



WORLD INTELLECTUAL PROPERTY ORGANIZATION

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MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND PROTOCOL RELATING TO THAT AGREEMENT: PRIORITY AND SUBSEQUENT DESIGNATIONS

1. According to Rule 9(4)(a)(iv) of the Common Regulations under the Madrid Agreement and Protocol, where an applicant for international registration wishes to take advantage of the priority of an earlier filing, the international application must contain a declaration to that effect, together with an indication of the name of the Office where the earlier filing was made and the date and (where available) the number of the earlier filing. Provided that the priority date claimed is not more than six months before the date of the international registration, the details of the priority claim are recorded in the International Register, included in the notification of the international registration which is sent to the designated Contracting Parties and published in the Gazette.

2. The question has arisen as to whether a subsequent designation which is effected within the six-month priority period can benefit from the priority of the earlier filing. So far as the International Bureau is aware, this is the first time that question has been raised. This is however not surprising. Before April 1, 1996, the date on which the Madrid Protocol came into operation, an international application could not be filed until the mark concerned had been *registered* in the country of origin. As a result, where priority was claimed, the date of international registration was normally near the end of the six-month priority, leaving little time to make a subsequent designation within that period. The situation has changed with the coming into operation of the Protocol, which allows the international application to be based on an *application* with the Office of origin.

3. In the view of the International Bureau, the priority which is enjoyed by an international registration has effect, not only in the Contracting Parties designated in the international application, but also in any Contracting Parties designated subsequent to the international registration, provided this is done within six months of the priority date. Accordingly, where the date of a subsequent designation, as determined in accordance with Rule 24(6), is not more than six months after the priority date, the information concerning the declaration of priority will be included in the publication of the subsequent designation.

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