

## **Special Union for the International Registration of Marks (Madrid Union)**

### **Assembly**

**Fiftieth (29<sup>th</sup> Extraordinary) Session  
Geneva, October 3 to 11, 2016**

#### **REVIEW OF THE APPLICATION OF ARTICLE 9SEXIES OF THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

*Document prepared by the International Bureau*

1. At its thirteenth session<sup>1</sup>, the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as “the Working Group”), undertook a review of the application of paragraph (1)(b) of Article 9sexies of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as “the Protocol” and “the Agreement”)<sup>2</sup>, as agreed by the Working Group at its tenth session<sup>3</sup>.

2. After assessing the information presented by the International Bureau, the Working Group agreed to recommend to the Madrid Union Assembly (hereinafter referred to as “the Assembly”) that paragraph (1)(b) of Article 9sexies of the Protocol be neither repealed nor restricted in its scope. Furthermore, it recommended that any further review of the application of the said Article be undertaken by the Working Group, at any moment thereafter, at the express request of any member of the Madrid Union or the International Bureau<sup>4</sup>.

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<sup>1</sup> The thirteenth session of the Working Group was held in Geneva, from November 2 to 6, 2015.

<sup>2</sup> See document MM/LD/WG/13/3 “Information Relating to the Review of the Application of Article 9sexies(1)(b) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks” ([http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=313057](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=313057)).

<sup>3</sup> See paragraph 16, document MM/LD/WG/10/7 “Summary by the Chair” ([http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=210569](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=210569)).

<sup>4</sup> See paragraph 15, document MM/LD/WG/13/9 “Summary by the Chair” ([http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=320418](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=320418)).

3. It is recalled that, in September 2007, the Assembly approved amendments to Article 9sexies that, while establishing the principle that the Protocol alone would, in all aspects, apply between States bound by both the Agreement and the Protocol, also rendered inoperative declarations made under Articles 5(2)(b) and (c) or 8(7) of the Protocol in the mutual relations between States bound by both treaties (refer to new paragraph (1)(b))<sup>5</sup>.

4. Furthermore, Article 9sexies provided for a review by the Assembly of the application of its new paragraph (1)(b), after the expiry of three years from September 1, 2008, which was the date on which the modifications to Article 9sexies entered into force.

5. The Working Group undertook its first review of paragraph (1)(b) of Article 9sexies at its ninth session and recommended to the Assembly that it remained unchanged, pending a further review after a period of three years. This recommendation was adopted by the Assembly in 2011<sup>6</sup>. As indicated in paragraph 1 of this document, the Working Group has made that further review at its thirteenth session and, as a result, has made the recommendations set forth in paragraph 2 of the present document.

6. *The Assembly is invited to:*

*(i) take note of the “Review of the Application of Article 9sexies of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks” (document MM/A/50/2); and*

*(ii) adopt the recommendation made by the Working Group, as set forth in paragraph 2 of the above referred document.*

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<sup>5</sup> See document MM/A/38/2 “Review of the Safeguard Clause and Related Amendments of the Madrid Protocol and of the Common Regulations” ([http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=82798](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=82798)).

<sup>6</sup> The forty-fourth (19<sup>th</sup> ordinary) session of the Madrid Union Assembly was held in Geneva from September 26 to October 5, 2011.