
WIPO: Freeze on Accessions to Madrid Agreement

By Erica Gould McCurdy

During the 50th session of the Madrid Union Assembly, a landmark decision was made to freeze accessions to the Madrid Agreement (the “Agreement”), except in cases where a contracting party is already a party to the Madrid Protocol (the “Protocol”) or is simultaneously acceding to both the Agreement and the Protocol. [More](#)

By Erica Gould McCurdy

During the 50th session of the Madrid Union Assembly, a landmark decision was made to freeze accessions to the Madrid Agreement (the “Agreement”), except in cases where a contracting party is already a party to the Madrid Protocol (the “Protocol”) or is simultaneously acceding to both the Agreement and the Protocol. This took effect on October 11, 2016 and is part of an overarching goal to create a single-treaty system, which has been in play since the Protocol was adopted in June 1989.

One major step towards a single-treaty system occurred when the Madrid Union Assembly decided that where a party is bound by both the Protocol and the Agreement, the terms of the Protocol govern, with two exceptions: (1) the time limit for notification of a provisional refusal (this time limit is one year under the Agreement but can vary under the Protocol); and (2) the payment of supplementary and complementary fees (payment of these fees is always required under the Agreement but not always required under the Protocol). (See Article 9sexies (1)(b) of the Protocol for further information.) The above came into effect on September 1, 2008.

Another major step towards a single-treaty system occurred when Algeria, the last member of the Madrid Union to accede to only the Agreement, acceded to the Protocol. The Protocol went into effect in Algeria on October 31, 2015. This was a turning point in the history of the Madrid System because, as a result, all Madrid Union members were from that moment on governed by the Protocol (subject to the above exceptions), and thus a de facto single-treaty system was created. The freeze on

accessions to the Agreement alone will allow this de facto unified system under the Madrid Protocol to remain in place.

Accordingly, all members and users of the Madrid System now benefit from various features of the Protocol that are not available under the Agreement. For example, unlike the Agreement, the Protocol allows for the transformation of international registrations into national filings if they are cancelled due to the ceasing of effect of a basic application or registration during the five-year dependency period after an international registration is initially registered. Other benefits of the Protocol include the ability of applicants to rely upon an eligible application as an international registration basis rather than having to wait for an issued registration, the ability of applicants to choose freely among the Offices of Origin eligible to them, and the ability to file directly with WIPO when requesting subsequent designations or recording changes of name or ownership, among others.