Trademark registration in France

New French Trademark Law, applicable from December 28, 1991
(Legislative Regulatory Parts - Updated February 25, 2004)

Territorial Scope of Protection

A Trademark registration confers protection to the entire French territory, that is:
- Metropolitan France, including Corsica,
- Overseas departments: Martinique, Guadeloupe, (including Saint-Barthelemy and the French part of Saint-Martin), French Guyana, Reunion,
- Overseas territories: French Polynesia, New Caledonia, Wallis & Futuna, Southern Territories and French Antarctica.
- Mayotte and Saint-Pierre & Miquelon.

Length of validity and renewal

A registered Trademark is valid for 10 years from its application date, and is renewable indefinitely for periods of equal duration.
The renewal is valid for 10 years from the expiration date of the previous registration.
The application of the renewal should be filed within the last 6 months of validity of the trademark (including the last month of validity and until the last day of this month) or during the supplementary grace period of 6 months calculated as from the first day of the month following the due date, subject to the payment of a supplementary tax.
The mark is renewed in its previous form and there is no examination or opposition to the renewal of a trademark. Any amendment to the trademark or any extension to the designated list of products or services entails a new application.

Transfer of rights, Change of name and address

Any modification in connection with the owner of the trademark must be recorded on the National Trademark Register to be opposable to third parties.
In particular, the renewal of a trademark can only be validly carried out by its new owner if the transfer of rights has been validly recorded prior to the request for renewal. Consequently, any modification in connection with the owner of the trademark must be recorded prior to the filing of the renewal application.

On the other hand, please inform us of any change of name/or address so that we may correctly forward the reminders concerning renewals and this also to allow us to provide correct information for the renewal application. In this regard, the
communication of an extract of the Commercial Register to our firm is sufficient.

**Loss of rights**

*Non-renewal*

The request for renewal must be filed during six months period prior to the expiration date, or at the latest during the six following months, i.e. for example, until September 1\textsuperscript{st} 2004 for a trademark filed on February 10, 1994, failing which the mark will no longer be valid.

*Non-use*

Revocation can be incurred for lack of use of the mark if the owner of the mark, except for legitimate reasons, has not used the mark or caused it to be used in a serious, public and non-equivocal manner:

- Either through a period of five years following the date of the registration of the trademark for its first period of validity,
- Or through a period of five years preceding a revocation action during the valid period of the trademark,

The revocation action cannot be raised other than by a third party having a legitimate interest.

*Tolerance*

If the owner of a trademark tolerates for 5 years the use of a mark registered at a later date, he thereby deprives himself of the rights to take infringement proceedings or nullity proceedings against the owner to the later trademark, unless that owner acted in bad faith.

*Loss of distinctiveness*

The owner of a trademark risks the lapsing of his rights if the trademark, through his doing or lack of doing, becomes:

- the common commercial designation of a product or service,
- liable to mislead people, especially as regards the type, quality or geographical origin of the product or service.

*Foreign extensions*

Protection in other countries necessitates particular filing formalities; we remain at your disposal to advise you on this matter.

If your French application is the first filing, all later foreign applications filed before the expiration of the 6 month period following the French application will allow you to benefit from the priority date of the French application.

We wish to draw your attention to the particular case of an international trademark
application as defined by the Madrid Agreement. In point of fact, such application should be filed on the basis of a French registration; whereas a trademark is considered to be registered only from the date of its publication in the Official Bulletin. You should therefore inform us of your instructions as soon as possible in order to enable us to proceed with such application within the due date of the priority claim.