



WORLD INTELLECTUAL PROPERTY ORGANIZATION

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MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND PROTOCOL RELATING TO THAT AGREEMENT

Claiming priority in an international application

1. Article 2.1 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) provides that Members of the World Trade Organization (WTO) shall comply with Articles 1 to 12 and 19 of the Paris Convention for the Protection of Industrial Property. This has been taken to mean that a Member of the WTO is obliged to recognize a claim to priority based on an application for the registration of a trademark filed in or for (a) a State which is a party to the Paris Convention or (b) any Member of the WTO even if the latter is not a party to the Paris Convention. It is to be noted that, whether the earlier application was filed in a country party to the Paris Convention or in a Member of the WTO, *the claim to priority is always made under Article 4 of the Paris Convention.*

2. At present, the practice of the International Bureau is to check that the first filing from which priority is claimed was effected in or for a State party to the Paris Convention. At its thirty-first session (September 1999), the Assembly of the Madrid Union approved a change in practice according to which the International Bureau will record in the International Register a priority claim not only where the earlier filing was effected in a country party to the Paris Convention but also where it was effected in a Member of the WTO not party to the Paris Convention. This change in practice will be implemented with effect from January 1, 2000.

3. This change in the practice of the International Bureau will not oblige a member of the Madrid Union that is not a Member of the WTO to recognize the effects of a priority claim based on an application filed in a Member of the WTO that is not party to the Paris Convention.

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