced by the following provision

- „1. The concurrent use of the same trademark on identical or similar goods by different persons who, under the provisions of the national law of the country where protection is claimed, are considered as co-proprietors of the mark, shall not prevent the registration nor prejudice in any manner the protection granted to the said mark in any country of the Union, even if one of the co-proprietors is a person who does not himself exploit the mark
2. The use of a trademark by a person other than the owner, authorized in execution of lawful agreements or relations which exist between the user and the owner of the trademark, even if the owner does not himself exploit the mark, shall be considered as use by the owner himself and shall not prevent the registration nor prejudice in any manner the protection granted to the said mark in any country of the Union
3. Each country of the Union may provide for any measure which will ensure that the application of the two preceding paragraphs not be contrary to the public interest or mislead the public, and particularly require the existence of an effective control by the owner of the trademark on the nature and the quality of the trade marked products.“

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