

Accession to the Madrid Protocol: India

The World Intellectual Property Organization has now released the official notification relating to India's accession to the Madrid Protocol (vide notice No. 14/2013). The relevant paragraphs of the notification are delineated below:

India's accession was accompanied by declarations mainly referring to the following articles of the Madrid Protocol:

Article 5(2) (b)

India has elected a period of 18 months (instead of 12 months) to grant or refuse protection to the mark or notify the holder of the possibility of refusal.

Article 5 (c)

The provisional refusal resulting from an opposition may be notified after the expiry of the 18-month time limit;

Article 8(7)(a)

India wishes to receive an individual fee where it is designated in an international application, in a designation subsequent to an international registration subject to Article 14(5) of the Madrid Protocol or in respect of the renewal of an international registration (instead of a share in the revenue produced by the supplementary and complementary fees);

Article 14(5)

Under the Protocol, the protection resulting from any international registration affected under this Protocol before the date of entry into force of this Protocol with respect to it cannot be extended to it.

Further a notification relating to declaration of intention to use the mark when designating India (Information Notice No. 15/2013) has also been released by WIPO that states the following:

- The Government of India has notified the Director General of the World Intellectual Property Organization (WIPO) that it requires, as a Contracting Party designated under the Madrid Protocol, a declaration of intention to use the mark;
- The amendments in relevant forms would now enable the applicant or holder to declare, by

designating India, that the mark will be used by him or with his consent in that Contracting Party in connection with the goods and services identified in the international application or subsequent designation concerned;

In another notification (Information Notice No. 16/2013) Declaration that the Recording of Licenses in the International Register Has No Effect in India has also been made by WIPO.

- GOI has notified the WIPO that the recording of license in the International Register shall have no effect in India. License related to International Registration of a mark granted in respect of India be recorded in register of Indian trademark registry and shall be as per the conditions laid down by the legislation of India.

Government of India on April 8, 2013 has deposited its instrument of accession to the Protocol Relating to the Madrid Agreement Concerning the International registration of Marks with the Director General of the World Intellectual Property Organization (WIPO). The Madrid Protocol will enter into force, with respect to India, on July 8, 2013.

The Madrid Protocol declaration can be accessed from the website of WIPO at:

http://www.wipo.int/edocs/madrdocs/en/2013/madrid_2013_14.pdf

http://www.wipo.int/edocs/madrdocs/en/2013/madrid_2013_15.pdf

http://www.wipo.int/edocs/madrdocs/en/2013/madrid_2013_16.pdf