

## **MADRID PROTOCOL CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

### **DECLARATION OF THE KINGDOM OF THE NETHERLANDS WITH REGARD TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

1. On September 30, 2010, the Government of Kingdom of the Netherlands deposited with the Director General of the World Intellectual Property Organization (WIPO) a declaration with regard to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as “the Madrid Protocol”) and its application in certain parts of the territory of the Kingdom, resulting from a modification of the internal constitutional relations within the Kingdom of the Netherlands.
2. It will be recalled that the Kingdom of the Netherlands extended the application of the Madrid Protocol to the Netherlands Antilles, with effect from April 28, 2003. As a territorial entity within the Kingdom of the Netherlands, the Netherlands Antilles will cease to exist on October 10, 2010. The territory formerly known as the Netherlands Antilles will thenceforth be divided into the three territorial entities of Curaçao, Saint Martin and the Caribbean Part of the Netherlands Antilles, comprised of the islands of Bonaire, Saint Eustatius and Saba (hereinafter referred to as “the BES Islands”), each having a distinctive trademarks legislation and administration within the Kingdom of the Netherlands.
3. As a result of the aforementioned declaration, international registrations containing a designation of the Netherlands Antilles will continue to have effect in the three new territorial entities, as from October 10, 2010. Furthermore, international applications containing a designation of the Netherlands Antilles, which are pending, and which are registered with a date which is prior to October 10, 2010, will be recorded with respect to the three new territorial entities. In each case, the applicable legislation will be the corresponding legislation for the territorial entity concerned.
4. Where an international registration, designating the Netherlands Antilles, has been notified, prior to October 10, 2010, to the Office of the former Netherlands Antilles, the Offices of the new territorial entities will abide by the refusal period provided for by Article 5(2)(a) of the Madrid Protocol, namely, one year from the date of the aforesaid notification.

5. The International Bureau of WIPO will undertake the necessary steps to record these changes in the International Register.
6. It is also understood that in all of the aforementioned cases, the holder or the applicant of the relevant international registration or international application will be neither required to file any request nor to remit any additional payment to the International Bureau of WIPO.
7. As from October 10, 2010, international applicants and holders of international registrations may individually designate, or subsequently designate, under the Madrid Protocol, the territorial entities of Curaçao, Saint Martin and/or the BES Islands.
8. International applications or subsequent designations, which *include* a designation of the former Netherlands Antilles, and which would result in a date of registration or recording, respectively, later than October 10, 2010, will be deemed not to have included such designation of the Netherlands Antilles, and, accordingly, the fees paid with respect to such designation will be refunded. International applications, which *exclusively* designate the former Netherlands Antilles, and which would have otherwise resulted in a date of registration later than October 10, 2010, will be deemed irregular under Rules 11(4)(a)(ii) and 15 of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement.
9. With respect to the three new territorial entities, according to the declaration made by the Kingdom of the Netherlands, the time limit for refusal will be that of Article 5(2)(a) of the Madrid Protocol, namely, one year from the date on which the notification of the designation of the said new territorial entities was sent to the corresponding Office by the International Bureau of WIPO. Pending the entry into force of any declaration made by the Kingdom of the Netherlands concerning individual fees with respect to the three new territorial entities, standard fees will be payable in respect of any designation of the entities concerned.

October 11, 2010