

Madrid Protocol Concerning the International Registration of Marks

Practical Consequences of Algeria's Accession to the Madrid Protocol

1. On July 31, 2015, the Government of Algeria deposited with the Director General of the World Intellectual Property Organization (WIPO) its instrument of accession to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks ("the Protocol" and "the Agreement"). The Protocol will enter into force, with respect to Algeria, on October 31, 2015 (see Information Notice No 35/2015).
2. The accession of Algeria to the Protocol brought the number of Contracting Parties to this treaty to 95. Algeria was the last remaining Contracting Party of the Madrid Union to be a member of the Agreement only. As a consequence of Algeria's accession to the Protocol, all members of the Madrid Union will therefore be either Contracting Parties to the Protocol only, or to both the Agreement and the Protocol.
3. Following the entry into force with respect to Algeria, the Protocol will apply in the relationships between all the Contracting Parties of the Madrid Union, either because the Protocol is the only common treaty between them or because according to Article 9*sexies*(1)(a) of the Protocol, the Protocol prevails in the mutual relations of States that are party to both the Agreement and the Protocol.
4. In practical terms, the entry into force of the Protocol with respect to Algeria means that the Protocol will govern all the designations in the International Register.
5. From the end of October, all new international applications shall be filed using the MM2 International Application form, and all new international registrations shall be effected under the Protocol.
6. The prevalence of the Protocol implies that its flexibilities and other relevant features will become generally applicable namely:
 - filing of international applications based on national or regional applications or registrations;
 - free choice of Office of origin on the basis of a real and effective industrial or commercial establishment, domicile or nationality ("cascade" entitlement principle no longer applies);
 - transformation of international registrations cancelled due to the ceasing of effect of the basic mark;

- choice of presenting subsequent designations and requests for the recording of cancellations and renunciations to WIPO or through the Office of the Contracting Party of the holder;
- renewal of international registrations for periods of 10 years;
- possibility of a Contracting Party declaring an extended refusal period under Article 5(2)(b) and (c) of the Protocol; and,
- possibility of a Contracting Party declaring individual fees under Article 8(7)(a) of the Protocol.

7. It should be noted, however, that in the mutual relations of States bound by both the Agreement and the Protocol, declarations made under Articles 5(2)(b) and (c) and 8(7)(a) described above become inoperative pursuant to Article 9*sexies*(1)(b) of the Protocol. As such, in respect of designations in international registrations where the Contracting Parties concerned are bound by both treaties, the maximum one-year refusal period provided for in Article 5(2)(a) and the supplementary and complementary fees indicated in Article 8(2) of the Protocol continue to apply.

8. In summary, the Protocol will now govern all international applications and registrations while the Agreement will remain in force. Therefore, provisions in the Common Regulations under the Madrid Agreement and Protocol implying the application of the Agreement will not be operational, even if they are not formally derogated. As a result, the Protocol will govern all transactions effected by or in respect of Contracting Parties and users.

October 2, 2015