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The **INPI LAW JOURNAL** is a newsletter published in English by the Institut national de la propriété industrielle (**INPI**) for a non-French-speaking readership. It covers changes in French law and court rulings on intellectual property in France, the INPI’s new missions pursuant to the French PACTE Law, its work with regard to the examination of applications for intellectual property rights, its decisions further to the newly deployed procedures to invalidate and revoke trademarks and oppose patents, and technological upgrades made to its services (digitisation, open data, artificial intelligence, and more)

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Focus

Intellectual property in sport

Innovation in cycling: a sure bet thanks to intellectual property! A special report by the INPI on innovation in cycling

A truly pioneering cycling nation, France gave the world the first inventions of the modern bicycle and its first cycling competitions. As a result, the country has a long-standing, passionate relationship with the sport. To coincide with the Tour de France and the Olympic and Paralympic games, the INPI has published a **special report on competitive cycling**¹. This is a chance for us to remind ourselves of intellectual property's role in business competitiveness.

Since the 1870s, France has established itself as the birthplace of cycling innovation, thanks to inventions like the pedal and the inner tube, but also thanks to the first cycling competitions being held in the country, such as the Saint-Cloud race in 1868 and the world-renowned Tour de France, which celebrated its 121st edition this year. To this day, France continues to play a key role in the cycling industry, enhancing its international profile. The country produces over 850,000 bicycles per year and annual sales amount to over 2.4 billion euros, a significant proportion of which derives from exports.

Intellectual property lies at the heart of this dynamic sector. Patents protect new technologies; trademarks ensure the industry's iconic names are recognised and designs maintain the aesthetic elements of bicycles and cycling accessories. Intellectual property also benefits other industry stakeholders, such as sponsors, who showcase their logos on banners and on racing cyclists' jerseys.

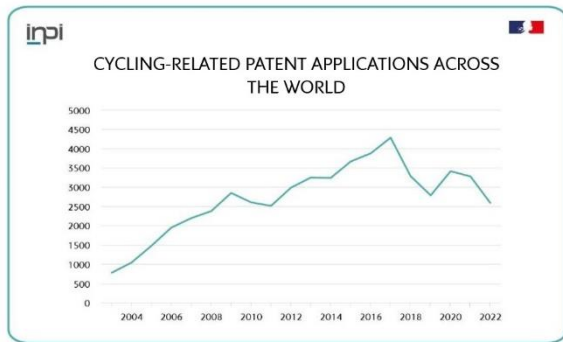
The French passion for cycling continues to grow even now, as new disciplines and competitions continue to appear. This can be seen in the 60% increase in cycling-related trademark applications between 2020 and 2022.

CYCLING AND INDUSTRIAL PROPERTY IN FRANCE

Patents:

- With 10% of patent applications, France lies second behind Germany as the country with most applications in the EU.
- Tyres (33%), cranksets (18%) and frames (10%) are the elements that have seen the most innovation.
- French businesses that apply for patents in the cycling sector all have some kind of involvement with competitive sport.
- Michelin leads the way in terms of patent applications in the French cycling sector. The company is the 14th most prolific in terms of cycling patent applications across the world. Three Japanese companies dominate the global sector.
- Other than Michelin, the most innovative French companies in the sector are Salomon, Look Cycle International, Décathlon and Mavic SAS.

¹ The report is available to download here: https://www.inpi.fr/sites/default/files/dossier_innovation_cyclisme_inpi.pdf



Trademarks and designs:

- 3,000 trademarks and 9,000 designs valid in France have been filed since 2013.
- Cycling-related trademark applications increased by 60% in France between 2020 and 2022.
- 370 cycling-related trademarks were filed in France in 2022.
- The main trademark applicants in France are Vaxe, Michelin, the Fédération française du cyclisme, Hutchinson SA and Décathlon.

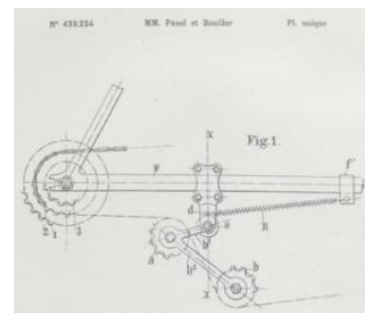
CYCLING AND INDUSTRIAL PROPERTY ON A GLOBAL SCALE:

- Since 2000, over 58,000 inventions and over 92,000 patent documents related to competitive cycling have been published worldwide.
- Cycling inventions increased by 450% between 2003 and 2017.
- Since 2013, globally, the sector has recorded an annual average of 3,500 new inventions that lead to at least one patent application.
- Since 2013, the patent surge is mainly due to China, a country that accounts for 70% of cycling-related inventions. However, less than 1% of these Chinese patents are extended to the rest of the world.
- Patents cover all bicycle components. Nevertheless, since 2013, over half of patented cycling inventions across the world were for cranksets, steering and saddles.

Historic patents in the Domaine de Sceaux Museum Orangery



To mark the Paris 2024 Olympic and Paralympic Games, the Domaine de Sceaux Museum is hosting a large exhibition dedicated to cycling from its inception to the present day: Freewheels, the Great Cycling Story. The museum has borrowed iconic 19th-century patents for the exhibition. From the *draisienne* (dandy horse), patented in 1818, to the invention of the *derailleur* in 1912, not forgetting the improved ladies' velocipede known as the *velo-amazone* in 1874, 11 original patent reproductions help to retrace the history of the bicycle.



Patent no. 439224 filed on 20 January 1912 by Joanny Panel and Claudius Bouiller for a bicycle gearshift. (2BE439224, INPI Archives).

“Fields of innovation”, the new INPI exhibition



To mark the European Heritage Days on 21 and 22 September 2024, the INPI is staging ‘Terrains d’innovations’ (Fields of innovation) at Bercy, the headquarters of the Economy Ministry, an exhibition dedicated to the inventor-entrepreneurs past and present who drove and continue to drive innovation in sport.

Because sport is not just a race to the finish line. Sport also provides a fertile breeding ground for technological innovation that leads to improved athlete performance and encourages and develops the practice of sport by everyone, as well as enhancing the equipment used. The exhibition showcases sporTech's developments that are emblematic of French innovation: the world's first electric rollerblades with [AtmosGear](#), innovative technology for horse riding products [Horse Pilot](#), the first Skwheel electric skis, the French electric bike market leader [Moustache Bikes](#), and [BodyCAP](#), a revolutionary device for measuring athletes' body temperature that has already been adopted by several athletes taking part in Paris 2024...

Exploring France's contribution to world sporting heritage

And because innovation is often rooted in the past, 'Fields of Innovation' draws parallels with iconic inventions from French history, registered by illustrious ancestors or utopian inventors: The first roller skates in 1876, Abel Rossignol's ski in 1942, Lafuma's "Tyrolean" bag in 1935, the first "high-speed" bicycle patented in 1868 by Louis Guillaume Perreaux... patents preserved in the INPI archives.

The Paris 2024 Olympics, a foolproof protection system

As well as the obvious sporting exploits, the Olympic Games present major commercial and legal challenges, particularly when it comes to protecting and commercialising industrial property rights.

From the Olympic rings to the motto "Faster, Higher, Stronger - Together", the logo, the "OG" acronym, and trademarks such as "Paris 2024", **Olympic industrial property** covers a very wide range of products and services, which the INPI is highlighting at the exhibition.



Continue the adventure with our virtual exhibition

The INPI invites you to enjoy [Fields of innovation – Sport and 19th century patents](#) an online exhibition telling the story of twelve sporting inventions from the age of the steam engine, allowing you to discover the richness of their patent archives from a sector still in its infancy at the time.

Access the exhibition via the [online exhibitions](#) section of our [online archives service](#), as well as two other online exhibitions: *The Invention of the Bicycle* and *The Patented Toy Box*.

French Case Law

*Below and in the PIBD, INPI's law review (in French),
you can read about various decisions handed down by the French courts
and commented on by INPI's legal experts*

Trademarks

Paris Court of Appeal, 26 April, 2024:

An application submitted to the INPI by a Chinese company seeking to revoke Lacoste's rights attached to the figurative trademark depicting a crocodile in profile with its head facing left is partially upheld for a number of the goods and services listed in the registration. However, [proof of genuine use](#) has been provided for another portion of the goods concerned (such as perfumery, luggage, clothing etc.), with the use of the trademark in amended forms (crocodile facing right, addition of colours, or the LACOSTE name) not altering its distinctive character.



*French trademark n° 94 541 291
by LACOSTE*

Bordeaux Court of First Instance, 23 April, 2024: A claim for infringement of the word trademark TRIOMPHE, registered for wines and spirits, is upheld. The French distillery in question filled and delivered bottles of brandy intended to be marketed in China under the trademarks CNTRIOMPHE. The defendant argued that it had not used the CNTRIOMPHE sign in the course of trade, as the Chinese company that placed the order had provided the bottles, sleeves, labels, and packaging already bearing the trademarks. However, despite not having marketed the CNTRIOMPHE brandies or been involved in the creation of the bottles, sleeves, labels, back labels, and pre-printed packaging, the defendant cannot deny that filling bottles visibly marked with the disputed trademarks, affixing the sleeves and back labels with its

own name, and participating in the promotion of the CNTRIOMPHE brandy gave it an indirect economic advantage. Moreover, these actions constitute [preparatory acts of infringement](#), under the new Article L 713-3-3 of the French Intellectual Property Code, which results from the transposition of Article 11 of Directive (EU) 2015/2436 of 16 December 2015. This provision, introduced after the Red Bull ruling by the Court of Justice of the European Union on 15 December 2011 (C-119/10), allows for sanctioning infringement through the supply of means.

Court of Cassation, 5 June, 2024:

FAURÉ LE PAGE
PARIS 1717

French trademark n° 3 839 811 by Fauré Le Page Paris

A long-running legal saga continues: the Court of Cassation has been asked to review an appeal against a decision by the Paris Court of Appeal, issued following a previous ruling by the Court of Cassation, which had invalidated the FAURÉ LE PAGE PARIS 1717 trademarks on the grounds of deceptiveness. The designated goods were, notably, leather, trunks, and suitcases. The Court has decided to submit [preliminary questions to the Court of Justice of the European Union regarding the assessment of the misleading nature of a trademark that includes a fictitious date](#), when this date conveys false information to the consumer about the age, reputation as a serious undertaking, and know-how of the trademark owner. It is worth noting that, prior to this ruling, French courts had rarely addressed the issue of invalidity due to deceptiveness in relation to trademarks referencing a date. In

this case, the Paris Court of Appeal ruled that the terms "PARIS 1717" suggested the place and date of the company's creation, leading the public to believe in a continuous operation since that date and the transmission of know-how from the original Fauré Le Page company to the current trademark owner.

Paris Court of First Instance, 24 April, 2024: The Paris Judicial Court rejected an application to overturn an order that had issued injunctions against Meta, as an [intermediary service provider](#). It ordered Meta to implement filtering measures due to the distribution of advertisements on Facebook, Instagram, and Messenger, which likely infringed the semi-figurative and word European Union trademarks BARRIERE, designating services such as casinos and gambling, promoting an online gaming business. The court also ordered Meta to retain data related to these advertisements and information about the advertisers.

Paris Court of First Instance, 25 April, 2024: Companies specialising in the design and sale of children's toys were sued for [damaging the reputation of the European Union's word trademark LOUIS VUITTON](#) and the figurative EU trademark consisting of a monogram surrounded by a floral motif, both designating handbags. The toy in question was a suitcase shaped like the "poo" emoji, containing ingredients to make colourful and malleable dough. It featured a pattern without the monogram and had a label bearing the name "Pooey Puitton". Given the strength of the reputation of both trademarks, there was a link in the mind of the relevant public, primarily composed of adults, between the trademarks and the contested signs, despite the difference in nature and function of the goods involved (handbags/toys).

Paris Court of First Instance, 16 May, 2024: The Paris Judicial Court rejected the application to invalidate the French part of the semi-



figurative international trademark "The Modernist" concerning hotel and restaurant services, due to a lack of [distinctive character](#). Far from being a mere synonym for the adjective "modern", the term "modernist" refers to an artistic movement, the artist or architect who works in the modernist style, and the adjective describing works produced in this style. This term is not suitable for describing the specific characteristics of hotel and restaurant services, as it refers to an artistic movement linked to the style of the location where such services may be provided, and therefore does not directly designate them. As a result, the relevant public cannot immediately make any direct or specific link between the mark and the services in question.

Paris Court of First Instance, 25 April, 2024: The sale of a second-hand "Togo" armchair from the company Roset on the online marketplace [www.design-market.fr](#) constitutes an infringement of the LIGNE ROSET trademark and the three-dimensional mark representing a sofa. [The exhaustion of rights defence is dismissed](#) due to legitimate grounds based on the alteration or impairment of the condition of the goods after it was first put on the market by the trademark owner. The contested item had not only been reupholstered in Poland but had also undergone significant re-padding, with the foam replaced, necessitating the adjustment of buttons and stitching that give the armchair its distinctive design. The original armchair had thus undergone an essential alteration that did not respect its initial configuration, compromising the origin function of the trademark. However, Roset's copyright over the "Togo" armchair was not infringed, and the infringement of the two-seater sofa model, registered with the INPI, was also not established.



French trademark n° 016 691 537 by Roset

Designs

Paris Court of Appeal, 5 June, 2024 : The Paris Court of Appeal rejected a parasitism claim filed by Cartier, which distributes in France the luxury high-end watches "Radiomir" from the Swiss company Officine Panerai, first created in the 1930s. The court found that the individualised economic value of this watch, the result of know-how and investment, was not appropriated by the French watchmaking company accused, which was marketing a watch with similarities in its general appearance, but with features not covered by exclusive rights. Furthermore, these features are now considered by some watch enthusiasts to be part of the common heritage of watchmaking. However, the Court invalidated the design of a watch registered by a private individual, also accused, on the ground of lack of individual character, finding that the overall visual impression did not differ from that produced by the "Radiomir" watch.



French Design n° 0200427 by M. [M]

Paris Court of First Instance, 27 June, 2024: The court rejected a claim for infringement concerning Community designs representing screenshots of a real-time strategy video game interface. While such a graphic interface can be protected as a Community design, the design in question only covers a static visualisation of an ephemeral scene from a virtual object in motion. In this case, some of the claimed features, reproduced in scenes from the accused video game, are common traits in this genre of games and are recurring (schematically represented buildings with numbers, connecting paths, use of bright colours, etc.). An informed user, defined as a

consumer who regularly plays such games, would be more attentive to details and would notice differences that are not minor.



French Design n° 008493258-0022 by Voodoo

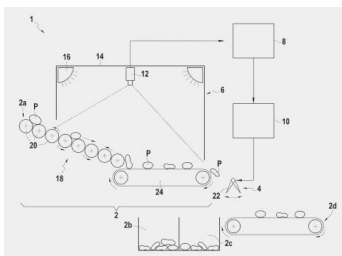
Patents

Paris Court of Appeal, 29 May, 2024: This was the first decision by the Paris Court of Appeal regarding an appeal against a decision by the INPI in an opposition case since the introduction of this procedure on 1 April 2020 before the French Patent Office. The INPI's decision was upheld. Michelin's patent, which covers a tyre comprising a high-contrast matrix symbol on the sidewall thereof, was maintained in an amended form. The claims of insufficient disclosure, lack of novelty and inventive step concerning the main claim, as presented in the request for amendment during the opposition proceedings, were not accepted.

INPI Decisions

Opposition to a patent before the INPI - Citability of a YouTube video forming part of the prior art - Patent maintained in amended form

The opposition filed against the French patent entitled "Sorting device for agricultural products and corresponding process" is recognised as **justified and the patent is maintained in an amended form.**



The patent describes a sorting device designed to sort agricultural products comprising a number of units for acquiring and processing images, decision-making, separating and conveying the agricultural products in the form of a bulk flow.

The opponent sought the total revocation of the patent on the grounds of lack of novelty and inventive step.

The patent proprietor **challenged the citability of prior-art documents D1 to D4**, raising in particular arguments relating to their availability before the patent filing date and to their content.

Document D1 consists of a recording, made after the patent was filed, of a **video published on the YouTube platform** at a date prior to the filing of the patent, and describing the operation of a sorting machine, called "OCULUS", from another company. Document D2 is the brochure of a sorting machine called "OCULUS" purporting to represent the same device as that of document D1, on which no publication date is indicated. Document D3b is a screenshot, dated after the patent was filed, showing internet links to video D1 and brochure

D2 at a date prior to the filing of the patent. Document D4 is also a recording, dated after the patent was filed, of a YouTube video posted online before the patent was filed, describing the operation of a sorting machine called "SMART GRADER".

With regard to the **content of the videos** cited against the patent, according to the documentation in the YouTube platform help centre, it is not possible to "replace a video because any new video you upload to YouTube will get a new URL". Changes can, however, be made, such as cutting the video or adding cards or changing the title or the description. However, the patent proprietor does not provide any evidence in support of their argument that the opponent does not provide proof that the content of videos D1 and D4, as communicated with the statement of opposition, corresponds to that initially posted online.

As regards the **availability to the public** of the videos cited against the patent, document D3b, which consists of a screenshot, proves that video D1 was referenced on 12 May 2022, the date on which the screenshot was produced, i.e. after the patent was filed. The patent proprietor, in seeking to disregard the video at issue, argues that the opponent does not provide proof that the content of the videos was available in practice, i.e. that the public was aware of the existence of such a video and had access to it prior to the filing date of the contested patent on 30 August 2019. However, no proof is provided to support these allegations. In addition, the mere reference to the number of views and/or "likes" is not sufficient to demonstrate that documents D1 and D4 were not referenced prior to the filing date of the patent.

Documents D1 and D4 are therefore considered citable against the contested patent.

Document D3a, which consists of a screenshot dated 12 May 2022, showing the properties of the PDF file of document D2 and in particular its creation date of 2 January 2018, does not provide any indication as to its publication and therefore does not make it possible to prove that it was available before the filing date of the contested patent. Indeed, there is nothing to indicate when it was made available on this URL

link. Consequently, there is substantial doubt as to the publication date of document D2, which therefore does not form part of the prior art citable against the contested patent.

Document D1 discloses all of the technical features of the subject matter of claim 1. Consequently, the subject matter of that claim is not new in relation to document D1.

As the patent cannot be maintained as granted, the patent proprietor's main request is rejected.

The patent proprietor filed **new auxiliary requests which were deemed late** as they were filed 13 days before the oral proceedings. The INPI nevertheless notes that the adversarial debate between the parties was able to take place and that it can base its decision on these elements, in accordance with Article [R. 613-44-7](#) of the French Intellectual Property Code. In addition, the amendments envisaged by the patent proprietor, discussed during the oral proceedings, have already been presented through the requests filed during the written proceedings. Request 1'' proposed by the patent proprietor is therefore admissible.

During the opposition proceedings, the patent proprietor may **amend the claims of the patent**, provided, in particular, that the amendments made address one of the grounds for opposition (Art. [L. 613-23-3 I 2°](#) of the French Intellectual Property Code).

In the present case, **claim 1 of request 1''** constitutes an **embodiment that is not covered by the application as filed**. It covers an embodiment enabling agricultural products to be sorted into two categories, and providing for the possibility of diverting those products using an impulse. The diverting of agricultural products using an impulse, however, is only provided for in the description for the purpose of sorting into three categories. Indeed, the description only describes two embodiments. The first consists of sorting into two categories, but this is done either by leaving the fingers in the retracted position, or by moving the fingers into the deployed position before the products pass through in order to divert them without an impulse. The second is described as a three-category sorting system that uses these two finger positions, and adds the possibility of moving the fingers to divert the products, with an impulse. It follows from this that the

embodiment allowing agricultural products to be sorted into two categories, with the possibility of diverting the said products using an impulse, as described by the subject matter of claim 1 of request 1'', is not provided for in the application as filed.

The amendments therefore extend the subject matter of the patent beyond the content of the application as filed. As a result, the request does not comply with Article [L. 613-23-3 I 2°](#) of the French Intellectual Property Code.

However, the amendments made by the new **auxiliary request 2''** do not extend the subject matter of the patent beyond the content of the application as filed. The subject matter of the claims is thus **new** and involves an **inventive step**.

Consequently, the new request 2'' complies with Article L. 613-23-3 of the French Intellectual Property Code and the patent is maintained in an amended form in accordance with this request.

INPI decision, 9 February 2024, [OPP 22-0015](#)
Dewaele-Briche Manutention vs. Établissements Dubrulle et Bilberry SAS

By Fiona Rozner, Legal expert, INPI

Non revocation of the rights attached to the trademark GOUTTES BLEUES, registered for eye lotions, for lack of genuine use or on the grounds that the trademark would have become misleading

The revocation applicant **has filed** with the INPI an **application for revocation of the word mark GOUTTES BLEUES**, relating to all goods covered by the registration, namely "*Eye lotions and in particular eye drops*", alleging a lack of genuine use and on the grounds that the mark would have become liable to mislead the public. The trademark proprietor has countered, arguing in particular that **the**

application was inadmissible as it would constitute an **abuse of process**.

Pursuant to Article [L. 716-3](#) of the French Intellectual Property Code, **locus standi** is not required in the context of applications for revocation brought before the INPI. The concept of abuse of right or abuse of process is independent of the rules relating to the person entitled to file an application for revocation. The right to file an application for revocation could only be likely to turn into abuse in the event of an actual **intent to harm** by the revocation applicant.

In this case, the proprietor of the contested trademark, which is a laboratory manufacturing and marketing pharmaceutical and parapharmaceutical products, **has acquired the goodwill** relating to the "Innoxia" and "Gouttes Bleues" products, **as well as the related trademark rights**. The proprietor then sold the assets relating to the "Innoxia" business to a third party, while retaining the rights to the "Gouttes Bleues" products, including the disputed trademark. It had been agreed that the mark proprietor would be allowed to sell off the stocks of products bearing both the "Gouttes Bleues" and "Innoxia" signs until 2019. In 2020, the revocation applicant acquired the goodwill associated with the INNOXA trademarks from the third party.

The fact that, prior to the revocation procedure, the revocation applicant had initiated **interim proceedings against the proprietor of the contested trademark**, seeking to discontinue the use of the term "Innoxia", is not sufficient to establish any abuse of right, even if the applicant's case has been dismissed, as the proceedings have perfectly distinct purposes. Although it is likely that they were aware of the agreement relating to stocks clearance, this circumstance does not attest either to any abusive behaviour on their part. The application for revocation of the GOUTTES BLEUES trademark remains admissible.

With regard to the **alleged lack of genuine use**, the evidence submitted by the proprietor of the contested trademark contains sufficient indications about the **relevant period**, i.e. the five years preceding the date of the application for revocation. Although some invoices and press cuttings predate this period, they nevertheless contribute to corroborate the

long-standing use invoked and provide indications as to the conditions of exploitation. This evidence, invoices in particular, establishes that the trademark proprietor has used the contested sign in France during the relevant period.

The revocation applicant alleges that the contested trademark GOUTTES BLEUES has been **used in a modified form in association with the sign "INNOXA"**, and that only the latter would fulfil the function of a trademark. However, whenever **several signs** are used together but remain **independent of each other** and fulfil their distinguishing function as distinct signs, the question of whether the distinctive character of the sign as registered has been altered does not arise.

In this case, **on the packaging of the products in question**, the words "Gouttes Bleues" are clearly spaced away from the word "INNOXA" and shown in a different calligraphy. Furthermore, in the case of cosmetic and pharmaceutical products, it is usual to present a range of products under the trademark of the laboratory, hence it is common for two signs to appear jointly while being perceived by the relevant public as independent. Finally, **in the press**, the products are clearly presented independently, the terms "Gouttes Bleues" designating the product range, i.e. eye lotions, while the term "Innoxia", which sometimes also appears in the form "*Laboratoire Innoxia*" ("Innoxia Laboratory"), will be understood as designating the manufacturer. Consequently, the signs "Innoxia" and "Gouttes Bleues" will be **perceived by consumers in an autonomous manner** despite being affixed to the same packaging, each of them fulfilling a distinct distinguishing function.

Moreover, the "Gouttes Bleues" sign is also used without the word "Innoxia", in slightly stylised calligraphy and with the **presence of a figurative element** consisting of the representation of a drop. But the presence of this element as well as the calligraphy are not such that they may alter the distinctive character of the contested mark.

The revocation applicant also points out that the sign "Gouttes Bleues" is **devoid of distinctive character** in that it designates the product itself, namely blue eye drops. However, it is clear both from press articles and from the

presentation of the product and its packaging that the GOUTTES BLEUES trademark has been used for a range of products in order to distinguish them from those from another source and that it therefore indicates their origin and not their nature. This use does constitute **use as a trademark**.

Finally, genuine use of the contested mark has been sufficiently demonstrated **for the goods covered by the registration**. By choosing Classes 3 and 5, the trademark applicant expressly intended to claim protection for two distinct categories of products: on the one hand, *"eye lotions, in particular eye drops"* intended to beautify and, on the other hand, those intended to cure. It is clear from press articles that the product marketed is an eye lotion designed to moisturise the eyes in order to relieve ocular stress and dryness, but also to give the eyes *"sparkling radiance"*, so that the product has both a curative and a beautifying function, and must therefore be regarded as both a **pharmaceutical** and a **cosmetic product**.

Consequently, also taking into account the **extent of use of the trademark GOUTTES BLEUES**, which is demonstrated by invoices and press articles, the genuine use of this sign is sufficiently demonstrated for the goods for which it is registered, namely *'Eye lotions, and in particular eye drops'*, in Classes 3 and 5.

As regards **revocation on the ground that the trademark has become liable to mislead the public**, the revocation applicant first alleges, with regard to the **misleading nature of the phrase "Gouttes Bleues"**, that the public will associate these terms with high-tolerance blue eye drops whose blue colouring enhances the radiance of the eyes. The term *"Gouttes"* (*"Drops"*) will indeed be perceived by the relevant public as the form in which the products are presented and administered. However, there is no evidence to assert that the **term "Bleues" ("Blue")** will necessarily be associated with methylene blue, which the revocation applicant has demonstrated is used

in ophthalmology for its antiseptic and soothing properties. Although this term will naturally be understood as a **reference to the colour blue**, it is not established that the public would attribute such virtues to this colour, or even the power to boost the radiance of the eyes. The evidence material submitted shows that the expected effects are presented as relating to the product itself and not specifically to its colour.

In addition, with regard to the **use of the sign by the trademark proprietor**, the revocation applicant's allegation that, in consequence of the use made by its proprietor, the trademark GOUTTES BLEUES has become misleading as to the colour of the product, its intended effects and its composition, cannot be upheld. The mere fact that some consumers may wonder about the colour of the product that is no longer blue, is not enough to constitute deception. It has not been demonstrated that the characteristic attached to the colour blue had dictated the purchase and that this colour is attributed virtues that the product would not possess. Similarly, the claims about eye irritation issues cannot be linked to a misinterpretation by the relevant public of the expected effects of the product as a result of the use of the sign *"Gouttes Bleues"*. Furthermore, the use of a new transparent formula, clearly mentioned on the product packaging, which was introduced following regulations relating to methylene blue revealing a cytotoxic risk, is not related to any **commercial strategy aimed at misleading the public**. The fact that the proprietor of the contested trademark had previously used the sign *"Gouttes Bleues"* in association with the sign *"Innoxia"*, as contractually authorised to do, to market a product with a different composition, is irrelevant in this respect. It has not been shown that the proprietor had intended to mislead consumers by taking advantage of this product's reputation.

INPI Decision, 3 April 2024, [DC 22-0182](#)¹
Laboratoires Innoxia SASU v. Laboratoire Perrigo France SAS

By Cécile Martin, Legal expert, INPI

¹ In parallel to their application for revocation, Laboratoires Innoxia has filed with the INPI an application for invalidity of the same trademark GOUTTES BLEUES. They referred to several grounds, namely the sign's lack of distinctive character and its descriptive and deceptive

character. This application was also rejected (**INPI decision, 3 April 2024, Laboratoires Innoxia SASU v. Laboratoire Perrigo France SAS, NL 22-0199**).

French IP Law Updates

The INPI approves the “Pierre de Vianne” and “Bottes Camarguaises” geographical indications

“Pierre de Vianne” (Vianne stone) and “Bottes Camarguaises” (Camargue boots) have joined the “GI” family, bringing the total number of geographical indications approved by the INPI up to 19.

“Pierre de Vianne” geographical indication



Pierre de Vianne is a limestone rock that is well known for its warm golden-beige hue, and for its durability. This local stone was used to build a number of the iconic historical monuments of south-western France – including the Agen Canal Bridge, the Pont de Pierre in Bordeaux and the châteaux in Montgaillard and Nérac.

Nowadays, it remains a favoured material for construction projects, public works and decoration. Only one quarry is in operation, in Lavardac, in the Lot-et-Garonne *département*.

The “**Pierre de Vianne**” geographical indication highlights the specific features of this hard limestone rock, which led to the development of regional expertise. The GI covers the extraction and processing of the stone, which must take place in the geographical areas defined in the product specification:

- extraction: Vianne, Lavardac, Nérac, Barbaste, Feugarolles, St-Pierre de Buzet, Buzet sur Baïse, Mongaillard, Bruch, Réaup-Lisse and Andiran.
- processing: the Lot-et-Garonne *département*.

Pierres Naturelles Nouvelle-Aquitaine is the body that has been set up to protect and manage the “Pierre de Vianne” geographical indication.

The INPI approved the “Pierre de Vianne” geographical indication on 14 June 2024. This is the 18th GI approved by the INPI, and the seventh for the Nouvelle-Aquitaine region.

“This new approval establishes the durable and aesthetic properties of Pierre de Vianne. Used since the Middle Ages, it is one of the best construction materials in south-western France – as evidenced by the richness of the regional heritage. We hope that the approval of this geographical indication will encourage people to re-industrialise it, so that it will continue to be used locally”. Pascal Faure, CEO of the INPI.

“Bottes Camarguaises” geographical indication



The INPI also approved the “Bottes Camarguaises” geographical indication on 28 June 2024. This is the 19th GI approved by the INPI, and the fourth for the fashion sector.

The “Bottes Camarguaises” geographical indication covers all of the manufacturing operations involved in making the boots (cutting the pieces of leather, stitching, assembly, mounting and applying the finishings). They must be made in the geographical area defined in the product specification, namely 30 towns and villages in the Gard *département*, 18 in the Hérault *département* and 10 in the Bouches-du-Rhône *département*.

The Bottes Camarguaises Association is the body that has been set up to protect and manage the eponymous geographical indication.

Bottes Camarguaises are the full length and ankle boots that have been worn by horse and bull breeders – “*gardians*” (guardians) – in the Camargue region since the start of the 20th century. The quality of the leather – fatty, thick and water-resistant – and the non-skid soles provide a level of protection that is suitable for the Camargue climate and what the *gardians* use them for. Every pair is completely handmade and assembled using Blake Stitch, which provides the boots with a high level of resistance and ensures that they last a long time.



To view the product specification for the geographical indications, go to the [“Geographical indication database”](#) section.

About INPI

Interview with the CEO of the INPI by World Trademark Review – 24/07/2024



English-language magazine *World Trademark Review* (WTR), which specialises in trademarks and intellectual property, published an interview with Pascal Faure on its website on 18 July¹.

He unveiled the latest tools and innovative services that the INPI provides. The main themes tackled were as follows:

- Improvements made to the website: one-stop shop, decisions on trademarks added to the DATA INPI website, electronic notifications.
- Study of the use of artificial intelligence
- Mediation services for trademark disputes
- Support for SMEs
- Fight against counterfeiting
- Public awareness-raising initiatives
- Communication on social networks
- Statistical and economic studies
- Attendance at events that are not specific to intellectual property
- International cooperation

¹This interview is for WTR subscribers only.

International IP law News

Signature of an agreement to accelerate the granting of patents (PPH) between INPI and the Intellectual Property Office of Singapore (IPOS)



In conjunction with the Sixty-Fifth Series of Meetings of the Assemblies of the Member States of WIPO, INPI has signed a Patent Prosecution Highway (PPH) agreement with one of its major partners in South-East Asia, the Intellectual Property Office of Singapore (IPOS).

This latest signing marks the tenth PPH agreement signed by INPI internationally and, in particular, the fourth in Asia since the first agreement signed with the Japan Patent Office (JPO) on 26 November 2020.

INPI also has PPH agreements with the Korean Intellectual Property Office (KIPO) and the China National Intellectual Property Administration (CNIPA), signed in 2022 and 2023 respectively.

To this list can be added the PPH agreements signed at the end of 2021 with the United States Patent and Trademark Office (USPTO) and the Canadian Intellectual Property Office (CIPO), in 2022 with the Brazilian Office (INPI Brazil), then in 2023 with the Moroccan Office of Industrial and Commercial Property (OMPIC) and the Saudi Authority for Intellectual Property (SAIP) and finally, very recently, with the Mexican Institute of Industrial Property (IMPI).

This PPH agreement came into force on 1 September 2024; thus, applicants are now able

to request the acceleration of the grant procedure for a second patent application filed with the Singapore office, whether it is a national application or a Singapore national phase of a PCT application, provided it contains claims sufficiently similar to those mentioned in the application examined by INPI and deemed patentable. This PPH agreement shall apply in the same manner to applicants wishing to benefit from accelerated processing of patent applications in France, whether they claim priority from a Singaporean national application or a PCT application.

French applicants are ranked eighth in terms of the number of patents filed with the Singapore office, confirming their interest in protecting their innovations in Singapore.

This new agreement, which is part of a very fruitful cooperative relationship with IPOS, will be an asset for companies who will be able to benefit from this PPH, which will save them a significant amount of time in obtaining protection for their inventions in Singapore by first filing in France.

By Céline Boisseau, Coordinator of INPI International Network

Sixty-fifth series of meetings of the Assemblies of the Member States of WIPO

This year, the meetings of the Assemblies of the Member States of WIPO took place from 9 to 17 July 2024 at WIPO headquarters in Geneva. Over the course of ten days, twenty-two Assemblies, and other bodies of the Member States and of the Unions administered by WIPO, met and were able to take stock of the progress of the work from the past year and approve future work programmes.

The INPI contributes towards the work of global intellectual property systems (PCT, Madrid, Hague, Lisbon) and takes part in different WIPO

committees aiming to establish an international normative framework (Committee on Development and Intellectual Property, Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, Standing Committee on the Law of Patents, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore).

The INPI was particularly well-represented during these Assemblies. The CEO of the INPI, Mr Pascal Faure, chaired the Hague assembly, and will also do so next year (with terms lasting for two years). The INPI was also represented by three vice-chairs, for the Paris Union Assembly, the PCT Union Assembly and the Madrid Union Assembly.

Furthermore, in addition to the Assemblies of the Member States of WIPO, the INPI also took part in bilateral meetings with the following delegations from ministries or IP offices:

- The Emirati Ministry of Economy (MOE) in the presence of His Excellency Abdullah Bin Touq, Minister of Economy of the United Arab Emirates, and of Mr Abdulrahman Al Muaini, Assistant Undersecretary, Director of Intellectual Property, in order to review the implementation of the work plan signed in France at the beginning of the year;
- The Intellectual Property Office of Singapore (IPOS), a meeting marked by the signature of a tenth PPH agreement accelerating the grant of patents, referred to as Patent Prosecution Highway (PPH) agreement; it was signed in the presence of Ms Rena Lee, Chief Executive of IPOS;
- The Korean Intellectual Property Office (KIPO), with the meeting with new KIPO Commissioner, Mr Kim Wan Ki, resulting in the identification of future areas of cooperation;
- The Japan Patent Office (JPO), marking the first meeting with Mr Yota ONO, the new JPO Commissioner, during which both offices decided they will renew the agreement between them accelerating the grant of patents, referred to as Patent Prosecution Highway (PPH) agreement;

- The Intellectual Property Corporation of Malaysia (MyIPO), initiating communication with a view to establishing cooperation between our two offices, with a strong emphasis on the topic of geographical indications;

The Directorate General of Intellectual Property of Indonesia (DGIP), a meeting that concluded with the signature of a Memorandum of Understanding (MoU) governing cooperation between our two countries;

The Tunisian Institute for Standardization and Industrial Property (INNORPI), a meeting that concluded with the signature of a new work programme for 2024-2025 with the aim of structuring our actions in a manner conducive to promoting francophonie;

The Qatar Industrial Property Office, to discuss the implementation of the work plan signed in Paris during the France-Qatar Economic Forum, held on the occasion of the Emir of Qatar's State visit to France;

The Indian Intellectual Property Office (CGPDTM), allowing to formalise cooperation activities over the coming months and discuss the India-France Year of Innovation in 2026;

The Superintendence of Industry and Commerce (SIC) of Colombia, this first meeting with the office's superintendent having been marked by the signature of the new 2024-2025 work plan;

The Argentine Institute of Industrial Property (INPI Argentina), with the dual aim of signing the renewal of our cooperation agreement as well as the new roadmap cementing our cooperation activities for 2024-2025.

The INPI also held meetings with European partners, including the Intellectual Property Office of the United Kingdom (UKIPO) and the Swiss Federal Institute of Intellectual Property (IPI).

Lastly, the Group B+ annual plenary session is also traditionally held at the same time, chaired by Pascal Faure. Group B+ is a forum comprised of approximately 45 industrialised countries as well as the European Commission and the European Patent Office (EPO), and aims to harmonise substantive patent law. This plenary

session provided an opportunity to review the work from the past year and to agree on future work.

By Céline Boisseau, Coordinator of INPI International Network and Elodie Durbize, Head of the International Unit, Legal and International Department, INPI

African Intellectual Property Organization (OAPI) - Capacity-building for judges in intellectual property matters

The Réseau Africain des Magistrats Spécialisés en Propriété Intellectuelle (RAMPI, African Network of Intellectual Property Judges) was set up in Dakar in October 2023. It seeks to emphasise the role played by judges in promoting respect for intellectual property in their respective countries and within a regional legislative area.

Adopted on 2 March 1977, the Bangui Agreement regulates intellectual property matters in the 17 OAPI Member States. The Agreement is used as domestic law for each State. It was revised on 24 February 1999 and 14 December 2015. One of the aims of the latest revision was to bring it into line with the new global legal environment so that it might give a more effective response to OAPI Member States' concerns regarding economic and social development.

However, litigation in intellectual property matters still falls under the jurisdiction of the national courts. It is therefore essential to train judges in all countries in intellectual property law so that they can deal with the corresponding litigation.

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The members of INPI's "international network" (covering around 100 countries) implement international cooperation initiatives with its public

Accordingly, **the RAMPI seeks to create focal points in each country in the network (the 17 OAPI countries, Burundi and the DRC) with a view to sharing training and experience in intellectual property matters and associated litigation.** The INPI has given its full support to this initiative: following in the footsteps of Chad, and thanks to support from the French embassy, Côte d'Ivoire now has a RAMPI focal point for liaising between national judges and the RAMPI bureau. For the occasion, a colloquium was organised in Abidjan from 28 to 30 May 2024. It was led by RAMPI members — in particular its President Max Lambert N'déma Elongue — and focused on judges from Côte d'Ivoire, offering explanations of all the legal mechanisms involved in intellectual property litigation. During the colloquium, it was announced that the Gabonese and Senegalese focal points were to be set up in Libreville and Dakar, respectively, by the end of 2024; RAMPI will again be assisted by the INPI, to make the seminar in Senegal a success.

By Caroline Rolshausen, INPI Regional Counsellor, Regional Economic Service in Abidjan¹

Brazil - Creation of a platform to compile pharmaceutical patent data

As part of the 2023-2025 action plan of the National Intellectual Property Strategy (ENPI) and the New Industry Brazil programme launched in January 2024, the Ministry of Development, Industry, Trade and Services (MDIC) opened a platform at the beginning of April to compile data on pharmaceutical patent applications filed between 2000 and 2021.

The **platform** is entitled "**Plataforma de Dados de Patenteamento do Setor Farmacêutico**" and compiles information from the institutional

and private partners worldwide. They also support companies in their export activities, in liaison with the French Treasury Department.

databases of the CNPJ¹ and the INPI Brazil² to help public and private decision-makers **identify investment opportunities** by extracting strategic data on **the dynamics of the Brazilian pharmaceutical market**: diseases that receive the highest R&D resources; action mechanisms considered the most effective in treating diseases; evolution of activities and investments over time; geographical activities; potential partnerships; weaknesses that need addressing; and trends, etc.

The database also includes patent applications from companies and individuals based abroad. This makes it possible to **analyse the profiles of the companies in question and their strategies for protecting innovations in the Brazilian market**.

Geraldo Alckim, Vice-President and Minister for the Economy, welcomed the creation of the platform as the result of coordinated efforts between the government and the productive sector to encourage industrial innovation and competitiveness in Brazil. "The pharmaceutical industry has been one of the largest investors in innovation in Brazil. This is an important tool for the government insofar as it will enable it to **analyse and build strategic initiatives for the healthcare economic industrial complex. It is also important for industry, insofar as it will help identify investment opportunities**," he said.

For her part, the Secretary for Competitiveness and Regulatory Policy at the Ministry of Development, Industry, Trade and Services (MDIC) pointed out that the tool is a major advance and will be essential, as it uses **intellectual property** databases to generate information **and foster technological development in Brazil**.

By Renaud Gaillard, Regional Economic Service in Brasilia - Rio de Janeiro Office³

Unitary Patent System Update

As of the end of September 2024, over 37,000 requests for unitary effect have been filed and the EPO has registered more than 35,000 Unitary Patents. Concerning the "top 3" origin of proprietors, 19.1% of the applicants originate from Germany, 15% from US and 7% from France. Most unitary patents are granted for medical technology (12%). The uptake rate is of 25% for 2024 (17.5% in 2023).

As of the 30th of August 2024 and since the start of operations, more than 476 cases have so far been initiated before the **Unified Patent Court (UPC)**. This new court now enables centralised litigation not only for unitary patents, for which UPC has exclusive competence, but also for non-unitary European patents, under certain conditions.

Paris Central Division has received 37 revocation actions, Munich has received 4 and Milan 2. To date, the Paris Central Division has handed down 2 decisions on revocation actions. [The first one](#) was issued on the 19th of July 2024 (Meril Italy srl v. Edwards Lifesciences Corporation) and [the second](#) on July 29 (BITZER Electronics A/S v. Carrier Corporation). In the first case, relating to a prosthetic heart valve having a sealing mechanism to prevent or minimize perivalvular leakage, the patent was maintained as amended. In the second case, the patent relating to an apparatus and a method for cold chain monitoring of perishable goods, was also maintained as amended.

The Munich Central Division has handed down one decision in a revocation action. The Milan Central Division has not ruled on revocation yet.

Actions brought before the UPC are listed in the UPC registry, which can be accessed online⁴:

By Elodie Durbize, Head of the International Unit, Legal and International Department, INPI

¹ National Register of Legal Persons (CNPJ)

² National Institute for Industrial Property (INPI Brasil)

³ renaud.gaillard@dgtresor.gouv.fr

⁴ <https://www.unified-patent-court.org/en/registry/cases>

Agenda

1 October 2024

WIPO – Global Challenges Seminar: Driving Med Tech Innovation Ecosystems in LDCs

[Details](#)

2 October 2024

INPI-WIPO – Launch event for the Francophone countries Alliance of Intellectual Property



7-9 October 2024

WIPO – African Regional Youth Conference on Intellectual Property - “From Ideas to Impact: The Role of IP in Fostering Youth Innovation and Creativity for Sustainable Development”

[Details](#)

9-10 October 2024

WIPO – “2024 WIPO Intellectual Property Judges Forum”

[Details](#)

10 October 2024

FNDE – Trademark Law

[Details](#)

10-11 October 2024

ORIGIN – oriGIn’s Expert Meeting on the latest developments and challenges related to GI protection and enforcement

[Details](#)

15-16 October 2024

CEIPI – Symposium celebrating the 60th anniversary of CEIPI

[Details](#)

22 October 2024

EPO – Patents and innovation in European universities

[Details](#)

12-14 November 2024

WIPO – Mediation and Arbitration Workshop

[Details](#)

26 November 2024

ASPI – Conference: « 2024 updates on IPRs in China »

[Details](#)



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