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## SPANISH HANDGUNS

1875s - 1950s

### PART ONE



**MUZZLE LOADING AND BREECH LOADING PISTOLS**

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## **PART ONE - MUZZLE LOADING AND BREECH LOADING PISTOLS**

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## INTRODUCTION

We have selected the year 1875 as the starting point of this presentation as it was that year that marked the end of a civil war that devastated the Basque arms manufacturing country, and, it was after this year that it was reborn again with new energy.

Industrialization in Spain came late and haltingly ; We may date its beginnings in 1813 when the Cortes, then in Cadiz because of the Napoleonic occupation of most of the country, enacted legislation regulating the establishment of factories and the employment of workers; However, less than a year later Fernando VII derogated all of these laws, which were then reenacted in 1820 with the coming to power of a government created by a military coup d'etat, and, again derogated in 1823 when French military intervention again enthroned Fernando VII as "absolute monarch", until his death in 1833; One year later, his widow, as Regent Queen, ended all the privileges enjoyed by the Guilds regarding the organization of their work, until their final disappearance in 1836 upon the establishment of industrial freedom.

The liberal government of 1820 also created laws recognizing an inventor's property rights of his inventions and issued so called "certificates of invention"; this law was also derogated shortly after being enacted but, the subject was boarded again in 1826 through a Royal Decree which defined the certificate requested by the inventor as a "privilege"; This "privilege" could be "of invention" if it applied to something entirely new, or, "of introduction" if it regarded something known outside of Spain but not manufactured within its borders; The "Privilege of Invention" could be requested for a period of up to fifteen years while those "Of Introduction" were valid for only five years.

This Royal Decree was in force for more than fifty years and during this period it acquired a number of complementary regulations in order to clarify concepts or to establish requirements; For example the Royal Order of July, 27, 1849 specified that the "Privileges of Introduction" existed in order to protect domestic, but not imported, products; Also the R.O of January, 11, 1845 established the need to prove that the "Privilege" had been put into practice "within one year and one day" of its being issued.

An inventor residing outside of Spain could obtain a certificate of "Privilege" for some of his products , but, he would loose all of his rights if he did not start their manufacture in Spain within the designated period , whether by actually creating a factory or by licensing a Spanish manufacturer; If he did not even apply for a "Privilege of Invention" then he could not prevent the unlicensed manufacture of his products in Spain , or that someone else should obtain a "Privilege of Introduction" and start their manufacture; If a product was actually manufactured in Spain without previously obtaining a "Privilege" it was then subsequently impossible to obtain one; During the fifty years that this decree was in effect slightly more than five thousand "Privileges" were granted.

The issuance of these "Privileges" ended with the Law of Patents of June, 30, 1878 and from this date on "Titles of Patent" were granted although the term "Privilege" or "Privileged" continued to be used as synonyms of "Patent" or "Patented". The new law established the concept of "absolute novelty", defined as "that which is not known or practiced either in Spanish dominions or abroad"; Only those inventions included in this

definition could be “patented” for a maximum of twenty years, as long as an annual and progressive fee was paid, and, the patented product was actually put into production in Spanish dominions within two years of the issuance of their patent, and, as long as its manufacture was not interrupted by a period of more than one year and one day.

The new law also continued to include the “Patents of Introduction” but they were limited to five years.

It was not in the Administration’s competence to ascertain whether a patent infringed the rights of another existing patent or to guarantee that the patented product actually functioned as described by its inventor; Neither would the Administration proceed against infringers unless there was a formal complaint from the injured party; All of this made it necessary to publish information regarding patent applications and issuances and this was published every trimester in the “*Gazeta de Madrid*” until 1886 when the Official Bulletin of Intellectual and Industrial Property was created, which, in 1904 became the “*Boletín Oficial de la Propiedad Industrial*” (B.O.P.I.).

Prior to this, on May, 16, 1902, a new patent law was passed, which refined the previous one and defined without subterfuges the “Patents of Introduction”, which could be obtained for products with no domestic manufacture or without a Spanish patent, and, the “Certificates of Addition” that could be obtained by the owner of a patent in order to modify it or improve it in some respect.

Anyone who had a patent outside of Spain had a year in which to apply for a Spanish patent; Once that year elapsed without such an application being made, anyone could apply for a “patent of introduction” or even manufacture the product without previous licensing by the inventor; The actual manufacturing of the patented product or invention had to be put into effect within a period of “less than three years” although those who lacked the resources to meet this deadline could extend it by public announcement of granting license to whoever applied for it.

Many foreign inventors had no intention of actually settling in Spain nor granting licenses and their only intention in obtaining patents here was to delay for as long as possible any domestic production that would compete with that outside of Spain.

A Royal Decree-Law on Industrial Property of July, 26, 1920, revised in 1930, opened the way to the so-called “Statute on Industrial Property”, which became the basis of all future legislation regarding this subject.

In the transition from a guild, cottage type, organization to a modern industrial one, the old statutes regarding the use of trademarks or brands became obsolete and new legislation regarding their property and use became necessary, once industrial freedom (from that guild system) was established.

The regulations regarding “seals, markings and countermarks” used by commerce and industry had been enacted by Royal Decree of November, 20, 1850 and were in force until 1902, although they gradually had added an extensive series of definitions and modifications, by further Royal Decrees; The possession of a “trademark certificate” was absolutely necessary in case a claim for infringement was presented to the Courts.

The trademarks applied for were published in the “*Gazeta de Madrid*” for a period of 30 days and the applications were granted if there was no challenge to their

originality in that period; Starting in August of 1886 they were published in the newly created "*Boletín Oficial de la Propiedad Industrial*" (BOPI).

Following the Royal Decree of 1850 came the Law of Industrial Property of May, 16, 1902, which I have already mentioned while discussing "privileges and patents", which, regarding trademarks, introduced the novelty of granting them for 20 years, as long as fees were paid every five years; If a five year period went by without payment the trademark was annulled, but, on the other hand, if the application was updated before the final five years elapsed it could be renewed for another twenty years and in this manner its property could be maintained for an unlimited period of time

Those who had had trademarks granted more than twenty years before, under the previous legislation, had to renew them; If they had had them for less than twenty years, they could wait until this period of time elapsed before reapplying; Another novelty affected those who had been using an unregistered trademark for some time, who could continue to use it but, could not advertise it as a "registered" trademark; All of these specificities were maintained in the new updated Law of Industrial Property of July, 26, 1929.

From 1860 to 1890 the usual markings on a firearm consisted only of an inscription bearing the "manufacturer's" (usually an assembler's) legal name, more frequently than the "seals, trademarks and counter markings" which were the actual recipients of the registration; For this reason not many manufacturers bothered to apply for trademark registration prior to the onset of their publication in the BOPI in August of 1886; In the three years following this date I have been able to locate only one trademark related to firearms in the BOPI and it was for "shotgun shells", while in the subsequent ten years only twelve were registered.

It was during the 1890s that the arms makers made up for the lack of an Official Proof Bank in Spain with registered trademarks that mimicked those used by the European Proof Houses in an attempt to equate domestic and foreign quality.

To those markings consisting of "seals and counterseals" (logos) were added trademarks "of foreign expression" (ROYAL, STAR, etc) authorized by Royal Decree of 11, 13, 1905, which together with the previous ones and those, less frequent, "of Spanish expression" (VICTORIA, etc), make up the total number of trademarks used by the Spanish arms industry reflected in the BOPI, usually under the "factory" heading, although this did not necessarily mean that the application came from a "manufacturer".

A careful reading of the BOPI gives us a good sense of the ups and downs of each trademark although not in a definitive manner, as registration of a trademark was not an indispensable condition to its use, and just as some could have been in use prior to their registration, others may not have been registered at all; So, we can not use the trademarks in order to definitely establish a date of manufacture, but, from 1927 on, we can more accurately know this date because of the marking of the Official Eibar Proof Bank (established in 1919), which consisted of a letter from the alphabet under a star indicating the year the weapon was tested and proofed.

PUNZON	AÑO	PUNZON	AÑO
A	1927	G	1934
B	1928	H	1935
C	1929	I	1936
CH	1930	J	1937
D	1931	K	1938
E	1932	L	1939
F	1933	LL	1940



One of the main sources of errors regarding the markings on Spanish weapons of the first third of the 20<sup>th</sup> Century is the confusing of the concepts of “patent” and “patented trademark” which erroneously concludes that “registering” a trademark is the same as “patenting” it; “Registering” a trademark permitted adding to it the word “PATENT”, which gave the false impression that the weapon concerned had certain technical features protected by one or several patents when actually it did not; This practice can be detected when we see a reference number following the inscription “PATENT”, which is actually its registration number and not a patent number.



In this 9 mm “1921 Model Patents” inscription, the number 21817 following it is the registration number of the VICTORIA trademark obtained by Eduardo Schilling, on May, 14, 1913; Also registered by Mr. Schilling is the crowned logo seen next to it, which had been registered in 1896 (number 4347); The number 66737 corresponds to this logo’s renovation (??) around 1927; Eduardo Schilling owned an important gun shop in Barcelona and had his registered trademarks applied to generic revolvers and pistols that he acquired from different manufacturers in Eibar.



Much more frequent than Eduardo Schilling's VICTORIA marked pistols were those made by "Esperanza y Unceta", also named VICTORIA, which did not include a registration number in their inscription, as we can see in the above illustration: 6,35 1911 Model Automatic Pistol – "VICTORIA" Patent-.

Juan Esperanza and Pedro Unceta had, however, registered the VICTORIA trademark on January, 5, 1912, so, it must have been an error that only one year later the same trademark was granted to Eduardo Schilling and 'Esperanza y Unceta' probably declined to have it annulled (??).



This trick of showing the registration number preceding the word "Patent" was not generalized; For example, in the Campo-Giro pistols, the inscription "PAT.34798-54214" refers to the registration numbers of two real "patents of invention" obtained by the Count of Campo-Giro in 1904 and 1912, respectively.