



WORLD INTELLECTUAL PROPERTY ORGANIZATION

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MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND PROTOCOL RELATING THERETO

Contents of the International Application; Amended Application Forms MM1, MM2 and MM3

1. During its thirty-third session (September 24 to October 3, 2001), the Assembly of the Madrid Union adopted a number of amendments to the Common Regulations under the Madrid Agreement and Protocol. Some of these amendments concern Rule 9, which relates to the content of the international application. The international application forms (MM1, MM2 and MM3) have been modified in consequence.
2. In accordance with the new Rule 9(4)(a)(*viibis*), where the mark that is the subject of the basic application or the basic registration consists of a color or a combination of colors as such, the international application must contain, an indication to that effect. This fact should be indicated in item 8(c) of the amended forms.
3. Where the applicant wishes to disclaim protection for any element of the mark, the international application may contain an indication of that fact and of the element or elements for which protection is disclaimed, in accordance with the revised Rule 9(4)(b)(v). The disclaimer should be indicated in item 9(g) of the amended forms. It may be made only in respect of *all* the designated Contracting Parties. It does not matter that there was no corresponding disclaimer in the basic application or basic registration, since this is not a matter that the Office of origin is required to certify.
4. The amended international application forms also provide for the possibility to indicate that the words contained in the mark have no meaning and therefore cannot be translated. This is in order to avoid refusals from Offices whose practice is to request a translation of the mark whenever no translation has been included in the international application. In such a case it suffices for the applicant to check the box in item 9(c).
5. Where the mark is in special characters, such as handwriting, it is possible that it may be construed in a number of different ways. To avoid this, the applicant may indicate in item 9(f) of forms MM1, MM2 and MM3 what he considers to be the essential verbal elements of the mark. This information will be used in the ROMARIN database and in correspondence relating to the international registration but is not intended to have any legal significance.

6. In accordance with Rule 9(4)(a)(vii) as amended, it is possible to claim color as a distinctive feature of the mark in an international application even where no such claim was made in the basic application or basic registration, provided that the mark in the basic application or basic registration is in fact in the color or combination of colors claimed.

7. In accordance with Rule 9(4)(a)(xi) as amended, where the basic application or the basic registration contains a description of the mark in words, it is no longer compulsory for that description to be included in the international application. The description need be included only if the applicant so wishes or the Office of origin so requires. The Office of origin must certify in accordance with the revised Rules 9(5)(d)(iii) and 9(4)(a)(xi) that the said description is the same in the international application and in the basic application or basic registration.

8. The text of the declaration by the Office of origin in item 13 of forms MM1, MM2 and MM3 certifying conformity of the international application with the basic application or basic registration has been amended to take account of the above-mentioned changes.

April 3, 2002