

# The Congo Patent System and Transimperial Entrepreneurs

The Colonial Expansion of Belgian Intellectual Property (1880s to 1930s)

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VÉRONIQUE POUILLARD

This article examines the history of the patent system in Belgian-ruled Congo, from its beginnings under the Congo Free State until the end of the interwar period, providing an outline of the legal technique of patents as groundwork. The introduction presents a sample of patent registrations and defines a patent as a temporary monopoly granted for an innovation. The first section focuses on the foundation of the colonial patent system that Belgium extended to its colonies. The second section examines the transimperial influences at work in the Belgian colonial intellectual property system, and the decisive role of patent agencies as intermediaries between the patentees and the patent registration office of the Belgian Ministry of the Colonies. The third section examines adaptations to the Belgian patent system in the colony and the participation of transimperial entrepreneurs and patentees from smaller, and in some cases non-colonising, European nations. The fourth section addresses the relation between international treaties and the colonial intellectual property systems. The final section presents concluding observations.

Dit artikel onderzoekt de geschiedenis van het octrooisysteem in het door België bestuurd Congo vanaf de periode van de Congo-Vrijstaat tot het einde van het interbellum en geeft een basisoverzicht van de juridische constructie van octrooien. De inleiding presenteert een aantal voorbeelden van octrooiregistraties en geeft een definitie van een octrooi als het verlenen van een tijdelijk monopolie voor een innovatie. Het eerste deel analyseert het koloniale octrooisysteem dat België in de kolonies toepaste. Het tweede deel onderzoekt de transimperiale invloeden die een rol speelden in het Belgische koloniale intellectuele eigendomsstelsel en de beslissende

rol van particuliere octrooibureaus als tussenpersonen tussen de octrooihouders en het octrooiregistratiekantoor van het Belgische Ministerie van Koloniën. Het derde deel bestudeert de aanpassingen van het Belgische octrooisysteem in de kolonie en de rol die transimperiale ondernemers en octrooihouders uit kleinere, en in sommige gevallen niet-koloniserende, Europese landen daarbij speelden. Het vierde deel behandelt de verhouding tussen internationale verdragen en de kaders van het koloniale octrooisysteem. Het laatste deel bevat de slotopmerkingen.

## Introduction<sup>1</sup>

On 1 March 1885, an engineer from Vienna in the Austro-Hungarian empire named M. Mattern submitted a patent project to the International African Association (IAA) to render the Congo River between Kinshasa and Matadi more navigable, resolving several obstructed passages. The IAA, which was founded in 1876, was used by the Belgian King Leopold II to explore and acquire land deeds in Central Africa, among other goals. In 1885, this land materialised as the Congo Free State. Mattern noted that his innovation could favourably compete with the construction of railway lines, both technologically and financially, despite not specifying how exactly he intended to do this. IAA Secretary-General Maximilien Strauch replied that the moment was inopportune for such ambitious enterprises on the banks of Congo. This instance demonstrates how, prior to the formation of a patent administration in the Congo Free State, non-Belgian entrepreneurs and inventors such as Mattern sought opportunities by trying to obtain temporary monopolies on innovations and works that had to be carried out in Congo.<sup>2</sup> Mattern did not give up after Strauch's rejection. In a new letter, he asked for his innovation to be patented, to receive an order to establish a provisory budget, and to have authorisation to organise preparatory works. Again, the IAA used the argument of the absence of a Congo patent office to politely decline the persistent engineer's proposals.<sup>3</sup>

1 This article was written with the support of ERC grant CoG 818523, Project Creative IPR: The history of intellectual property in the creative industries. For their help in retracing the history of the colonial patents in Congo, I thank the staff at the Archives Générales du Royaume de Belgique, Jean-Michel Rostoker, Reidar Maliks, and the staff of the British Library, the Institut National des Archives du Congo in Kinshasa, the Dutch Patent Office, and the Royal Library of Belgium. Thanks also goes to Eline Ceulemans, Janne Schreurs, Houssine Alloul, Tessa Lobbes,

Wouter Egelmeers, Darina Martykánová, and the two anonymous referees for their comments. I thank Donna Reeder of Reeder Literary Services for her copyediting of the article.

2 On the words 'inventor', 'innovator', and 'entrepreneur', see B. Zorina Khan, *The Democratization of Invention: Patents and Copyrights in American Economic Development, 1790-1920* (Cambridge University Press 2005).

3 Archives Générales du Royaume de Belgique, Brussels (hereafter AGR) 2, Fonds des Brevets (hereafter BREV) inv. nr. 134, Letter from Mattern

The available data on patent registrations in the Congo Free State, and later Belgian Congo, reveal the multiplicity of nationalities or at least residencies of patent applicants. Mattern's story demonstrates how the extension of the patent system to the colonies was more often an initiative of international private entrepreneurs rather than the colonial state. It was only after receiving such queries that the Congo Free State administration enforced decrees regulating intellectual property. The numbers of patents gradually increased, especially after the First World War.

Although Mattern's invention was never patented, the patent office files show that many of the inventions registered would contribute to knowledge that was specifically useful to the colonial state to colonisation and coercion. For instance, the first patent filed in class E dedicated to chemical industries, in 1893, was for a preparation of explosives, submitted by the Belgian *Compagnie Générale des Explosifs Favier*.<sup>4</sup> Rail transport had its own patent class, 'Transports sur rails', in which the first patent filed was in 1888 by the British innovator Alfred Savill Tomkins, for a system comprising a railway car combined with a tent.<sup>5</sup> A substantial proportion of the patents were for technologies directly involved in the colonisation of Congo, in terms of transport, machines, weapons, and tools. Especially patents for weapons were more direct and more visible indicators of a system of extraction that resulted in the use of violence against colonised populations (Figure 1). The coercive aspects of colonisation have been studied, for example, by Nancy Rose Hunt, who has examined the ambivalence of the colonial authority in Congo towards implementation of medical programmes.<sup>6</sup> To generate a colonial patent system, an elite of entrepreneurs was necessary, among whom were not just innovators stemming from the colony's metropole, Belgium, but also transimperial entrepreneurs from larger imperial powers such as Great Britain and France. Others can be characterised as transnational, stemming from smaller nations, many of them without formal colonies, such as Czechoslovakia, Luxembourg, Norway, and Switzerland.

This article examines the history of the colonial patent system in Congo, how it came about, and the main actors involved. As this is the first study to focus on the history of the patent system in Belgian-ruled Congo, it provides as groundwork an outline of the legal technique of patents. Innovators, also called patentees, filed a patent in the form of a written document comprising an administrative and a technical part. A patent

to the IAA, 1 March 1885; reply from Maximilien Strauch, 12 March 1885; reply from Mattern to the IAA, Brussels, 8 April 1885; reply from the IAA to Mattern, 28 April 1885.

4 '3. – Inv. Nouveaux composés explosifs ne détonant pas à l'air libre, Compagnie Générale des explosifs Favier, Bruxelles, Belgique, 22

décembre 1887', in: M. F. J. Bockstael, *Belgisch Congo, uitvindingsoctrooien* (Bockstael 1953) 275.

5 '5. – Inv. Système de wagon-tente combiné, TOMKINS Alfred Savill, Londres, Angleterre, 5 octobre 1888', in: Bockstael, *Belgisch Congo*, 449.

6 Nancy Rose Hunt, *A Colonial Lexicon: Of Birth Ritual, Medicalization, and Mobility in the Congo*

Tir à tir rapide  
Système Baptiste

Description du mouvement

L'arme est construite de façon à produire : 1°) un tir interrompu avec chargement automatique ; 2°) un tir rapide pour lequel le chargement se fait automatiquement au moyen du recul et le tir rapide se produit en agissant qu'une fois sur la détente, c'est à dire pour le départ du 1<sup>er</sup> coup et en la maintenant à fond. Ces changements de tir se font en déplaçant la détente de l'avant vers l'arrière ou vice versa.

Mouvement de répétition pour  
le tir interrompu.

Dans la sous-garde est ménagée deux rainures longitudinales dans lesquelles glissent les goupilles arrêtées du support de détente. Dans chacune de ces rainures est fait deux crans d'arrêt dans lesquels viennent se placer les goupilles arrêtées du support de détente lesquelles sont maintenues dans leur logement par deux lames ressort.

Lorsque le support de détente se trouve placé au fond de la rainure ménagée vers l'avant, l'arme est en position pour exécuter le tir interrompu. Il suffit alors pour amener le départ du coup de presser sur la détente, le bec de celle-ci fait monter un poussoir qui soulève l'arrière de la gachette et amène ainsi l'entraînement de son bec qui laisse échapper les noix et le percuteur est lancé au moyen d'un ressort à l'indien vers l'avant pour percuter les cartouches. Le recul agissant sur le verrou repousse celui-ci en arrière qui entraîne la douille retenue par un extracteur. La douille rencontre à un moment l'éjecteur qui la projette en dehors en passant par l'ouverture de la boîte de culasse qui se trouve immédiatement au dessus du magasin.

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**Figure 1.** Patent application for a fast-firing gun. Patent description from armoury-sergeant Baptiste, Bambili, Uele, to the Minister of the Colonies, Brussels, 14 October 1912. Document and scan provided by the Algemeen Rijksarchief België/Archives Générales du Royaume de Belgique, Dépôt 2 – Cuvelier, BREV inv. nr. 234/1.

protected an invention for the territory under the supervision of the patent office, for a specified duration. Registration offices were obliged to make patents public, usually by publishing them in regular instalments. Patents were, and still are today, a form of regulatory institution that fosters innovation by granting a temporary monopoly to the patentees, which could be firms or individuals.<sup>7</sup> What changes then when these patents were filed within colonial spaces, by colonial institutions, and by colonial actors? The main question that this article addresses is to whom this colonial patent system mattered, and who was interested in the incentives that such a patent system was supposed to offer. It focuses in particular on the years from the 1880s until the 1930s, often regarded as the height of Belgium's colonial expansion in the Congo region. A remarkable observation when studying this longer period is that the colonial patent system did not undergo any institutional changes in 1908, during the retrocession of Congo to Belgium. To address the diachronic changes and consistencies, this article examines the period of both the Congo Free State and Belgian Congo.<sup>8</sup>

The study of the emergence of intellectual property systems contributes to the work of historians who have examined the actions of Belgian experts in setting international standards.<sup>9</sup> Belgium's commitment to internationalism also appears through its participation in the international harmonisation of intellectual property systems. Belgium was one of the earliest signatories to the Paris Convention on Industrial Property in 1883 and the Berne Convention on Copyright in 1886, which agreed to regulate intellectual property systems internationally, with patents being regulated by the Paris Treaty. At the national level, Belgium, which inherited the French regime of intellectual property dating back to 1791, passed its first patent law

(Duke University Press 1999). DOI: <https://doi.org/10.1215/9780822381365>.

- 7 Arnaud Péters, *La Vieille-Montagne (1806-1873). Innovations et mutations dans l'industrie du zinc* (Les Éditions de la Province de Liège 2016); Frédéric Marteau, 'Sur l'utilisation des brevets au XIX<sup>e</sup> siècle. Le cas de Julien Dulait' (Master's thesis, Université de Lorraine 2023); Paul Servais, 'Les brevets d'invention en Belgique de 1854 à 1914', *60e Congrès de la Fédération des Cercles d'Archéologie et d'Histoire de Belgique*, 1992, Actes. Tome 2 (Luik 1994) 367-368; Ginette Kurgan-van Hentenrijk and Jean Stengers (eds.), *L'innovation technologique. Facteur de changement (XIX<sup>e</sup>-XX<sup>e</sup> siècles)* (Éditions de l'Université Libre de Bruxelles 1996); Graham Dutfield, 'Patent Systems as

Regulatory Institutions', *The Indian Economic Journal* 54:1 (2006) 62-90, 65. DOI: <https://doi.org/10.1177/0019466220060105>.

- 8 John Van Damme, 'La propriété industrielle en droit congolais', in: Edmond Picard (ed.), *Les nouvelles. Droits Intellectuels. Tome II* (Larcier 1936) 1039; *Législation commerciale du Congo belge* (Librairie Falk et Fils 1930); Théodore Smolders, *Droit civil du Congo belge* (Larcier 1956) 8-27; Paul Vander Haeghen, *Répertoire des droits intellectuels en Belgique et au Congo* (L'Ingénieur-Conseil 1924).
- 9 Daniel Laqua, *The Age of Internationalism and Belgium, 1880-1930: Peace, Progress and Prestige* (Manchester University Press 2015) 9-12.



as a recently founded state in 1854. Patents were regulated under industrial property, itself a part of intellectual property law. Christopher May, Susan Sell, and Daniel Gervais have informed our understanding of the writing and implementation of international treaties on intellectual property.<sup>10</sup> Scholars have addressed more specifically the difficulties inherent in transplanting legislation to colonial contexts, such as in the case of Palestine under British mandate.<sup>11</sup>

The organisation of a patent system had the potential to become an important economic asset for Congo, as underlined in the literature on the transfers of knowledge.<sup>12</sup> The territories that in 1885 became the Congo Free State were gradually made available for exploration and for establishing extractive industries. Mattern's brief story – which was not filed in the patent records – aligns with narratives on the creation of monopolies, usually obtained by concessions, in the Congo Free State and on the transnational entrepreneurs who exploited Belgium's colonial resources. As such, this article on colonial patents contributes to growing research on 'colonialism from the margins', where transimperial and transnational actors from smaller states such as Mattern became enmeshed in the imperial logics of other empires, as discussed in the introduction of this special issue. Actors studied in this article were seeking opportunities by trying to file their patents.<sup>13</sup> As they seem to have been integral to the pan-European colonisation of Congo, one questions how central or marginal their colonial policies, strategies, and actions really were, if and how those policies were facilitated by the Belgian Ministry of the Colonies, and how the government patent office and colonial patents themselves served, respectively, as sites and instruments of colonial knowledge and power.

10 Christopher May and Susan K. Sell (eds.), *Intellectual Property Rights: A Critical History* (Lynne Rienner Publishers 2005). DOI: <https://doi.org/10.1515/9781626370029>; Daniel J. Gervais, 'The Internationalization of Intellectual Property: New Challenges From the Very Old and the Very New', *Fordham Intellectual Property Media & Entertainment Journal* 12:4 (2002) 929-990.

11 Michael D. Birnhack, *Colonial Copyright: Intellectual Property in Mandate Palestine* (Oxford University Press 2012). DOI: <https://doi.org/10.1093/acprof:oso/9780199661138.003.0001>.

12 On patents as economic assets see: Philippe Aghion et al., 'Exporting Ideas: Knowledge Flows from Expanding Trade in Goods', Centre for

Economic Performance, Discussion Paper no. 1960 (London School of Economics 2023).

13 Cátia Antunes, Susana Münch Miranda, and João Paulo Salvado, 'The Resources of Others: Dutch Exploitation of European Expansion and Empires, 1570-1800', *Tijdschrift voor Geschiedenis* 131:3 (2018) 501-521. DOI: <https://doi.org/10.5117/TVGESCH2018.3.006>. ANTU; Bockstael, *Belgisch Congo*; Patricia Purtschert and Harald Fischer-Tiné, *Colonial Switzerland: Rethinking Colonialism from the Margins* (Cambridge University Press 2015). DOI: <https://doi.org/10.1057/9781137442741>; Janne Schreurs and Eline Ceulemans, 'Transimperial Opportunities? Small State Colonisation of Congo (1876-1940)', *BMGN – LCHR* 140:4 (2025). DOI: <https://doi.org/10.51769/bmgn-lchr.22632>.

While scholars have emphasised the transnational character of the early colonial explorations and business enterprises in Congo, this article contributes to this literature by examining the patent system.<sup>14</sup> Most studies dedicated to the history of intellectual property systems in Africa limit their focus to the post-independence period.<sup>15</sup> Among them, Caroline Ncube has written about the need for nuance in the analysis of the effects of patents on long-term foreign direct investments in decolonised African countries. Indeed, in the case of Congo, the benefits of the colonial patent system did not last in the long run.<sup>16</sup> Broader studies cover the patent system of the Democratic Republic of Congo as part of a broader overview of intellectual property systems.<sup>17</sup> Others have examined the history of patents in African countries such as Ghana and Nigeria, but the archives and their use remain quite fragmentary.<sup>18</sup> Finally, researchers have also examined different aspects or consequences of Belgium's legal transplants to its colonies.<sup>19</sup> However, this

- 14 Frans Buelens, *Congo, 1885-1960: een financieel-economische geschiedenis* (EPO 2007) 101; Guy Vanthemsche, *Belgium and the Congo, 1885-1980* (Cambridge University Press 2012) 148, 180 DOI: <https://doi.org/10.1017/CBO9781139043038>; about Nordic participation in Congo: Diana M. Natermann, 'To Maintain or Adjust? On the Whiteness of Swedish Men in the Congo Free State (1884-1914)', *The Journal of Imperial and Commonwealth History* 51:3 (2023) 464-486. DOI: <https://doi.org/10.1080/03086534.2023.2205746>; Pia Lundqvist, 'Who Were the Missionaries? The Social Origin and Professional Background of Swedish Missionaries in the Congo Free State', *Social Sciences and Missions* 37:3-4 (2024) 347-389. DOI: <https://doi.org/10.1163/18748945-bja10102a>; Bjørn Godøy, *Solskinn og død, Nordmenn i kong Leopolds Kongo* (Spartacus Forlag 2010) 26-34.
- 15 Caroline B. Ncube, 'Three Centuries and Counting: The Emergence and Development of Intellectual Property Law in Africa', in: Rochelle C. Dreyfuss and Justine Pila (eds.), *The Oxford Handbook of Intellectual Property Law* (Oxford Academic 2017) 411. DOI: <https://doi.org/10.1093/oxfordhb/9780198758457.013.21>; Boatema Boateng, *The Copyright Thing Doesn't Work Here: Adinkra and Kente Cloth and Intellectual Property in Ghana* (University of Minnesota Press 2011); Mukadi Bonyi (ed.), *Cinquante ans de législation postcoloniale au Congo-Zaïre: Quel bilan?* (Centre de Recherche en Droit Social 2010); Laurier Yvon Ngombé, *Le droit d'auteur en Afrique* (L'Harmattan 2009) 18-21.
- 16 Ncube, 'Three centuries', 411-415.
- 17 Bonyi, *Cinquante ans*; Ngombé, *Le droit d'auteur*, 19-20; Daniel Opoku Acquah, 'The Unusual Extension of Imperial Intellectual Property Laws to Colonies in Africa', in: P. Sean Morris (ed.), *Intellectual Property and the Law of Nations, 1860-1920* (Brill 2022) 291-331; Véronique Pouillard, 'Intellectual Property Rights in Belgium and in the Congo: Between Internationalism and Colonialism', in: P. Sean Morris (ed.), *The Silent Peacemaker: Intellectual Property Rights and the Interwar International Legal Order, 1919-1939* (Brill 2025) 281-307. DOI: [https://doi.org/10.1163/9789004714663\\_012](https://doi.org/10.1163/9789004714663_012).
- 18 George Sipa-Adjah Yankey, 'The Role of the International Patent System in the Transfer of Technology to West Africa: Case Studies: Ghana and Nigeria' (PhD thesis, University of Warwick 1986).
- 19 Nathalie Tousignant, 'The Belgian Colonial Experience and Legal Journals (1908-1960): An Overview', *C@hiers du CRHiDI. Histoire, droit, institutions, société* 37 (2015) 1-16. DOI:

article is the first study to bring these strands together to focus on the history of the patent system in Belgian-ruled Congo.

The choice for a transnational and transimperial lens results from observing the strong involvement of private business interests from different countries, most of them European, in the organisation of the colonial patent system; the word ‘transnational’ is also used to describe the process of a North-South legal transplant.<sup>20</sup> Additionally, another question arises: where were the patentees based, keeping in mind the strong representation of Belgian nationals in the colony? A critical examination situating the patents in their colonial context of production needs to be applied as a method to avoid taking the colonial patent as a given, and especially in view of examining the mechanisms of participation and non-participation that were at work in the taking and granting of colonial patents. This article is based on the study of legal treaties, and the Patent Series in the archives of the Ministry of the Colonies. Congolese people remained invisible in patent registration until 1957, when Alphonse Maweja Bajikile was the first Congolese who registered a patent.

The article is structured as follows. First, the intellectual property system that Belgium extended to its colonies is outlined to present the basis for the article. The second section examines the international influences on the Belgian colonial industrial property system, and highlights the private patent firms and their agents as intermediaries between the entrepreneurs who applied for patents and the colonial patent registration office. The third section analyses the adaptations of the patent system from Belgium to the colony, and how this process fostered the involvement of entrepreneurs in transimperial and transnational dynamics, including entrepreneurs from smaller, and in some cases non-colonising, nations. The fourth section addresses the relation between international treaties and the colonial intellectual property systems. The final section presents concluding observations.

### Early laws for patenting in the colony

The Belgian General Administrator of Foreign Affairs administered patents for the Congo Free State through decrees (*arrêtés d'exécution*). The first of

<https://doi.org/10.25518/1370-2262.230>; Benoît Henriët, *Colonial Impotence: Virtue and Violence in a Congolese Concession (1911-1940)* (De Gruyter Oldenbourg 2021) 21. DOI: <https://doi.org/10.1515/9783110652734>.

<sup>20</sup> On legal transplants, see Alan Watson, *Legal Transplants: An Approach to Comparative Law*

(University of Georgia Press 1993); Daniel Hedinger and Nadin Heé, ‘Transimperial History – Connectivity, Cooperation and Competition’, *Journal of Modern European History* 16:4 (2018) 429-452. DOI: <https://doi.org/10.17104/1611-8944-2018-4-429>.



these decrees, dated 29 October 1886, authorised the filing of patents sent to the Governor General in Boma.<sup>21</sup> Leopold II, sovereign of the Kingdom of Belgium and the Congo Free State until 1908, signed this decree that would become the reference text on patent law in the colony. The preamble of the text stated that any innovation could be the object of a patent, and that patents would not be subjected to an examination.<sup>22</sup> Details followed on the three kinds of patents: innovations, imports (a patent taken elsewhere and registered again for protection in Belgian Congo), and ‘improvements and new use’ (‘improvement patent’ used hereafter) which is a newly registered patent, explicitly building on a previously registered patent to improve it. The registration date also served as the patent date.<sup>23</sup> The duration of innovation patents was twenty years and for import patents, duration was limited by the term of the foreign patent. Filing was subjected to a tax of 100 francs, and improvement patents were not subject to tax, to foster incremental tweaks. Announcements of the registration of patents were printed in the colony’s *Bulletin Officiel du Congo belge*.<sup>24</sup> A text added to the decree detailed the modalities for patent filing (*arrêté d’exécution*). Applications had to be filed with the Belgian Department of Foreign Affairs, directly or through the Congo Free State’s General Administrator.<sup>25</sup>

The lack of examination of the patents, the moderate registration tax, the long protection term, and the capacity for registering import patents were all incentives for non-Belgian entrepreneurs to participate in the colonial industries.<sup>26</sup> Among the earliest administrations showing an interest in patent and trademark rules for the Congo Free State was the United States Patent and Trademark Office. In 1893, officer G.R. Simpson wrote that the US Patent Office was holding a translation of the first Royal Decree on patents of 29 October 1886, and asked to receive any updates on it.<sup>27</sup> During the retrocession of the Congo Free State from the sovereignty of Leopold II to the Belgian state in 1908, several stakeholders inquired whether the colony’s change of status would result in different, perhaps more restrictive, patent rules. Innovators and firms based in Belgium, France, Germany, and Great Britain sent queries on this theme, to which the colonial administration replied that the law was not intended to be changed, illustrating the

21 AGR 2, BREV inv. nr. 240/8C, Ministry of the Colonies, Brussels, to the Vice-Governor General, Province of Katanga, 7 April 1911.

22 AGR 2, BREV inv. nr. 236/6, Décret sur les brevets. Département des Affaires étrangères, *Bulletin Officiel de l’Etat Indépendant du Congo* 2:10 (1886) 155-156.

23 Van Damme, ‘La propriété industrielle’, 1039.

24 AGR 2, BREV inv. nr. 236/6, Décret sur les brevets 155-157.

25 AGR 2, BREV inv. nr. 236/6, Décret sur les brevets 158; BREV 236/7, Ministry of Industry and Labor, Brussels, number 3670, Brussels (1911) 1-2.

26 AGR 2, BREV inv. nr. 236/1, Note sur la propriété industrielle, 1-2.

27 AGR 2, BREV inv. nr. 234/1, Letter from G.R. Simpson, U.S. Patent Office, Washington, D.C., to the Foreign Affairs Department of Congo Free State, Brussels, 20 January 1893.

continuity in the administration between the Congo Free State and the new era of the Belgian colony.<sup>28</sup> In 1912, patent filing was removed from the prerogatives of the General Administration of Foreign Affairs and put under the oversight of the Fourth General Direction of the Ministry of the Colonies in Brussels, where it would remain until decolonisation.<sup>29</sup> It did have additional offices in Boma (which moved to Kinshasa in the 1920s) and Élisabethville (present-day Lubumbashi).<sup>30</sup>

Similarly, after Belgium acquired the mandates of Rwanda and Burundi, international firms asked the Ministry of the Colonies to clarify the situation for patents in these regions. In 1928, the patent agency J. Bède wrote to the Ministry that several clients inquired after the status of their patents in the new mandates. The Ministry replied that this situation had already been clarified, since the decree of 1 March 1926 gave equal value to the patents registered in Congo as in the mandates.<sup>31</sup> For the decrees on intellectual property in force in the colony to be applied to the mandates, it was necessary to establish a registration office for the latter territories. The law of 20 August 1925 gave Rwanda and Burundi juridical entities distinct from Congo. During the 1920s, filing was therefore organised in Usumbura (present-day Bujumbura), and at the Service of the Territories of Ruanda-Urundi of the Ministry of the Colonies in Brussels.<sup>32</sup> During the interwar period, both the colony and the mandates under Belgian oversight were thus equipped with a very complete patent registration system. Let us now turn to the relation between the colonial patent system and transimperial entrepreneurs.

### Transimperial influences?

The Belgian patent system's organisation, and its extension to the colonies, was modelled after the French system, which aimed to offer innovators the most liberal system of registration, with as little restriction as possible on the content.<sup>33</sup> This meant that the risk of filing an innovation of little value was borne by the patentee. At the beginning of the twentieth century, around

28 See, for example, AGR 2, BREV inv. nr. 234/1, Raclot to the Minister of the Colonies, 17 November 1908; answer from Ministry, 20 November 1908.

29 AGR 2, BREV inv. nr. 240/8C, Note on behalf of the director on leave, Ministry of the Colonies, 17 August 1912.

30 AGR 2, BREV inv. nr. 240/8C, Ministry of the Colonies to the Vice-Governor General, Province of Katanga, 7 April 1911; AGR 2 BREV 240/8C, Vice-Governor General to the General Director

of industry and commerce of Katanga, 1 March 1913.

31 AGR 2, BREV inv. nr. 243/2, Letter from patent agency J. Bède to the Ministry of the Colonies, 2 May 1928; and the latter's reply, 11 May 1928.

32 AGR 2, BREV inv. nr. 236/4, Ministry of the Colonies, 'Note pour le Service des Territoires du Ruanda et de l'Urundi', 21 May 1926.

33 AGR 2, BREV inv. nr. 236/7, Conseil supérieur de l'Industrie et du Commerce, Brevets

5,000 patents each year were registered in Germany and around 5,500 each year in Belgium – exact numbers for various other countries, such as France, remain unknown. The number of patents registered annually in Belgian-ruled Congo was very small in comparison to the numbers for Belgium or Germany.

Critics of the German system noted that the selectivity due to its examination system tended to favour the awarding of patents to nationals. In contrast, both in Belgium and France during the first decade of the twentieth century, there were more foreigners than nationals among the patentees. The Belgian patent system was clearly more transnational and transimperial than the German system, with a high participation of patentees residing in other centers of colonial empires.<sup>34</sup> The Belgian colonial administration was indeed eager to attract international entrepreneurs and innovators to invest by filing their patents in Congo. Table 1 presents the figures for Belgian and non-Belgian patentees in Belgian Congo from 1909 until 1924.

The number of Belgian innovators surpassed the non-Belgian patentees only in 1922, but not in the other years for which numbers are available.<sup>35</sup> Notes from the colonial patent office offer further insight into the principles behind the Belgian system. Patents were designed as an incentive to innovators. The temporary monopoly and the possibility to register improvement patents aimed to foster the multiplicity of innovations. The Belgian administrators stated that there should be no constraints in the way that a patent was applied. Patentees should experience the greatest possible freedom in the ways in which they organised commercialisation, and no expectation of commercialisation was required during the three first years after filing a patent, to allow time to raise funds and start production.<sup>36</sup> Declaring a patent invalid due to a lack of commercial exploitation was a decision left to the courts, but the patent office automatically declared applications invalid if the applicant failed to pay the patent tax.<sup>37</sup>

The experts who specialised in patents belonged to two categories: intellectual property lawyers and private patent businesses or in other words patent agencies. The first category encompasses the *Chambre des Conseils en matière de Propriété industrielle*, a non-profit association headquartered in Brussels founded in 1887, specialised in the protection of industrial property. Among the Belgian jurists that filled its ranks were Daniel Coppieters, a contributor to the legal doctrine for the Belgian colonies, and André Anspach, who had written a treaty on trademarks. In 1910, they submitted a report on

d'Invention, Exposition de Saint-Louis (Etats-Unis d'Amérique), Session de 1902 (Imprimerie A. Lesigne 1902) 1-7, 18.

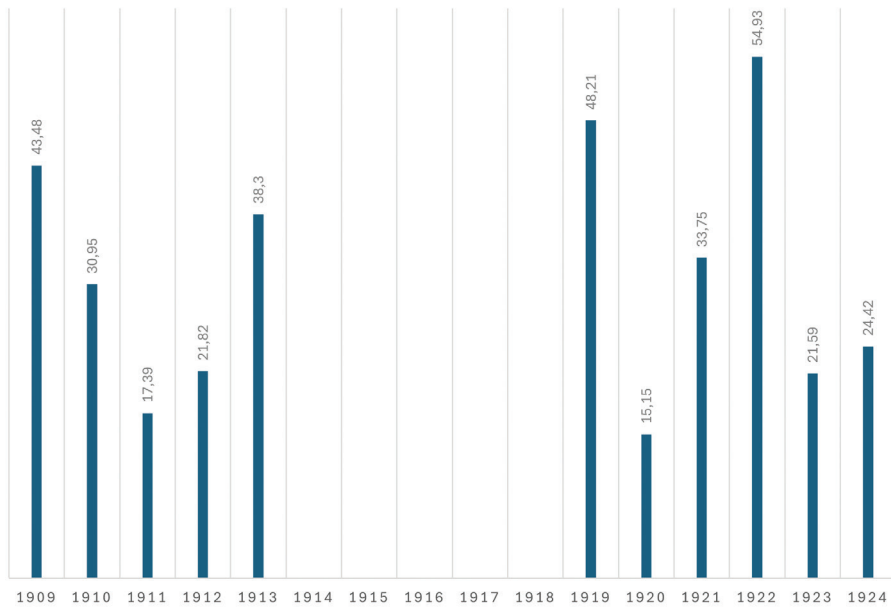
34 AGR 2, BREV inv. nr. 236/7, Conseil supérieur de l'Industrie, Brevets d'Invention (1902) 1-7, 18.

35 AGR 2, BREV inv. nr. 236/7, Conseil supérieur de l'Industrie, Brevets d'Invention (1902) 1-18.

36 Boateng, *The Copyright Thing*.

37 AGR 2, BREV inv. nr. 236/7, Ministry of Industry and Labor, Brussels, Manuscript notes on patents, 8 November 1910, 1-3.

## PERCENTAGE OF PATENTS TAKEN BY BELGIAN CITIZENS



**Table 1.** Patents filed in Congo per year by origin of the patentee (Belgian national or foreign), for the years available from 1909 until 1924. The numbers are unknown for the period 1914-1918. Source: based on BREV 241/15, Statistique des brevets, manuscript document; BREV 240/9, Note from the Ministry of the Colonies, 27 September 1921, 1-2; BREV 236/4, Tableau des brevets, marques, dessins déposés. The absence of numbers for the First World War results from the fact that the patents by German innovators were placed under sequester, which created a disruption in the data collection.

the status of industrial property in Congo and the modifications that they wanted to implement in this system, for approval by the association.<sup>38</sup> To that extent, these experts wrote treaties on intellectual property in the colonies.

The second category includes a small group of Belgium-based patent agencies that supported the innovators and entrepreneurs in preparing their patent applications. The Ministry of the Colonies files often show entrepreneurs' lack of familiarity with the patenting process. The patent agencies were privileged interlocutors of the Ministry, speaking on behalf of the innovators and entrepreneurs. Belgium-based patent agencies also communicated with peers abroad. Foreign patent agencies, from industrialised countries such as Britain, Germany and the United States, but also from smaller countries such as Austria, Denmark, Sweden, and Switzerland, enquired with the Ministry about lists of colleagues operating

38 AGR 2, BREV inv. nr. 236/7, Association nationale belge pour la Protection de la Propriété

Industrielle to the Minister of the Colonies, 26 February 1910.

in the colony. These private intermediaries were key to creating networks interested in extending their intellectual property regimes.<sup>39</sup>

In addition to these two groups based in Belgium, the role of the international associations in charge of intellectual property was essential in maintaining contacts with national patent services and with private patent agencies, and in exchanging knowledge on patent systems.<sup>40</sup> In 1900, the international organisation in charge of implementing the Paris Convention and the Madrid Arrangement on Industrial Property, the *Bureaux Internationaux réunis pour la Protection de la Propriété intellectuelle* (BIRPI) based in Berne, asked the Congo Free State administration for its patent statistics, to compile an overview of the movement of industrial protection in the world. The Congo Free State administration sent the numbers of patents filed until 1899.<sup>41</sup>

The amount of patents filed by entrepreneurs, whether Belgian or foreign nationals, remained very small during the years of the Congo Free State, as shown in Table 2. A surge appeared after Congo became a Belgian colony – possibly a sign that the change of colonial regime inspired greater trust from international entrepreneurs, combined with a growing number of opportunities. This growth was halted during the First World War. Registration numbers rose significantly during the 1920s, but stopped again during the Great Depression. From 1885 until 1945, some 2,000 patents in total were registered in the colony. In the following five years, 1945–1950, 50 per cent of this number was reached, indicating a significant increase after the Second World War.<sup>42</sup> The proportion of import patents in the total number (as shown in Table 2) is an important indicator of how the Belgian colonial patent system supported the transimperial circulation of innovation, involving innovators from smaller countries – for instance, the explorers and entrepreneurs from the Scandinavian countries.<sup>43</sup>

### Adapting the Belgian intellectual property system to colonial territories

The intellectual property framework for the colonies was generally a transposition of the Belgian system, yet it included some adaptations. A major difference was the period of protection, which was, from the onset, twenty years in the colony. This duration was generally shorter in Europe, although it could be prolonged. Another adaptation was the delay in the publication of

39 AGR 2, BREV inv. nr. 234/1, Patent agency White, New York, to the Administrator of the Congo Free State, Brussels, 30 October 1908; BREV inv. nr. 237.

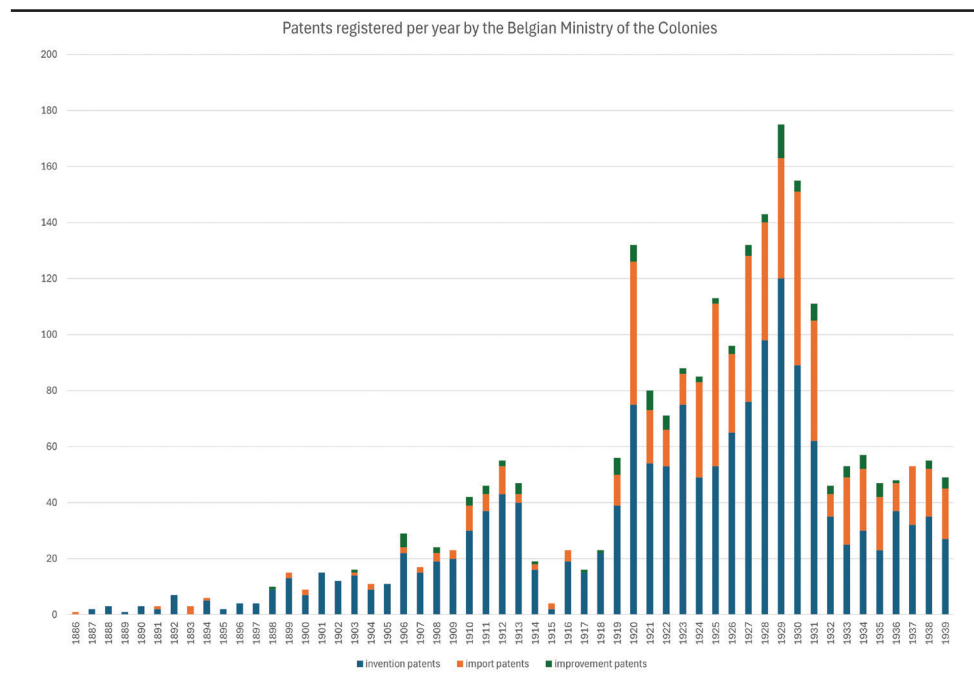
40 Gervais, 'The internationalization', 929.

41 AGR 2, BREV inv. nr. 234/1, Bureau International de l'Union de la Propriété Industrielle to the Congo Free State administration, 21 March 1900.

42 AGR 2, BREV inv. nr. 236/1, Note sur la propriété industrielle, 1.

43 See for instance Godøy, *Solskinn og død*, 26–34.





**Table 2.** Patents in the three categories of innovations, improvements and import filed per year for the Congo Free State (1886-1908) and Belgian Congo (1908-1939). Source: based on AGR 2, BREV inv. nr. 241/15, Statistique des brevets; BREV inv. nr. 240/9, Note from the Ministry of the Colonies, 27 September 1921, 1-2; AGR 2, BREV inv. nr. 236/4, Tableau des brevets, marques, dessins déposés.

patents. In Belgium, the delay between the receipt of a patent application and its publication in the official journal of the Belgian State, *Moniteur belge*, was three months. As the communication between the colony and the metropole was slow, there was wide acceptance that the publication of the patents would take longer than it did in Belgium, usually numbered in months. On the request of some of their clients, a couple of patent bureaux asked the Ministry of the Colonies to push back the publication of patents in the colony's *Bulletin Officiel*. It was apparent to the Ministry that this created an advantage for the innovators who could file a patent and enjoy a few months extra of trade secrecy at the onset of registration in comparison to patents registered within Belgium. Those entrepreneurs thus enjoyed patent protection while their innovation, during those months, was not yet made available through patent publication. The colonial administration even suggested waiting for the collection of patent requests filed in Boma before sending them in bulk for publication in the *Bulletin Officiel*, which was expected to delay publication for three and a half up to five and a half months. Consequently, the administration used the challenges in communications between Boma, Lubumbashi, and Brussels to slow down the publication of patents, adding a privilege for the innovators filing in the colony and increasing the exploitative nature of the colonial patent system.

Cases in the patent office files, however, show limits to the usage of trade secrets. On 25 June 1910, Adolphe Dejardin, residing in Etterbeek, filed Congo patent number 251 for ‘a mode of treatment by crushing rubber herbs and vines to extract rubber’.<sup>44</sup> This was a highly competitive field in which numerous innovators were patenting various systems of presses in the context of the diminishing exploitation of rubber in Congo. But one month later, Dejardin asked to withdraw his patent. Most likely, he had realised that patenting his invention made it public, and he preferred to keep it a trade secret instead. The Ministry replied that Dejardin was not authorised to withdraw his patent.<sup>45</sup> He was, however, offered the registration of an improvement patent. Dejardin then filed an improvement patent for his invention, registering a new patent with supplementary details.<sup>46</sup> Other correspondence shows that the colonial patent office was otherwise careful to respect the bureaucratic registration process.<sup>47</sup> Refusals of registration were not planned for in its framework. In the mid-1920s, the Ministry of the Colonies reiterated that the ‘law was mute’ on the topic.<sup>48</sup> However, during the First World War, there was the exception of the German patents placed under sequester by the Belgian colonial administration. Immediately after the war, the Ministry of the Colonies planned to reopen the registration of German patents filed after the signing of peace for the colonies on 28 June 1919. During those first post-war months, the Ministry had already received applications for ten German patents, and it was obvious that the administration did not intend to delay the registration process after the war ended.<sup>49</sup>

A few industrial sectors were particularly visible during the early years of the Congo patent system. Enterprises specialising in electrical engineering filed patents early on.<sup>50</sup> Among them were several German firms that worked with German patent agencies.<sup>51</sup> Another sector was the arms industry.<sup>52</sup> Uniforms also appear in the patent files, such as the

44 Original: ‘Un mode de traitement par broyage des herbes et lianes caoutchoutières pour en extraire le caoutchouc’. Bockstael, *Belgisch Congo*, 288.

45 Van Damme, ‘La propriété industrielle’, 1039.

46 AGR 2, BREV inv. nr. 234/1, M. Dejardin to the Ministry of the Colonies, 26 July 1910; answer, 29 July 1910.

47 AGR 2, BREV inv. nr. 240/9, Patent agency Léon Bercovici to the Ministry of the Colonies, 8 April 1930; answer, 24 April 1930; Ministry of the Colonies to the Governor General of Congo, Boma, 9 September 1930, 1-2.

48 AGR 2, BREV inv. nr. 240/9, Ministry of the Colonies to Camille De Zuttere, 27 August 1925; note, Ministry of the Colonies, 20 August 1925.

49 AGR 2, BREV inv. nr. 240/9, Ministry of the Colonies, undated (probably late 1919).

50 Nicolas Chachereau, *Les débuts du système suisse des brevets d’invention (1873-1914)* (Éditions Alphil-Presses universitaires suisses 2022). DOI: <https://doi.org/10.33055/ALPHIL.03186>.

51 AGR 2, BREV inv. nr. 234/1, Gustav Weber Maschinen-Fabrik, Gevelsberg, to the Patent Office, Brussels, 19 October 1898; H. & W. Pataky patent agency, Berlin, to the Congo Free State administration, Brussels, 5 May 1898; Patent agency C. Kessler, Berlin, to the Governor General Wahis, Boma, 21 September 1897.

52 AGR 2, BREV inv. nr. 234/1, Sergeant-gunsmith Vrancken to the General Commander of the

design for a fez used by the soldiers of the Force Publique, the colony's armed forces. The Gatineau, Mertens & Cie company based in Verviers, the centre of Belgian wool production, patented a design for this uniform – specifically, the chin strap added to the fez to attach it under the chin.<sup>53</sup> This system had already been in use for 7,200 fezzes previously delivered to the Force Publique, but the producer wished to patent this innovation, most likely to create a monopolistic position for future orders. The protection of such an object might be considered to belong rather to the domain of the protection of industrial drawings ('dessins et modèles'), but as this part of industrial property was undefined until the decree of 1922, it went to patent registration.<sup>54</sup>

Discussions about the language in which patent registrations were written date back to the late interwar period and can be found in the correspondence files of the Ministry of the Colonies. In 1935, the patent agency Gevers wrote to the Ministry to enquire about this matter. The answer was that all patent descriptions needed to be written in French, the language that dominated Belgian business, politics and administration. Dutch became the official language of Flanders in 1938, which most likely prompted Gevers, based in Antwerp, to take action in that domain.<sup>55</sup> The Gevers agency did not abandon the issue, examined all patents filed in Congo, and found a few patents filed under titles in Dutch: patent number 1039 dated 10 March 1925, and patents numbers 1351 to 1353 dated 13 December 1927. With this information in hand, the Gevers agency pointed out to the Ministry that the colonial decrees did not mention the exact patent language. The purpose, according to Gevers, was to avoid unnecessary translation work when receiving patent descriptions in Dutch.<sup>56</sup> The Ministry wrote a note on the topic, stating that it made perfect sense for the registration offices to accept patents with a Dutch title. The practices of international commerce in the use of patent languages were adopted for the colonies, confirming the purpose of catering to all entrepreneurs and

Umangi Camp, 19 September 1900; Letter and patent description from armory-sergeant Baptiste, Bambili, Uele, to the Minister of the Colonies, 14 October 1912; Charles de Broqueville, Belgian War Ministry, to the Belgian Ministry of the Colonies, 17 February 1913; Gatineau, Mertens & Cie, Verviers to the Ministry of the Colonies, 13 September 1911.

53 AGR 2, BREV inv. nr. 234/1, Gatineau, Mertens & Cie, Verviers to the Ministry of the Colonies, Brussels, 13 September 1911.

54 Ibid., 17 August 1911.

55 David J. Hensley, 'An Unlikely Minority? The Development and Use of "Minority Rhetoric" among the Francophones of Flanders, 1918-1932', *Journal of Belgian History/Revue Belge d'Histoire Contemporaine* 43:4 (2013) 80-107; Jan Blommaert, 'The Long Language-Ideological Debate in Belgium', *Journal of Multicultural Discourses* 6:3 (2011) 241-256. DOI: <https://doi.org/10.1080/17447143.2011.595492>.

56 AGR 2, BREV inv. nr. 240/9, Patent agent firm Gevers, Antwerp, to the Ministry of the Colonies, 16 May 1939.

innovators, even though the majority of the patents remained registered in French.<sup>57</sup> This change in the Belgian patent policy corroborates Michael Meeuwis's research on the use of languages in the colony, as the Belgian administration had to make space for French and Dutch in the Colonial Charter, although this remained to a large extent theoretical in the realm of patents.<sup>58</sup> French remained the lingua franca of the Belgian colonial patent system, but the Ministry of the Colonies was willing to accommodate entrepreneurs working in other languages.

An examination of the nationalities of those filing the early patents in the colony shows a substantial presence of Belgian innovators, but not an absolute majority. Within the broader corpus of colonial patents examined in this article, one sample of patents filed during the period 1888 to 1930 is selected in order to closer examine these nationalities. This sample is patent class L, 'Machines and Mechanical Devices', as it represents a large and diverse group of innovations. In this class, innovators registered 276 patents in this period and 107 of them were filed by innovators living in Belgium. The registration data do not include the nationality of patent takers, but their domiciliation. For example, the two patents registered by people from Belgian Congo were not filed by Congolese but by Europeans. During the entire period under examination Congolese people were not represented among the patentees. However, this does not mean that Congolese employees did not contribute to innovative processes in the firms that took patents in Congo. It merely shows that, before 1957, their participation was not formally registered. So, the innovators who filed with a Congolese address were either Belgians or other Europeans. After those domiciled in Belgium, the second largest group of innovators were domiciled in France, with 61 patents in class L, followed by the United States, with 33, and Great Britain with 28. So, in total, the group of patentees issuing from the larger colonial empires forms the majority of the patentees, and shows a prominence of transimperial networks of entrepreneurs in class L.

Relatively small colonising nations – either ruling over formal colonies or 'colonising from the margins' – and neighbouring African countries were also present, albeit with smaller numbers. Inventors from the Netherlands and Switzerland had filed ten patents each; those from Germany had filed six patents; there were five from Egypt; and three each from Denmark, Italy and Norway; residents of Belgian Congo and South Africa had applied for two patents each; and inventors from Austria, Canada, Luxemburg, Morocco, Southern Rhodesia (present-day Zimbabwe), and Czechoslovakia each

57 AGR 2, BREV inv. nr. 240/9, Director General of the Ministry of the Colonies to Gevers, Antwerp, 26 May 1939.

58 Michael Meeuwis, 'The Origins of Belgian Colonial Language Policies in the Congo', *Language Matters* 42:2 (2011) 190–206, 193. DOI: <https://doi.org/10.1080/10228195.2011.571704>.

filed one patent.<sup>59</sup> This sample confirms the multinational participation in the colonial innovation system that supported visions of imperialism, modernisation, and capitalist exploitation, and rendered the colonised people invisible, even though these colonial firms exploited their skills, their lands, and their capabilities.<sup>60</sup> Indeed, only in 1957 the aforementioned Bajikile, a resident of Luluabourg (present-day Kananga) filed the first Congolese patent, number 5220, for his invention of a photographic camera enlarger. He was acclaimed as the first Congolese inventor in the press.<sup>61</sup>

Considered together, these figures confirm that the large colonial empires were not the only actors in the Belgian colonial patent system. Surprisingly, Germany, both an industrial and imperial power, registered a smaller number of patents, but this may be explained by the restrictions imposed during the First World War, and by colonial anxieties towards the country during the 1920s. A salient point is the presence of smaller powers. Some of them, such as Denmark, were engaged in colonial enterprises, while Luxembourg, Czechoslovakia, Norway, and Austria took part in the so-called colonisation from the margins. Notwithstanding Mattern's failure outlined at the beginning of this article, other Austrians registered their innovations in Congo. The Norwegian participation even includes a rare case of a patent from a female entrepreneur called Aurora Hanneborg.<sup>62</sup> While their home states had no formal or long-lived empires, the entrepreneurs and innovators from these smaller countries were also interested in participating in the colonial enterprise for their own profit, by registering their innovations with future exploitation of the colony in mind.

The correspondence of the Ministry of the Colonies shows a comparatively large number of requests and enquiries concerning patents for the mining sector and the transformation of ore, which is consistent with the importance of the industry in the colonial economy.<sup>63</sup> Even before the First World War, the Ministry opened a dialogue with the main copper mining multinational operating in Congo, the Union Minière du Haut-Katanga

59 Bockstael, *Belgisch Congo*, 498-576.

60 Henriët, *Colonial Impotence*, 148.

61 AGR 2, BREV inv. nr. 241/18, Inventeur Congolais, A. Maweja Bajikile.

62 See, for instance, in class L: '19.- Inv. Moteur à eau et à vent. VON KOASSAY Stefan, Fiume – Autriche, 10 septembre 1892', in: Bockstael, *Belgisch Congo*, 499; '110. – Inv. Scierie électrique pour débiter les troncs d'arbres en madriers, traverses de chemins de fer, planches, etc. KOTTMANN Kaspar. 26, Stampfenbachstrasse, Zurich – Suisse, 10 juillet 1903', in: idem, 501; '451. – Imp. Perfectionnement

aux excavateurs. HANNEBORG Mlle. Aurora, Haugrim. Urskog – Norvège, 24 décembre 1915', in: idem, 510.

63 AGR 2, BREV inv. nr. 234/1, William Pell Sharpley to the Department of Foreign Affairs of the Congo Free State, 1 November 1903, 1-2; On the transnational dimension of mineral exploitation, see Shellen Wu, 'The Search for Coal in the Age of Empires: Ferdinand von Richthofen's Odyssey in China, 1860-1920', *The American Historical Review* 119:2 (2014) 339-363. DOI: <https://doi.org/10.1093/ahr/119.2.339>.



(UMHK), on the topic of patents.<sup>64</sup> The administration of the patent office thus served the networking and exchanges of practices between innovators, patent agencies, and patent offices along circuits of diverging relations, including an emerging hierarchy of competing innovators (see Figure 2).

The government patent office was also used by the patentees as a source for research.<sup>65</sup> In the copper industry especially, patenting innovation was an international enterprise, and research processes become visible in repeated requests for the examination of previous patents. The activity of patent taking was fairly international in the mining sector, showing exchanges between the major copper producing countries, including the United States, Chile and, again, the Scandinavian countries.<sup>66</sup> Mandated by international firms, patent agencies wrote to the patent office to obtain copies of patents filed in Congo. In 1926, the patent agency Gevers asked for a long list of copies of patents and accompanying drawings, which frustrated the Ministry, whose patent service felt under-resourced and was perhaps unwilling to handle such a request. Especially the blueprints of the drawings required extra staffing. The list of patents was, in this case, of direct interest to the copper industry.<sup>67</sup>

### The absence of the Belgian colonies from international treaties

A note from the Ministry of the Colonies from 1916 sought to clarify the status of patents for Congo.<sup>68</sup> The Belgian Ministry of Foreign Affairs, while in exile in Le Havre during the First World War, could not verify whether the adherence of Belgium to international acts for the protection of industrial property also included Belgian Congo. This act was signed for the first time in the Paris Convention of 1883, revised in Brussels in 1900, and again, on 2 June 1911, in Washington, DC. The question originated again from the patent agency Gevers, which inquired whether, in wartime, Congo was part of the last update of the Paris Convention. Gevers wrote, in the same letter, that the *arrêté royal* of 9 August 1914 stated that the Belgian Government

64 AGR 2, BREV inv. nr. 234/1, Jules Pasquet, Gilly, to the Ministry of the Colonies, 18, 24 March 1911.

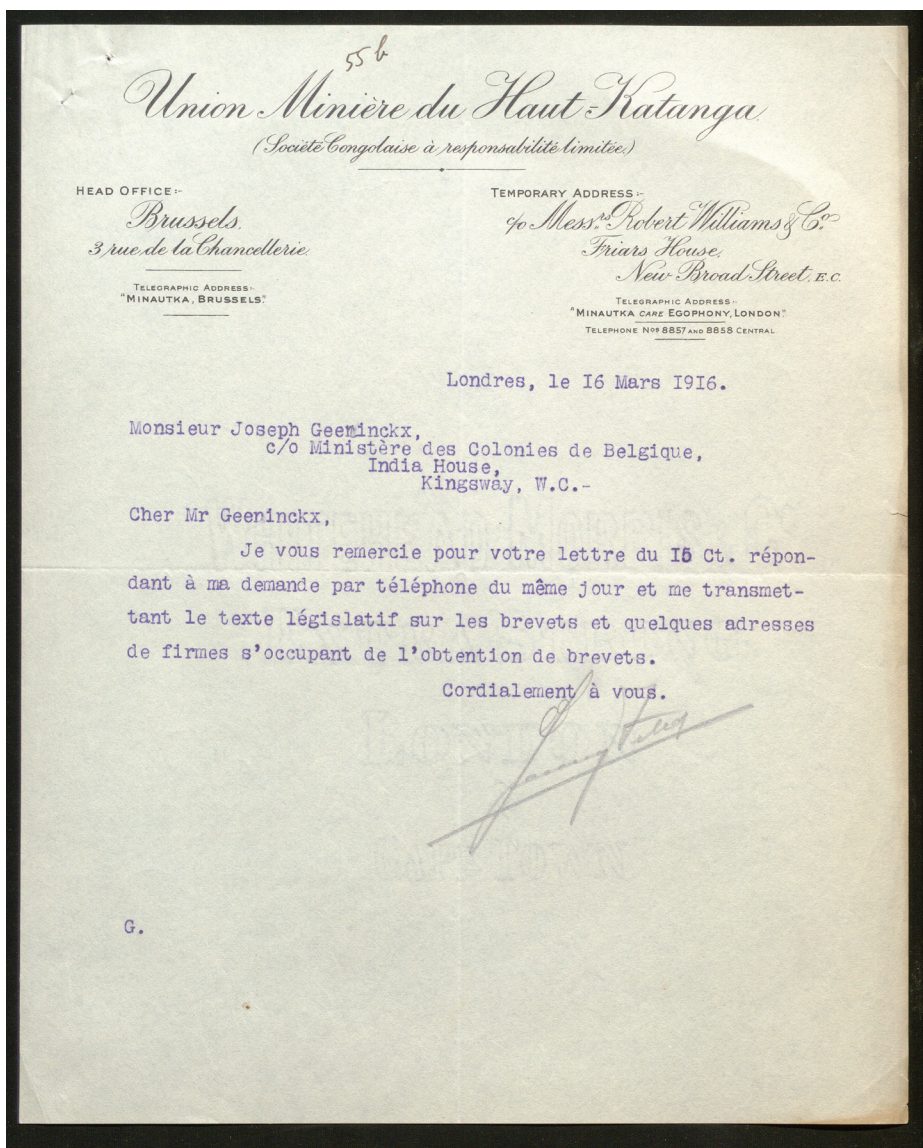
65 AGR 2, BREV inv. nr. 234/1, UMHK, Brussels, to Joseph Geerinckx, Ministry of the Colonies, India House, London, 15-16 March 1916.

66 AGR 2, BREV inv. nr. 234/4, Wittebolle & Michaux, Brussels, to the Ministry of the Colonies, 19 July 1928; AGR 2 BREV inv. nr. 234/4, Letter from UMHK requesting a copy of the patent number 1311 registered by Edwin Coley, Brussels, 4 March 1930; Note from UMHK, 7 November 1932. On

the premises of the global history of copper mining and production in Scandinavia, see: Kristin Ranestad and Kristine Bruland (eds.), *Skandinavisk kobber: Lokale forhold og globale sammenhenger i det lange 1700-tallet* (Cappelen Damm 2020). DOI: <https://doi.org/10.23865/noasp.120>.

67 AGR 2, BREV inv. nr. 234/4, Gevers to the Ministry of the Colonies, 11 June 1926.

68 AGR 2, BREV inv. nr. 240/8C, Note sur le statut des brevets, 1916.



▲  
**Figure 2.** Letter from Union Minière du Haut-Katanga, London, thanking for information from the Colonial Patent and Trademark Office, India House, London, 16 March 1916. Document and scan provided by the Algemeen Rijksarchief België/Archives Générales du Royaume de Belgique, Dépôt 2 – Cuvelier, BREV inv. nr. 234/1.

was authorised to access the Paris Convention on behalf of (*'pour'*) Congo.<sup>69</sup> Those acts had been belatedly signed by the Belgian Chamber and the Senate in 1914.<sup>70</sup>

Upon consultation, the employees of the Ministry in exile argued that the treaty was only in force for Belgium itself. It thus fell upon the Belgian service, which had relocated to India House in London, to include Congo in these acts. The countries that had signed the revised convention were Germany and its colonies; Austria-Hungary; Bosnia and Herzegovina; Dominican Republic; Spain; the United States; France, Algeria and the French colonies; Great Britain; Ceylon; New Zealand; Trinidad and Tobago; Italy; Japan; Mexico; Norway; the Netherlands and the Dutch East Indies, Surinam and Curaçao; Portugal, the Azores and Madeira; Switzerland; and Tunisia.<sup>71</sup> Among the major absentees were Belgian Congo and British India.

The closing protocol of the Washington revision stated that the idea of 'industrial property' had to be defined in its broadest sense to include all agricultural production, such as wine, grain, fruit, and cattle, and extractive property, to comprise minerals and mineral waters.<sup>72</sup> At that point, the Belgian Ministry of the Colonies declared that the state of war between the metropolises of the colonial empires created a situation that should be examined with caution. Should the colony become a signatory of the treaties, and the patent offices be under the direct supervision of the colony, they would be easier to shift if the colonised territories changed ownership. The Belgian management of Congo's patents allowed it to keep greater control over knowledge and investments.<sup>73</sup> During the First World War, the administration in Congo and the office of the Ministry of the Colonies at India House continued accepting patent applications under the same conditions as before the war.<sup>74</sup>

Moreover, in wartime, knowledge about the implementation of industrial property systems circulated easily between Belgium's London services and the British Empire administration. The absence of Congo as a signatory of the industrial property treaties shows similarities with the case of industrial property for India under British rule. Belgian correspondence demonstrates that the status of empires during the First World War resulted in the decision to hold off creating full status for the colonies' industrial

69 AGR 2, BREV inv. nr. 240/8C, Gevers to the Minister of the Colonies of Belgium, London, 28 April 1916.

70 AGR 2, BREV inv. nr. 240/8C, 1914, *Recueil des Lois et Arrêtés Royaux*, 6 August 1914, 1039, no. 136 - Loi portant approbation des actes internationaux concernant la protection de la propriété intellectuelle signés à Washington le 2 juin 1911 (1), 1.

71 AGR 2, BREV inv. nr. 240/8C, Protocole de clôture 20-21.

72 Idem, 13-14.

73 AGR 2, BREV inv. nr. 240/8C, 'Note pour Londres' Ministère des Colonies de Belgique, Le Havre, 9 August 1916.

74 Idem, Note pour Mr. Orts, Ministry of the Colonies of Belgium, London, 1 May 1916.

property. Patents for the Belgian colonies could only exist as an extension of the rights implemented in the metropole. The available archives do not offer a definitive interpretation of the reasons for this.<sup>75</sup> In principle, those colonies were not, in their own right, signatories to the international conventions of Paris and Berne, nor to the Madrid arrangement regulating application of the industrial property treaties. And yet, precisely because the Belgian system of industrial and intellectual property was extended into the colonial space, innovators from larger imperial powers as well as from smaller states or ‘colonisers from the margins’ did invest in those legal domains.<sup>76</sup>

## Conclusion

The intellectual property system in force in the colony applied the Belgian system by proxy. Belgium had signed the international treaties on intellectual property, but Congo, Rwanda, and Burundi were not members in their own right. The change of regime, from the Congo Free State to Belgian Congo in 1908, had not resulted into fundamental changes to the institutional structure of Congo’s patent regime either. A new convention revising the Paris Convention of 1883 was signed in The Hague in 1925. The revision in The Hague did not alter the Belgian administration’s attitude towards potential adherence of the colonies to the international treaties on industrial and intellectual property. The archives do not provide any substantial evidence of Belgium having a distinct strategy for managing its colonial patent regime. Perhaps the hesitation of the Ministry of the Colonies to undertake any changes resulted from a lack of willingness to transfer the small revenue from the patent registration tax from the Ministry in Brussels to the colony. Congo, renamed Zaïre in the early 1970s, became a member of the Paris Treaty in 1975.<sup>77</sup>

75 Lionel Bently, ‘Copyright, Translations, and Relations between Britain and India in the Nineteenth and Early Twentieth Centuries’, *The Chicago-Kent Law Review* 82:3 (2007) 1181-1240; idem, ‘The “Extraordinary Multiplicity” of Intellectual Property Laws in the British Colonies in the Nineteenth Century’, *Theoretical Inquiries in Law* 12:1 (2011) 161-200. DOI: <https://doi.org/10.2202/1565-3404.1266>; Dev Gangjee, ‘The Polymorphism of Trademark Dilution in India’, *Transnational Law & Contemporary Problems* 17:3 (2008) 611-630, 611.

76 Sarah Van Beurden, *Authentically African: Arts and the Transnational Politics of Congolese Culture* (Ohio University Press 2015).

77 AGR 2, BREV inv. nr. 241/9, Chambre des Représentants, Séance du 10 Mai 1928, Projet de loi approuvant les actes internationaux signés à La Haye le 6 novembre 1925 relatifs à la propriété industrielle (...), 205, 1; BREV 241/9, Ministry of the Colonies to Director General Leplae, 2 September 1929.

From the onset, the patent system discussed under the International African Association and implemented in the Congo Free State aimed to facilitate patenting by international innovators, which is in line with the creation of a broader, ‘transimperial market for scientific expertise’, as described by Monique Ligtenberg in her study on Germanophone physicians in the Dutch East Indies.<sup>78</sup> In the case of the colonial patent system in Congo, transimperial entrepreneurs constituted the largest numbers of participants. Through the management of the duration and the language of patent descriptions, the Ministry of the Colonies actively supported those transimperial entrepreneurs. Private patent agencies facilitated patent registration and strengthened the relations between the Ministry and the patentees. This also offered space for smaller and non-imperial nations to participate in the Belgian colonial enterprise from the margin of empires, via its patent system. Further research should also examine the role of smaller states in transnational patenting. Ligtenberg shows that some actors among the physicians she studies did not have a scientifically-trained background. In the case of the colonial patent system in Congo, the lack of examination means that the scientific quality of the patent corpus is particularly uneven and varied from one patent to another. Furthermore, a important proportion of the patent corpus in total is related to systems and industries directly involved in coercion and violence, such as in the cases of patents filed for weapons, uniforms, and extractive machinery.<sup>79</sup>

Jurists such as Caroline Ncube rightly question the relation between patenting, foreign direct investments, and development in African countries in the long run. As demonstrated in this article, the colonial patent system in Congo did not contain Congolese innovators until 1957, while international firms were largely represented. The colonial administration aimed to foster international investments and offered entrepreneurs the greatest flexibility, also by adapting the colonial patent system.

Although colonial patents have been under-researched so far, and there is limited understanding of their significance and of the actors involved, their publication in the *Bulletin Officiel* allows evaluation of the participation of international entrepreneurs in the colonial enterprise, reflecting not only the involvement of Belgians, and of large European empires, but also of smaller countries, such as Austria, Czechoslovakia, Denmark, Luxembourg, Norway, and Sweden. This also reveals limitations imposed on some countries, such as Germany, underrepresented compared to the other large empires, likely due to the sequester imposed on German patents during the First World War and interwar anxieties. The fact that Congo was not a member of intellectual

78 Monique Ligtenberg, ‘Germanophone Physicians in the Dutch East Indies: Transimperial Histories of Medicine between Europe and Colonized

Indonesia, c. 1873-1920s’ (PhD thesis, ETH Zurich 2023) 47.

79 Hunt, *A colonial lexicon*.



property treaties in its own right, may indicate the Belgian administration's wish to keep control over the colonial patent system – as open as it was to international entrepreneurs – although that remains a hypothesis, as conclusive sources on this point are absent so far. This Belgian refusal to grant Congo full membership of the international treaties demonstrates the unequal power relations between the European metropolises and the colonies, the latter being perceived as unworthy international actors.

Colonisation from the margins thus also happened via patenting innovations, as a way to invest in the Belgian colonial enterprise. These investments were welcomed by the Belgian colonial administration, as shown in the archives of the Ministry of the Colonies. Expertise on patents developed between specialised and transnational professionals: the entrepreneurs and innovators; the patent agencies based in Belgium; and the Ministry of the Colonies. Although the Belgian colonial firms present a strong national character, the entrepreneurs who filed patents in the colony constitute transnational and transimperial networks that aimed to participate in the colonial enterprise through the patent process.

**Véronique Pouillard** obtained her PhD in History from the Université Libre de Bruxelles in 2003. Her PhD thesis, *La publicité en Belgique 1850-1975. Des courtiers aux agences internationales* was published in 2005 (Académie royale de Belgique). She is Professor of International History at the Institute for Archeology, Conservation and History, University of Oslo. Her research interests include the history of multinationals, innovation, and law. Among her recent publications are: 'An Antitrust Case in the Diamond Industry: The United States v. the De Beers Cartel', *Business History* 67:5 (2024) DOI: <https://doi.org/10.1080/00076791.2024.2340621>, and 'Copyright Societies and Musicians in the Democratic Republic of Congo: Enduring Infrastructures in Times of Decolonization?', in: *New Global Studies* 19:2 (2025). DOI: <https://doi.org/10.1515/ngs-2025-0006>. E-mail: [v.i.c.pouillard@iakh.uio.no](mailto:v.i.c.pouillard@iakh.uio.no).