

NEW INTERNATIONAL TRADEMARK PROTECTION

In November, 2002, President George W. Bush signed into law the Madrid Protocol Implementation Act ("Madrid Protocol"). The Madrid Protocol provides trademark protection in 56 countries by filing one trademark application. By November, 2003, the new law should go into effect and the United States Patent and Trademark Office ("USPTO") should begin accepting the Madrid Protocol applications.

A Madrid Protocol application may be filed by any person or legal entity having an active and effective commercial establishment in one of the 56 member countries to the Madrid Protocol.¹ The Madrid Protocol application can be filed before a member country's national trademark office. The USPTO is the national trademark office for the U.S. Accordingly, United States applicants should be able to file Madrid Protocol applications with the USPTO beginning in November of 2003.

It takes approximately twelve to eighteen months for an application to be examined and registered by a national trademark office. If the national trademark office does not refuse registration after the eighteen month period, the Madrid Protocol application will be granted and will be in force for a period of ten years.

There are several advantages to filing a Madrid Protocol application. First, the application is filed in one receiving trademark office, like the USPTO. There is only one set of document, one language, and one fee. Once the application passes each member country's individual examination, the resulting registration is assigned a Madrid Protocol trademark number for use in all 56-member countries.

Second, the total cost for filing fees are reduced significantly from what they would be for filing in 56 countries.

Third, only one renewal is required which leads to savings on filing and attorneys fees.

Lastly, the prosecution period is limited to eighteen months, which will expedite the processing of Madrid Protocol applications. It currently takes up to four years in some countries for a registration to issue.

Accordingly, the Madrid Protocol should provide U.S. trademark applicants with a close to global filing system and a simplified program to maintain their trademarks.

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¹ The 56 member countries are: Antigua, Armenia, Australia, Austria, Belarus, Belgium, Bhutan, Bulgaria, China, Cuba, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Kenya, North Korea, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Macedonia, Moldova, Monaco, Mongolia, Morocco, Mozambique, Netherlands, Norway, Poland, Portugal, Romania, Russia, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Swaziland, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, United Kingdom, Yugoslavia and Zambia.