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# Protocol

## relating to the Madrid Agreement concerning the International Registration of Marks with Common Regulations

Adopted at Madrid on 27 June 1989

[This Protocol entered into force for the United Kingdom on 1 December 1995]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
January 1997*

**PROTOCOL**  
**RELATING TO THE MADRID AGREEMENT CONCERNING THE**  
**INTERNATIONAL REGISTRATION OF MARKS**

(Adopted at Madrid on 27 June 1989)

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**ARTICLE I**

**Membership in the Madrid Union**

The States party to this Protocol (hereinafter referred to as "the Contracting States"), even where they are not party to the Madrid Agreement Concerning the International Registration of Marks<sup>1</sup> as revised at Stockholm in 1967 and as amended in 1979 (hereinafter referred to as "the Madrid (Stockholm) Agreement"), and the organizations referred to in Article 14(1)(b) which are party to this Protocol (hereinafter referred to as "the Contracting Organizations") shall be members of the same Union of which countries party to the Madrid (Stockholm) Agreement are members. Any reference in this Protocol to "Contracting Parties" shall be construed as a reference to both Contracting States and Contracting Organizations.

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<sup>1</sup>United Nations Treaty Series No. 11852 Vol. 828 (1972) page 389.

## ARTICLE 2

### Securing Protection through International Registration

(1) Where an application for the registration of a mark has been filed with the Office of a Contracting Party, or where a mark has been registered in the register of the Office of a Contracting Party, the person in whose name that application (hereinafter referred to as "the basic application") or that registration (hereinafter referred to as "the basic registration") stands may, subject to the provisions of this Protocol, secure protection for his mark in the territory of the Contracting Parties, by obtaining the registration of that mark in the register of the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the international registration," "the International Register," "the International Bureau" and "the Organization," respectively), provided that,

(i) where the basic application has been filed with the Office of a Contracting State or where the basic registration has been made by such an Office, the person in whose name that application or registration stands is a national of that Contracting State, or is domiciled, or has a real and effective industrial or commercial establishment, in the said Contracting State,

(ii) where the basic application has been filed with the Office of a Contracting Organization or where the basic registration has been made by such an Office, the person in whose name that application or registration stands is a national of a State member of that Contracting Organization, or is domiciled, or has a real and effective industrial or commercial establishment, in the territory of the said Contracting Organization.

(2) The application for international registration (hereinafter referred to as "the international application") shall be filed with the International Bureau through the intermediary of the Office with which the basic application was filed or by which the basic registration was made (hereinafter referred to as "the Office of origin"), as the case may be.

(3) Any reference in this Protocol to an "Office" or an "Office of a Contracting Party" shall be construed as a reference to the office that is in charge, on behalf of a Contracting Party, of the registration of marks, and any reference in this Protocol to "marks" shall be construed as a reference to trademarks and service marks.

(4) For the purposes of this Protocol, "territory of a Contracting Party" means, where the Contracting Party is a State, the territory of that State and, where the Contracting Party is an intergovernmental organization, the territory in which the constituting treaty of that intergovernmental organization applies.

## ARTICLE 3

### International Application

(1) Every international application under this Protocol shall be presented on the form prescribed by the Regulations. The Office of origin shall certify that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the basic application or basic registration, as the case may be. Furthermore, the said Office shall indicate,

(i) in the case of a basic application, the date and number of that application,

(ii) in the case of a basic registration, the date and number of that registration as well as the date and number of the application from which the basic registration resulted.

The Office of origin shall also indicate the date of the international application.

(2) The applicant must indicate the goods and services in respect of which protection of the mark is claimed and also, if possible, the corresponding class or classes according to the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks<sup>1</sup> If the applicant does not give such indication, the International Bureau shall classify the

<sup>1</sup>Treaty Series No. 72 (1979), Cmd. 7671.

goods and services in the appropriate classes of the said classification. The indication of classes given by the applicant shall be subject to control by the International Bureau, which shall exercise the said control in association with the Office of origin. In the event of disagreement between the said Office and the International Bureau, the opinion of the latter shall prevail.

(3) If the applicant claims colour as a distinctive feature of his mark, he shall be required

- (i) to state the fact, and to file with his international application a notice specifying the colour or the combination of colours claimed;
- (ii) to append to his international application copies in colour of the said mark, which shall be attached to the notifications given by the International Bureau; the number of such copies shall be fixed by the Regulations.

(4) The International Bureau shall register immediately the marks filed in accordance with Article 2. The international registration shall bear the date on which the international application was received in the Office of origin, provided that the international application has been received by the International Bureau within a period of two months from that date. If the international application has not been received within that period, the international registration shall bear the date on which the said international application was received by the International Bureau. The International Bureau shall notify the international registration without delay to the Offices concerned. Marks registered in the International Register shall be published in a periodical gazette issued by the International Bureau, on the basis of the particulars contained in the international application.

(5) With a view to the publicity to be given to marks registered in the International Register, each Office shall receive from the International Bureau a number of copies of the said gazette free of charge and a number of copies at a reduced price, under the conditions fixed by the Assembly referred to in Article 10 (hereinafter referred to as "the Assembly"). Such publicity shall be deemed to be sufficient for the purposes of all the Contracting Parties, and no other publicity may be required of the holder of the international registration.

#### ARTICLE 3<sup>bis</sup>

##### **Territorial Effect**

The protection resulting from the international registration shall extend to any Contracting Party only at the request of the person who files the international application or who is the holder of the international registration. However, no such request can be made with respect to the Contracting Party whose Office is the Office of origin.

#### ARTICLE 3<sup>ter</sup>

##### **Request for "Territorial Extension"**

- (1) Any request for extension of the protection resulting from the international registration to any Contracting Party shall be specially mentioned in the international application.
- (2) A request for territorial extension may also be made subsequently to the international registration. Any such request shall be presented on the form prescribed by the Regulations. It shall be immediately recorded by the International Bureau, which shall notify such recordal without delay to the Office or Offices concerned. Such recordal shall be published in the periodical gazette of the International Bureau. Such territorial extension shall be effective from the date on which it has been recorded in the International Register; it shall cease to be valid on the expiry of the international registration to which it relates.

#### ARTICLE 4

##### **Effects of International Registration**

(1)(a) From the date of the registration or recordal effected in accordance with the provisions of Articles 3 and 3<sup>ter</sup>, the protection of the mark in each of the Contracting Parties concerned shall be the same as if the mark had been deposited direct with the Office of that Contracting Party. If no refusal has been notified to the International

Bureau in accordance with Article 5(1) and (2) or if a refusal notified in accordance with the said Article has been withdrawn subsequently, the protection of the mark in the Contracting Party concerned shall, as from the said date, be the same as if the mark had been registered by the Office of that Contracting Party.

(b) The indication of classes of goods and services provided for in Article 3 shall not bind the Contracting Parties with regard to the determination of the scope of the protection of the mark.

(2) Every international registration shall enjoy the right of priority provided for by Article 4 of the Paris Convention for the Protection of Industrial Property,<sup>1</sup> without it being necessary to comply with the formalities prescribed in Section D of that Article.

#### ARTICLE 4<sup>bis</sup>

##### **Replacement of a National or Regional Registration by an International Registration**

(1) Where a mark that is the subject of a national or regional registration in the Office of a Contracting Party is also the subject of an international registration and both registrations stand in the name of the same person, the international registration is deemed to replace the national or regional registration, without prejudice to any rights acquired by virtue of the latter, provided that

- (i) the protection resulting from the international registration extends to the said Contracting Party under Article 3<sup>ter</sup>(1) or (2),
- (ii) all the goods and services listed in the national or regional registration are also listed in the international registration in respect of the said Contracting Party,
- (iii) such extension takes effect after the date of the national or regional registration.

(2) The Office referred to in paragraph (1) shall, upon request, be required to take note in its register of the international registration.

#### ARTICLE 5

##### **Refusal and Invalidation of Effects of International Registration in Respect of Certain Contracting Parties**

(1) Where the applicable legislation so authorizes, any Office of a Contracting Party which has been notified by the International Bureau of an extension to that Contracting Party, under Article 3<sup>ter</sup>(1) or (2), of the protection resulting from the international registration shall have the right to declare in a notification of refusal that protection cannot be granted in the said Contracting Party to the mark which is the subject of such extension. Any such refusal can be based only on the grounds which would apply, under the Paris Convention for the Protection of Industrial Property, in the case of a mark deposited direct with the Office which notifies the refusal. However, protection may not be refused, even partially, by reason only that the applicable legislation would permit registration only in a limited number of classes or for a limited number of goods or services.

(2)(a) Any Office wishing to exercise such right shall notify its refusal to the International Bureau, together with a statement of all grounds, within the period prescribed by the law applicable to that Office and at the latest, subject to subparagraphs (b) and (c), before the expiry of one year from the date on which the notification of the extension referred to in paragraph (1) has been sent to that Office by the International Bureau.

(b) Notwithstanding subparagraph (a), any Contracting Party may declare that, for international registrations made under this Protocol, the time limit of one year referred to in subparagraph (a) is replaced by 18 months.

(c) Such declaration may also specify that, when a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified by the Office of the said Contracting Party to the International Bureau after the expiry of the

<sup>1</sup>Treaty Series No. 61 (1970), Cmd. 4431.

18-month time limit. Such an Office may, with respect to any given international registration, notify a refusal of protection after the expiry of the 18-month time limit, but only if

- (i) it has, before the expiry of the 18-month time limit, informed the International Bureau of the possibility that oppositions may be filed after the expiry of the 18-month time limit, and
- (ii) the notification of the refusal based on an opposition is made within a time limit of not more than seven months from the date on which the opposition period begins; if the opposition period expires before this time limit of seven months, the notification must be made within a time limit of one month from the expiry of the opposition period.

(d) Any declaration under subparagraphs (b) or (c) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organization having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General of the Organization (hereinafter referred to as "the Director General"), or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.

(e) Upon the expiry of a period of ten years from the entry into force of this Protocol, the Assembly shall examine the operation of the system established by subparagraphs (a) to (d). Thereafter, the provisions of the said subparagraphs may be modified by a unanimous decision of the Assembly.

(3) The International Bureau shall, without delay, transmit one of the copies of the notification of refusal to the holder of the international registration. The said holder shall have the same remedies as if the mark had been deposited by him direct with the Office which has notified its refusal. Where the International Bureau has received information under paragraph (2)(c)(i), it shall, without delay, transmit the said information to the holder of the international registration.

(4) The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who may so request.

(5) Any Office which has not notified, with respect to a given international registration, any provisional or final refusal to the International Bureau in accordance with paragraphs (1) and (2) shall, with respect to that international registration, lose the benefit of the right provided for in paragraph (1).

(6) Invalidation, by the competent authorities of a Contracting Party, of the effects, in the territory of that Contracting Party, of an international registration may not be pronounced without the holder of such international registration having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.

#### ARTICLE 5<sup>bis</sup>

##### **Documentary Evidence of Legitimacy of Use of Certain Elements of the Mark**

Documentary evidence of the legitimacy of the use of certain elements incorporated in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, names of persons other than the name of the applicant, or other like inscriptions, which might be required by the Offices of the Contracting Parties shall be exempt from any legalization as well as from any certification other than that of the Office of origin.

#### ARTICLE 5<sup>ter</sup>

##### **Copies of Entries in International Register; Searches for Anticipations; Extracts from International Register**

(1) The International Bureau shall issue to any person applying therefor, upon the payment of a fee fixed by the Regulations, a copy of the entries in the International Register concerning a specific mark.

(2) The International Bureau may also, upon payment, undertake searches for anticipations among marks that are the subject of international registrations.

(3) Extracts from the International Register requested with a view to their production in one of the Contracting Parties shall be exempt from any legalization.

#### ARTICLE 6

##### **Period of Validity of International Registration; Dependence and Independence of International Registration**

(1) Registration of a mark at the International Bureau is effected for ten years, with the possibility of renewal under the conditions specified in Article 7.

(2) Upon expiry of a period of five years from the date of the international registration, such registration shall become independent of the basic application or the registration resulting therefrom, or of the basic registration, as the case may be, subject to the following provisions.

(3) The protection resulting from the international registration, whether or not it has been the subject of a transfer, may no longer be invoked if, before the expiry of five years from the date of the international registration, the basic application or the registration resulting therefrom, or the basic registration, as the case may be, has been withdrawn, has lapsed, has been renounced or has been the subject of a final decision of rejection, revocation, cancellation or invalidation, in respect of all or some of the goods and services listed in the international registration. The same applies if

- (i) an appeal against a decision refusing the effects of the basic application,
- (ii) an action requesting the withdrawal of the basic application or the revocation, cancellation or invalidation of the registration resulting from the basic application or of the basic registration, or
- (iii) an opposition to the basic application results, after the expiry of the five-year period, in a final decision of rejection, revocation, cancellation or invalidation, or ordering the withdrawal, of the basic application, or the registration resulting therefrom, or the basic registration, as the case may be, provided that such appeal, action or opposition had begun before the expiry of the said period. The same also applies if the basic application is withdrawn, or the registration resulting from the basic application or the basic registration is renounced, after the expiry of the five-year period, provided that, at the time of the withdrawal or renunciation, the said application or registration was the subject of a proceeding referred to in item (i), (ii) or (iii) and that such proceeding had begun before the expiry of the said period.

(4) The Office of origin shall, as prescribed in the Regulations, notify the International Bureau of the facts and decisions relevant under paragraph (3), and the International Bureau shall, as prescribed in the Regulations, notify the interested parties and effect any publication accordingly. The Office of origin shall, where applicable, request the International Bureau to cancel, to the extent applicable, the international registration, and the International Bureau shall proceed accordingly.

#### ARTICLE 7

##### **Renewal of International Registration**

(1) Any international registration may be renewed for a period of ten years from the expiry of the preceding period, by the mere payment of the basic fee and, subject to Article 8(7), of the supplementary and complementary fees provided for in Article 8(2).

(2) Renewal may not bring about any change in the international registration in its latest form.

(3) Six months before the expiry of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the holder of the international registration and his representative, if any, of the exact date of expiry.

(4) Subject to the payment of a surcharge fixed by the Regulations, a period of grace of six months shall be allowed for renewal of the international registration.

## ARTICLE 8

### Fees for International Application and Registration

(1) The Office of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the applicant for international registration or from the holder of the international registration in connection with the filing of the international application or the renewal of the international registration.

(2) Registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which shall, subject to the provisions of paragraph (7)(a), include,

(i) a basic fee;

(ii) a supplementary fee for each class of the International Classification, beyond three, into which the goods or services to which the mark is applied will fall;

(iii) a complementary fee for any request for extension of protection under Article 3<sup>ter</sup>

(3) However, the supplementary fee specified in paragraph (2)(ii) may, without prejudice to the date of the international registration, be paid within the period fixed by the Regulations if the number of classes of goods or services has been fixed or disputed by the International Bureau. If, upon expiry of the said period, the supplementary fee has not been paid or the list of goods or services has not been reduced to the required extent by the applicant, the international application shall be deemed to have been abandoned.

(4) The annual product of the various receipts from international registration, with the exception of the receipts derived from the fees mentioned in paragraph (2)(ii) and (iii), shall be divided equally among the Contracting Parties by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of this Protocol.

(5) The amounts derived from the supplementary fees provided for in paragraph (2)(ii) shall be divided, at the expiry of each year, among the interested Contracting Parties in proportion to the number of marks for which protection has been applied for in each of them during that year, this number being multiplied, in the case of Contracting Parties which make an examination, by a coefficient which shall be determined by the Regulations.

(6) The amounts derived from the complementary fees provided for in paragraph (2)(iii) shall be divided according to the same rules as those provided for in paragraph (5).

(7)(a) Any Contracting Party may declare that, in connection with each international registration in which it is mentioned under Article 3<sup>ter</sup>, and in connection with the renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fees, a fee (hereinafter referred to as "the individual fee") whose amount shall be indicated in the declaration, and can be changed in further declarations, but may not be higher than the equivalent of the amount which the said Contracting Party's Office would be entitled to receive from an applicant for a ten-year registration, or from the holder of a registration for a ten-year renewal of that registration, of the mark in the register of the said Office, the said amount being diminished by the savings resulting from the international procedure. Where such an individual fee is payable,

(i) no supplementary fees referred to in paragraph (2)(ii) shall be payable if only Contracting Parties which have made a declaration under this subparagraph are mentioned under Article 3<sup>ter</sup>, and

(ii) no complementary fee referred to in paragraph (2)(iii) shall be payable in respect of any Contracting Party which has made a declaration under this subparagraph.

(b) Any declaration under subparagraph (a) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organization having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director General, or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.



## ARTICLE 9

### **Recordal of Change in the Ownership of an International Registration**

At the request of the person in whose name the international registration stands, or at the request of an interested Office made *ex officio* or at the request of an interested person, the International Bureau shall record in the International Register any change in the ownership of that registration, in respect of all or some of the Contracting Parties in whose territories the said registration has effect and in respect of all or some of the goods and services listed in the registration, provided that the new holder is a person who, under Article 2(1), is entitled to file international applications.

## ARTICLE 9bis

### **Recordal of Certain Matters Concerning an International Registration**

The International Bureau shall record in the International Register

- (i) any change in the name or address of the holder of the international registration,
- (ii) the appointment of a representative of the holder of the international registration and any other relevant fact concerning such representative,
- (iii) any limitation, in respect of all or some of the Contracting Parties, of the goods and services listed in the international registration,
- (iv) any renunciation, cancellation or invalidation of the international registration in respect of all or some of the Contracting Parties,
- (v) any other relevant fact, identified in the Regulations, concerning the rights in a mark that is the subject of an international registration.

## ARTICLE 9ter

### **Fees for Certain Recordals**

Any recordal under Article 9 or under Article 9bis may be subject to the payment of a fee.

## ARTICLE 9<sup>quater</sup>

### **Common Office of Several Contracting States**

- (1) If several Contracting States agree to effect the unification of their domestic legislations on marks, they may notify the Director General
  - (i) that a common Office shall be substituted for the national Office of each of them, and
  - (ii) that the whole of their respective territories shall be deemed to be a single State for the purposes of the application of all or part of the provisions preceding this Article as well as the provisions of Articles 9<sup>quinquies</sup> and 9<sup>sexies</sup>
- (2) Such notification shall not take effect until three months after the date of the communication thereof by the Director General to the other Contracting Parties.

## ARTICLE 9<sup>quinquies</sup>

### **Transformation of an International Registration into National or Regional Applications**

Where, in the event that the international registration is cancelled at the request of the Office of origin under Article 6(4), in respect of all or some of the goods and services listed in the said registration, the person who was the holder of the international registration files an application for the registration of the same mark with the Office of any of the Contracting Parties in the territory of which the international registration had effect, that application shall be treated as if it had been

filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3<sup>ter</sup>(2) and, if the international registration enjoyed priority, shall enjoy the same priority, provided that

- (i) such application is filed within three months from the date on which the international registration was cancelled,
- (ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the Contracting Party concerned, and
- (iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

#### ARTICLE 9<sup>sexies</sup>

##### Safeguard of the Madrid (Stockholm) Agreement

(1) Where, with regard to a given international application or a given international registration, the Office of origin is the Office of a State that is party to both this Protocol and the Madrid (Stockholm) Agreement, the provisions of this Protocol shall have no effect in the territory of any other State that is also party to both this Protocol and the Madrid (Stockholm) Agreement.

(2) The Assembly may, by a three-fourths majority, repeal paragraph (1), or restrict the scope of paragraph (1), after the expiry of a period of ten years from the entry into force of this Protocol, but not before the expiry of a period of five years from the date on which the majority of the countries party to the Madrid (Stockholm) Agreement have become party to this Protocol. In the vote of the Assembly, only those States which are party to both the said Agreement and this Protocol shall have the right to participate.

#### ARTICLE 10

##### Assembly

(1)(a) The Contracting Parties shall be members of the same Assembly as the countries party to the Madrid (Stockholm) Agreement.

(b) Each Contracting Party shall be represented in that Assembly by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Contracting Party which has appointed it, except for the travel expenses and the subsistence allowance of one delegate for each Contracting Party, which shall be paid from the funds of the Union.

(2) The Assembly shall, in addition to the functions which it has under the Madrid (Stockholm) Agreement, also

- (i) deal with all matters concerning the implementation of this Protocol;
- (ii) give directions to the International Bureau concerning the preparation for conferences of revision of this Protocol, due account being taken of any comments made by those countries of the Union which are not party to this Protocol;
- (iii) adopt and modify the provisions of the Regulations concerning the implementation of this Protocol;
- (iv) perform such other functions as are appropriate under this Protocol.

(3)(a) Each Contracting Party shall have one vote in the Assembly. On matters concerning only countries that are party to the Madrid (Stockholm) Agreement, Contracting Parties that are not party to the said Agreement shall not have the right to vote, whereas, on matters concerning only Contracting Parties, only the latter shall have the right to vote.

(b) One-half of the members of the Assembly which have the right to vote on a given matter shall constitute the quorum for the purposes of the vote on that matter.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of the members of the Assembly having the right to vote on a given matter which are represented is less than one-half but equal to or more than one-third of the members of the Assembly having the right to vote on that matter, the Assembly may

make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly having the right to vote on the said matter which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiry of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Articles 5(2)(e), 9<sup>sexies</sup>(2), 12 and 13(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one member of the Assembly only.

(4) In addition to meeting in ordinary sessions and extraordinary sessions as provided for by the Madrid (Stockholm) Agreement, the Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the members of the Assembly having the right to vote on the matters proposed to be included in the agenda of the session. The agenda of such an extraordinary session shall be prepared by the Director General.

## ARTICLE 11

### International Bureau

(1) International registration and related duties, as well as all other administrative tasks, under or concerning this Protocol, shall be performed by the International Bureau.

(2)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of this Protocol.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for such conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at such conferences of revision.

(3) The International Bureau shall carry out any other tasks assigned to it in relation to this Protocol.

## ARTICLE 12

### Finances

As far as Contracting Parties are concerned, the finances of the Union shall be governed by the same provisions as those contained in Article 12 of the Madrid (Stockholm) Agreement, provided that any reference to Article 8 of the said Agreement shall be deemed to be a reference to Article 8 of this Protocol. Furthermore, for the purposes of Article 12(6)(b) of the said Agreement, Contracting Organizations shall, subject to a unanimous decision to the contrary by the Assembly, be considered to belong to contribution class I (one) under the Paris Convention for the Protection of Industrial Property.

## ARTICLE 13

### Amendment of Certain Articles of the Protocol

(1) Proposals for the amendment of Articles 10, 11, 12, and the present Article, may be initiated by any Contracting Party, or by the Director General. Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 10, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notification of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those States and intergovernmental organizations which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on the amendment. Any amendment to the said Articles thus accepted shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

#### ARTICLE 14

##### **Becoming Party to the Protocol; Entry into Force<sup>1</sup>**

(1)(a) Any State that is a party to the Paris Convention for the Protection of Industrial Property<sup>2</sup> may become party to this Protocol.

(b) Furthermore, any intergovernmental organization may also become party to this Protocol where the following conditions are fulfilled:

- (i) at least one of the member States of that organization is a party to the Paris Convention for the Protection of Industrial Property;
- (ii) that organization has a regional Office for the purposes of registering marks with effect in the territory of the organization, provided that such Office is not the subject of a notification under Article 9<sup>quater</sup>.

(2) Any State or organization referred to in paragraph (1) may sign this Protocol. Any such State or organization may, if it has signed this Protocol, deposit an instrument of ratification, acceptance or approval of this Protocol or, if it has not signed this Protocol, deposit an instrument of accession to this Protocol.

(3) The instruments referred to in paragraph (2) shall be deposited with the Director General.

(4)(a) This Protocol shall enter into force three months after four instruments of ratification, acceptance, approval or accession have been deposited, provided that at least one of those instruments has been deposited by a country party to the Madrid (Stockholm) Agreement and at least one other of those instruments has been deposited by a State not party to the Madrid (Stockholm) Agreement or by any of the organizations referred to in paragraph (1)(b).

(b) with respect to any other State or organization referred to in paragraph (1), this Protocol shall enter into force three months after the date on which its ratification, acceptance, approval or accession has been notified by the Director General.

(5) Any State or organization referred to in paragraph (1) may, when depositing its instrument of ratification, acceptance or approval of, or accession to, this Protocol, declare that the protection resulting from any international registration effected under this Protocol before the date of entry into force of this Protocol with respect to it cannot be extended to it.

#### ARTICLE 15

##### **Denunciation**

(1) This Protocol shall remain in force without limitation as to time.

(2) Any Contracting Party may denounce this Protocol by notification addressed to the Director General.

<sup>1</sup>The Protocol entered into force on 1 December 1995.

<sup>2</sup>Treaty Series No. 61 (1970) Cmd. 4431.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided for by this Article shall not be exercised by any Contracting Party before the expiry of five years from the date upon which this Protocol entered into force with respect to that Contracting Party.

(5)(a) Where a mark is the subject of an international registration having effect in the denouncing State or intergovernmental organization at the date on which the denunciation becomes effective, the holder of such registration may file an application for the registration of the same mark with the Office of the denouncing State or intergovernmental organization, which shall be treated as if it had been filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3<sup>ter</sup>(2) and, if the international registration enjoyed priority, enjoy the same priority, provided that

- (i) such application is filed within two years from the date on which the denunciation became effective,
- (ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the denouncing State or intergovernmental organization, and
- (iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

(b) The provisions of subparagraph (a) shall also apply in respect of any mark that is the subject of an international registration having effect in Contracting Parties other than the denouncing State or intergovernmental organization at the date on which denunciation becomes effective and whose holder, because of the denunciation, is no longer entitled to file international applications under Article 2(1).

## ARTICLE 16

### Signature; Languages; Depositary Functions

(1)(a) This Protocol shall be signed in a single copy in the English, French and Spanish languages, and shall be deposited with the Director General when it ceases to be open for signature at Madrid. The texts in the three languages shall be equally authentic.

(b) Official texts of this Protocol shall be established by the Director General, after consultation with the interested governments and organizations, in the Arabic, Chinese, German, Italian, Japanese, Portuguese and Russian languages, and in such other languages as the Assembly may designate.

(2) This Protocol shall remain open for signature at Madrid until December 31 1989.

(3) The Director General shall transmit two copies, certified by the Government of Spain, of the signed texts of this Protocol to all States and intergovernmental organizations that may become party to this Protocol.

(4) The Director General shall register this Protocol with the Secretariat of the United Nations.

(5) The Director General shall notify all States and international organizations that may become or are party to this Protocol of signatures, deposits of instruments of ratification, acceptance, approval or accession, the entry into force of this Protocol and any amendment thereto, any notification of denunciation and any declaration provided for in this Protocol.

**Signatures, Ratifications and Accessions**

| <i>Country/State</i>                  | <i>Date of Signature</i> | <i>Date of deposit of instrument of ratification</i> | <i>Date of deposit of instrument of accession/ acceptance(a) approval(A)</i> |
|---------------------------------------|--------------------------|--|--|
| Austria                               | 29 Dec 1989              |  |  |
| Belgium                               | 28 Jun 1989              |  |  |
| China*                                |                          |  | 1 Sep 1995†  |
| Cuba                                  |                          |  | 26 Sep 1995  |
| Czech Republic                        |                          |  | 25 Jun 1996  |
| Denmark*                              | 28 Jun 1989              | 10 Nov 1995  |  |
| Egypt                                 | 28 Jun 1989              |  |  |
| Finland*                              | 27 Dec 1989              |  | 29 Dec 1995(a)   |
| France                                | 28 Jun 1989              |  |  |
| German Democratic Republic            | 28 Jun 1989              | } 20 Dec 1995  | —  |
| German Federal Republic               | 28 Jun 1989              |  |  |
| Greece                                | 13 Dec 1989              |  |  |
| Hungary                               | 28 Jun 1989              |  |  |
| Ireland                               | 28 Dec 1989              |  |  |
| Italy                                 | 28 Jun 1989              |  |  |
| Korea—People's Democratic Republic of | 28 Jun 1989              |  | 3 July 1996(A)   |
| Liechtenstein                         | 28 Jun 1989              |  |  |
| Luxembourg                            | 28 Jun 1989              |  |  |
| Monaco                                | 21 Dec 1989              | 27 June 1996   | —  |
| Mongolia                              | 28 Jun 1989              |  |  |
| Morocco                               | 28 Jun 1989              |  |  |
| Netherlands                           | 27 Dec 1989              |  |  |
| Norway*                               |                          |  | 29 Dec 1995  |
| Portugal                              | 28 Jun 1989              |  |  |
| Romania                               | 30 Dec 1989              |  |  |
| Senegal                               | 27 Dec 1989              |  |  |
| Soviet Union                          | 28 Jun 1989              |  |  |
| Spain                                 | 28 Jun 1989              | 17 Apr 1991†   |  |
| Sweden*                               | 21 Dec 1989              | 30 Dec 1994**  |  |
| Switzerland                           | 28 Jun 1989              |  |  |
| United Kingdom <sup>1</sup> *         | 28 Jun 1989              | 6 Apr 1995†  |  |
| Yugoslavia                            | 28 Jun 1989              |  |  |

<sup>1</sup> Extended to include the Isle of Man on 6 April 1995

\* Declarations, Statements and Reservations see pages 16 and 17.

\*\* Not party to the Madrid (Stockholm) Agreement

† Party to the Madrid (Stockholm) Agreement

## DECLARATIONS, STATEMENTS AND RESERVATIONS

### CHINA

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on accession, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after the expiry of the 18-month time limit.

### DENMARK

Declaring that: ... "until later decision, the Protocol will not be applied to the Faroe Islands or to Greenland." WIPO Madrid Notification No. 74 dated 13.11.1995.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on ratification, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after expiry of the 18-month time limit.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on ratification, in accordance with Art 8(7)(a), that, in connection with each international registration in which it is mentioned under Art 3ter, and in connection with each renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fee, an individual fee.

### FINLAND

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on acceptance, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after the expiry of the 18-month time limit.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on acceptance, in accordance with Art 8(7)(a), that, in connection with each international registration in which it is mentioned under Art 3ter, and in connection with each renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fee, an individual fee.

### NORWAY

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on accession, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after the expiry of the 18-month time limit.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on accession, in accordance with Art 8(7)(a), that, in connection with each international registration in which it is mentioned under Art 3ter, and in connection with each renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fee, an individual fee.

### SWEDEN

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on acceptance, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after the expiry of the 18-month time limit.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on acceptance, in accordance with Art 8(7)(a), that, in connection with each international registration in which it is mentioned under Art 3ter, and in connection with each renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fee, an individual fee.

## UNITED KINGDOM

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on ratification, in accordance with Art 5(2)(d) that, under Art 5(2)(b), the time limit of one year to exercise the right to notify a refusal of protection referred to in Art 5(2)(a) is replaced by 18 months and that, under Art 5(2)(c), where refusal may result from an opposition to the granting of protection, such refusal may be notified after expiry of the 18-month time limit.

WIPO Madrid (Marks) Notn. No. 79 of 01.02.1996: Declaration on ratification, in accordance with Art 8(7)(a), that, in connection with each international registration in which it is mentioned under Art 3ter, and in connection with each renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fee, an individual fee.



**COMMON REGULATIONS UNDER THE MADRID AGREEMENT  
CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS  
AND THE PROTOCOL RELATING TO THAT AGREEMENT  
(WO/MM/INF/2)**

[Adopted by the Assembly of the Madrid Union with effect from 1 April 1996.  
World Intellectual Property Organization (WIPO) Geneva 1996]

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## CHAPTER 1

### GENERAL PROVISIONS

#### RULE 1

##### Abbreviated Expressions

For the purposes of these Regulations,

- (i) "Agreement" means the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891,<sup>1</sup> as revised at Stockholm on July 14, 1967,<sup>2</sup> and amended on October 2, 1979;
- (ii) "Protocol" means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989;<sup>3</sup>
- (iii) "Contracting Party" means any country party to the Agreement or any State or intergovernmental organization party to the Protocol;
- (iv) "Contracting State" means a Contracting Party that is a State;
- (v) "Contracting Organization" means a Contracting Party that is an intergovernmental organization;
- (vi) "international registration" means the registration of a mark effected under the Agreement or the Protocol or both, as the case may be;
- (vii) "international application" means an application for international registration filed under the Agreement or the Protocol or both, as the case may be;
- (viii) "international application governed exclusively by the Agreement" means an international application whose Office of origin is the Office
  - of a State bound by the Agreement but not by the Protocol, or
  - of a State bound by both the Agreement and the Protocol where all the States designated in the international application are bound by the Agreement (whether or not those States are also bound by the Protocol);
- (ix) "international application governed exclusively by the Protocol" means an international application whose Office of origin is the Office
  - of a State bound by the Protocol but not by the Agreement, or
  - of a Contracting Organization, or
  - of a State bound by both the Agreement and the Protocol where the international application does not contain the designation of any State bound by the Agreement;
- (x) "international application governed by both the Agreement and the Protocol" means an international application whose Office of origin is the Office of a State bound by both the Agreement and the Protocol and which is based on a registration and contains the designations
  - of at least one State bound by the Agreement (whether or not that State is also bound by the Protocol), and
  - of at least one State bound by the Protocol but not by the Agreement or of at least one Contracting Organization;
- (xi) "applicant" means the natural person or legal entity in whose name the international application is filed;
- (xii) "legal entity" means a corporation, association or other group or organization which, under the law applicable to it, is capable of acquiring rights, assuming obligations and suing or being sued in a court of law;
- (xiii) "basic application" means the application for the registration of a mark that has been filed with the Office of a Contracting Party and that constitutes the basis for the international application for the registration of that mark;

<sup>1</sup>Not published.

<sup>2</sup>Treaty Series No. 71 (1970) Cmnd. 4437.

<sup>3</sup>Entered into force for the United Kingdom on 1 December 1995.

- (xiv) "basic registration" means the registration of a mark that has been effected by the Office of a Contracting Party and that constitutes the basis for the international application for the registration of that mark;
- (xv) "designation" means the request for extension of protection ("territorial extension") under Article 3ter(1) or (2) of the Agreement or under Article 3ter(1) or (2) of the Protocol, as the case may be; it also means such extension as recorded in the International Register;
- (xvi) "designated Contracting Party" means a Contracting Party for which the extension of protection ("territorial extension") has been requested under Article 3ter(1) or (2) of the Agreement or under Article 3ter(1) or (2) of the Protocol, as the case may be, or in respect of which such extension has been recorded in the International Register;
- (xvii) "Contracting Party designated under the Agreement" means a designated Contracting Party for which the extension of protection ("territorial extension") requested under Article 3ter(1) or (2) of the Agreement has been recorded in the International Register;
- (xviii) "Contracting Party designated under the Protocol" means a designated Contracting Party for which the extension of protection ("territorial extension") requested under Article 3ter(1) or (2) of the Protocol has been recorded in the International Register;
- (xix) "refusal" means a notification by the Office of a designated Contracting Party according to Article 5(1) of the Agreement or Article 5(1) of the Protocol that protection cannot be granted in the said Contracting Party;
- (xx) "Gazette" means the periodical gazette referred to in Rule 32;
- (xxi) "holder" means the natural person or legal entity in whose name the international registration is recorded in the International Register;
- (xxii) "International Classification of Figurative Elements" means the Classification established by the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks of June 12, 1973;
- (xxiii) "International Classification of Goods and Services" means the Classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957,<sup>1</sup> as revised at Stockholm on July 14, 1967,<sup>2</sup> and at Geneva on May 13, 1977;<sup>3</sup>
- (xxiv) "International Register" means the official collection of data concerning international registrations maintained by the International Bureau, which data the Agreement, the Protocol or the Regulations require or permit to be recorded, irrespective of the medium in which such data are stored;
- (xxv) "Office" means the Office of a Contracting Party in charge of the registration of marks, or the common Office referred to in Article 9quater of the Agreement or Article 9quater of the Protocol, or both, as the case may be;
- (xxvi) "Office of origin" means the Office of the country of origin defined in Article 1(3) of the Agreement or the Office of origin defined in Article 2(2) of the Protocol, or both, as the case may be;
- (xxvii) "official form" means a form established by the International Bureau or any form having the same contents and format;
- (xxviii) "prescribed fee" means the applicable fee set out in the Schedule of Fees;
- (xxix) "Director General" means the Director General of the World Intellectual Property Organization;
- (xxx) "International Bureau" means the International Bureau of the World Intellectual Property Organization.

<sup>1</sup>Treaty Series No. 23 (1963) Cmd. 2007.

<sup>2</sup>Treaty Series No. 71 (1970) Cmd. 4437.

<sup>3</sup>Treaty Series No. 72 (1979) Cmd. 7671.

Rule 2

**Communications with the International Bureau; Signature**

- (1) [Communication in Writing; Several Documents in One Envelope]
  - (a) Subject to paragraph (6), communications addressed to the International Bureau shall be effected in writing by typewriter or other machine and, except where the communication is by telex or telegram, shall be signed.
  - (b) If several documents are mailed in one envelope, they should be accompanied by a list identifying each of them.
- (2) [Signature] A signature shall be handwritten, printed or stamped; it may be replaced by the affixing of a seal or, as regards the electronic communications referred to in paragraph (6), by a mode of identification agreed upon between the International Bureau and the Office concerned.
- (3) [Communications by Telefacsimile]
  - (a) Any communication may be addressed to the International Bureau by telefacsimile, provided that,
    - (i) where the communication must be presented on an official form, the official form is used for the purposes of the telefacsimile communication, and that,
    - (ii) where the communication consists of the international application, the original of the page of the of official form bearing the reproduction or reproductions of the mark, signed by the Office of origin and containing sufficient indications to allow identification of the international application to which it relates, is sent to the International Bureau.
  - (b) Where the original referred to in subparagraph (a)(ii) is received by the International Bureau within a period of one month from the day on which the communication by telefacsimile was received, that original shall be deemed to have been received by the International Bureau on the date on which the communication by telefacsimile was received.
  - (c) Where an international application is addressed to the International Bureau by telefacsimile, examination by the International Bureau as to conformity of the international application with the applicable requirements shall start
    - (i) upon receipt of the original referred to in subparagraph (a)(ii) if such original is received within a period of one month from the date on which the communication by telefacsimile was received, or
    - (ii) upon expiry of the period of one month referred to in subparagraph (b) if the said original is not received by the International Bureau within that period.
- (4) [Communications by Telex or Telegram]
  - (a) Communications other than the international application or a designation made subsequent to the international registration may be addressed to the International Bureau by telex or telegram, provided that, where the use of an official form is prescribed, the official form, duly signed and corresponding in its contents to the contents of the telex or telegram, is received by the International Bureau within a period of one month from the day on which the communication by telex or telegram was received.
  - (b) Where the requirements under subparagraph (a) are complied with, the official form shall be deemed to have been received by the International Bureau on the day on which the communication by telex or telegram was received. Where the requirements under subparagraph (a) are not complied with, the communication by telex or telegram shall be deemed not to have been made.
- (5) [Acknowledgement and Date of Receipt of Telefacsimile by the International Bureau]
  - (a) The International Bureau shall promptly and by telefacsimile inform the sender of a telefacsimile communication of the receipt of that communication, and, where the telefacsimile communication received is incomplete or illegible, of that fact also, provided that the sender can be identified and can be reached by telefacsimile.

- (b) Where a communication is transmitted by telefacsimile and, because of the time difference between the place from where the communication is transmitted and Geneva, the date on which the transmittal started is different from the date of receipt by the International Bureau of the complete communication, the earlier of the two dates shall be considered as the date of receipt by the International Bureau.
- (6) [Electronic Communications; Acknowledgement and Date of Receipt of Electronic Transmission by the International Bureau]
  - (a) Where an Office so desires, communications between that Office and the International Bureau, including the presentation of the international application, shall be by electronic means in a way agreed upon between the International Bureau and the Office concerned.
  - (b) The International Bureau shall promptly and by electronic transmission inform the originator of an electronic transmission of the receipt of that transmission, and, where the electronic transmission received is incomplete or otherwise unusable, also of that fact, provided that the originator can be identified and can be reached.
  - (c) Where a communication is by electronic means and, because of the time difference between the place from where the communication is sent and Geneva, the date on which the sending started is different from the date of receipt by the International Bureau of the complete communication, the earlier of the two dates shall be considered as the date of receipt by the International Bureau.

### Rule 3

#### Representation before the International Bureau

- (1) [Representative; Address of Representative; Number of Representatives]
  - (a) The applicant or the holder may have a representative before the International Bureau.
  - (b) The address of the representative shall be,
    - (i) in respect of an international application governed exclusively by the Agreement, in the territory of a Contracting Party bound by the Agreement;
    - (ii) in respect of an international application governed exclusively by the Protocol, in the territory of a Contracting Party bound by the Protocol;
    - (iii) in respect of an international application governed by both the Agreement and the Protocol, in the territory of a Contracting Party;
    - (iv) in respect of an international registration, in the territory of a Contracting Party.
  - (c) The applicant or the holder may have one representative only. Where the appointment indicates several representatives, only the one indicated first shall be considered to be a representative and be recorded as such.
  - (d) Where a partnership or firm composed of attorneys or patent or trademark agents has been indicated as representative to the International Bureau, it shall be regarded as one representative.
- (2) [Appointment of the Representative]
  - (a) The appointment of a representative may be made in the international application, or in a subsequent designation or a request under Rule 25 if such subsequent designation or request is made through an Office.
  - (b) The appointment of a representative may also be made in a separate communication which may relate to one or more specified international applications or international registrations, or to all future international applications and international registrations, of the same applicant or holder. The said communication shall be presented to the International Bureau
    - (i) by the applicant, the holder or the appointed representative,
    - (ii) by the Office of origin, or
    - (iii) by another interested Office if the applicant, the holder or the appointed representative asks for, and that Office admits, such presentation.

The communication shall be signed by the applicant or the holder, or by the Office through which it was presented.

(3) [Irregular Appointment]

- (a) Where the address of the purported representative is not in the territory relevant under paragraph (1)(b), the International Bureau shall treat the appointment as if it had not been made and shall inform accordingly the applicant or holder, the purported representative and, if the sender or transmitter is an Office, that Office.
- (b) Where the International Bureau considers that the appointment of a representative under paragraph (2) is irregular, it shall notify accordingly the applicant or holder, the purported representative and, if the sender or transmitter is an Office, that Office.
- (c) As long as the relevant requirements under paragraphs (1)(b) and (2) are not complied with, the International Bureau shall send all relevant communications to the applicant or holder himself.

(4) [Recordal and Notification of Appointment of a Representative; Effective Date of Appointment]

- (a) Where the International Bureau finds that the appointment of a representative complies with the applicable requirements, it shall record the fact that the applicant or holder has a representative, as well as the name and address of the representative, in the International Register. In such a case, the effective date of the appointment shall be the date on which the International Bureau received the international application, subsequent designation, request or separate communication in which the representative is appointed.
- (b) The International Bureau shall notify the recordal referred to in subparagraph (a) to both the applicant or holder and the representative. Where the appointment was made in a separate communication presented through an Office, the International Bureau shall also notify the recordal to that Office.

(5) [Effect of Appointment of a Representative]

- (a) Except where these Regulations expressly provide otherwise, the signature of a representative recorded under paragraph (4)(a) shall replace the signature of the applicant or holder.
- (b) Except where these Regulations expressly require that an invitation, notification or other communication be addressed to both the applicant or holder and the representative, the International Bureau shall address to the representative recorded under paragraph (4)(a) any invitation, notification or other communication which, in the absence of a representative, would have to be sent to the applicant or holder; any invitation, notification or other communication so addressed to the said representative shall have the same effect as if it had been addressed to the applicant or holder.
- (c) Any communication addressed to the International Bureau by the representative recorded under paragraph (4)(a) shall have the same effect as if it had been addressed to the said Bureau by the applicant or holder.

(6) [Cancellation of Recordal; Effective Date of Cancellation]

- (a) Any recordal under paragraph (4)(a) shall be cancelled where cancellation is requested in a communication signed by the applicant, holder or representative. The recordal shall be cancelled *ex officio* by the International Bureau where a new representative is appointed or, in case a change in ownership has been recorded, where no representative is appointed by the new holder of the international registration.
- (b) Subject to subparagraph (c), the cancellation shall be effective from the date on which the International Bureau receives the corresponding communication.
- (c) Where the cancellation is requested by the representative, it shall be effective from the earlier of the following:
  - (i) the date on which the International Bureau receives a communication appointing a new representative;
  - (ii) the date of the expiry of a period of two months counted from the receipt of the request of the representative that the recordal be cancelled.

Until the effective date of the cancellation, all communications referred to in paragraph (5)(b) shall be addressed by the International Bureau to both the applicant or holder and the representative.

- (d) The International Bureau shall, upon receipt of a request for cancellation made by the representative, notify accordingly the applicant or holder, and add to the notification copies of all communications sent to the representative, or received by the International Bureau from the representative, during the six months preceding the date of the notification.
- (e) The International Bureau shall, once the effective date of the cancellation is known, notify the cancellation and its effective date to the representative whose recordal has been cancelled, to the applicant or holder and, where the appointment of the representative had been presented through an Office, to that Office.

#### RULE 4

##### Calculation of Time Limits

- (1) [Periods Expressed in Years] Any period expressed in years shall expire, in the relevant subsequent year, in the month having the same name and on the day having the same number as the month and the day of the event from which the period starts to run, except that, where the event occurred on February 29 and in the relevant subsequent year February ends on the 28th, the period shall expire on February 28.
- (2) [Periods Expressed in Months] Any period expressed in months shall expire, in the relevant subsequent month, on the day which has the same number as the day of the event from which the period starts to run, except that, where the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month.
- (3) [Periods Expressed in Days] The calculation of any period expressed in days shall start with the day following the day on which the relevant event occurred and shall expire accordingly.
- (4) [Expiry on a Day on Which the International Bureau or an Office Is Not Open to the Public] If a period expires on a day on which the International Bureau or the Office concerned is not open to the public, the period shall, notwithstanding paragraphs (1) to (3), expire on the first subsequent day on which the International Bureau or the Office concerned is open to the public.
- (5) [Indication of the Date of Expiry] The International Bureau shall, in all cases in which it communicates a time limit, indicate the date of the expiry, according to paragraphs (1) to (3), of the said time limit.

#### RULE 5

##### Irregularities in Postal and Delivery Services

- (1) [Communications Sent Through a Postal Service] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and mailed through a postal service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,
  - (i) that the communication was mailed at least five days prior to the expiry of the time limit, or, where the postal service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, that the communication was mailed not later than five days after postal service was resumed,
  - (ii) that the mailing of the communication was registered, or details of the mailing were recorded, by the postal service at the time of mailing, and
  - (iii) in cases where all classes of mail do not normally reach the International Bureau within two days of mailing, that the communication was mailed by a class of mail which normally reaches the International Bureau within two days of mailing or by airmail.



(2) [Communications Sent Through a Delivery Service] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and sent through a delivery service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,

(i) that the communication was sent at least five days prior to the expiry of the time limit, or, where the delivery service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, that the communication was sent not later than five days after the delivery service was resumed, and

(ii) that details of the sending of the communication were recorded by the delivery service at the time of sending.

(3) [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence referred to in paragraph (1) or (2) and the communication or a duplicate thereof are received by the International Bureau not later than six months after the expiry of the time limit.

(4) [International Application and Subsequent Designation] Where the International Bureau receives an international application or a subsequent designation beyond the two-month period referred to in Article 3(4) of the Agreement, in Article 3(4) of the Protocol and in Rule 24(6)(b), and the Office concerned indicates that the late receipt resulted from circumstances referred to in paragraph (1) or (2), paragraph (1) or (2) and paragraph (3) shall apply.

## RULE 6

### Languages

(1) [International Application]

(a) Any international application governed exclusively by the Agreement<sup>1</sup> shall be in French.

(b) Any international application governed exclusively by the Protocol<sup>2</sup> or governed by both the Agreement and the Protocol shall be in English or French according to what is prescribed by the Office of origin, it being understood that the Office of origin may allow applicants to choose between English and French.

(2) [Communications Other Than the International Application]

(a) Any communication concerning an international application governed exclusively by the Agreement or the international registration resulting therefrom shall, subject to Rule 17(2)(v) and (3), be in French, except that, where the international registration resulting from an international application governed exclusively by the Agreement has been the subject of a subsequent designation under Rule 24(1)(b), the provisions of subparagraph (b) shall apply.

(b) Any communication concerning an international application governed exclusively by the Protocol or governed by both the Agreement and the Protocol, or the international registration resulting therefrom, shall, subject to Rule 17(2)(v) and (3), be

(i) in English or French where such communication is addressed to the International Bureau by the applicant or holder, or by an Office;

(ii) in the language applicable under Rule 7(2) where the communication consists of the declaration of intention to use the mark annexed to the international application under Rule 9(6)(d)(i) or to the subsequent designation under Rule 24(3)(b)(i);

(iii) in the language of the international application where the communication is a notification addressed by the International Bureau to an Office, unless that Office has notified the International Bureau that all such notifications are to be in English or that all such notifications are to be in French; where the

<sup>1</sup>Treaty Series No. 71 (1970) Cmd. 4437.

<sup>2</sup>This Protocol entered into force on 1 December 1995.

notification addressed by the International Bureau concerns the recordal in the International Register of an international registration, the notification shall indicate the language in which the relevant international application was received by the international Bureau;

- (iv) in the language of the international application where the communication is a notification addressed by the International Bureau to the applicant or holder, unless that applicant or holder has expressed the wish to receive such notifications in English although the language of the international application is French, or in French although the language of the international application is English.

(3) [Recordal and Publication]

- (a) Where the international application is governed exclusively by the Agreement, the recordal in the International Register and the publication in the Gazette of the international registration resulting therefrom and of any data to be both recorded and published under these Regulations in respect of that international registration shall be in French.
- (b) Where the international application is governed exclusively by the Protocol or is governed by both the Agreement and the Protocol, the recordal in the International Register and the publication in the Gazette of the international registration resulting therefrom and of any data to be both recorded and published under these Regulations in respect of that international registration shall be in English and French. The recordal and publication of the international registration shall indicate the language in which the international application was received by the International Bureau.
- (c) If a subsequent designation made under Rule 24(1)(b) is the first subsequent designation made under that Rule in respect of a given international registration, the International Bureau shall, together with the publication in the Gazette of that subsequent designation, publish the international registration in English and republish the international registration in French.

(4) [Translation]

- (a) The translations from English into French or from French into English needed for the notifications under paragraph (2)(b)(iii) and (iv), and recordals and publications under paragraph (3)(b) and (c), shall be made by the International Bureau. The applicant or the holder, as the case may be, may annex to the international application, or to a request for the recordal of a subsequent designation or of a change, a proposed translation of any text matter contained in the international application or the request. If the proposed translation is not considered by the International Bureau to be correct, it shall be corrected by the International Bureau after having invited the applicant or the holder to make, within one month from the invitation, observations on the proposed corrections.
- (b) Notwithstanding subparagraph (a), the International Bureau shall not translate the mark. Where, in accordance with Rule 9(4)(b)(iii) or Rule 24(3)(c), the applicant or the holder gives a translation or translations of the mark, the International Bureau shall not check the correctness of any such translations.

## RULE 7

### Notification of Certain Special Requirements

- (1) [Presentation of Subsequent Designations by the Office of Origin] Where a Contracting Party requires that, where its Office is the Office of origin and the holder's address is in the territory of that Contracting Party, designations made subsequently to the international registration be presented to the International Bureau by the said Office, it shall notify that requirement to the Director General.
- (2) [Intention to Use the Mark] Where a Contracting Party requires, as a Contracting Party designated under the Protocol, a declaration of intention to use the mark, it shall notify that requirement to the Director General. Where that Contracting Party requires the declaration to be signed by the applicant himself and to be made on a separate official form annexed to the international application, the notification shall contain a statement to that effect and shall specify the exact wording of the required declaration.

Where the Contracting Party further requires the declaration to be in English even if the international application is in French, or to be in French even if the international application is in English, the notification shall specify the required language.

(3) [Notification]

- (a) Any notification referred to in paragraph (1) or (2) may be made at the time of the deposit by the Contracting Party of its instrument of ratification, acceptance or approval of, or accession to, the Protocol, and the effective date of the notification shall be the same as the date of entry into force of the Protocol with respect to the Contracting Party having made the notification. The notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General, or at any later date indicated in the notification, in respect of any international registration whose date is the same as or is later than the effective date of the notification.
- (b) Any notification made under paragraph (1) or (2) may be withdrawn at any time. The notice of withdrawal shall be addressed to the Director General. The withdrawal shall have effect upon receipt of the notice of withdrawal by the Director General or at any later date indicated in the notice.

## CHAPTER 2

### INTERNATIONAL APPLICATIONS

#### RULE 8

##### Several Applicants

- (1) [Two or More Applicants Applying Exclusively Under the Agreement or Applying Under Both the Agreement and the Protocol] Two or more applicants may jointly file an international application governed exclusively by the Agreement or governed by both the Agreement and the Protocol if the basic registration is jointly owned by them and if the country of origin, as defined in Article 1(3) of the Agreement, is the same for each of them.
- (2) [Two or More Applicants Applying Exclusively Under the Protocol] Two or more applicants may jointly file an international application governed exclusively by the Protocol if the basic application was jointly filed by them or the basic registration is jointly owned by them, and if each of them qualifies, in relation to the Contracting Party whose Office is the Office of origin, for filing an international application under Article 2(1) of the Protocol.

#### RULE 9

##### Requirements concerning the International Application

- (1) [Presentation] The international application shall be presented to the International Bureau by the Office of origin.
- (2) [Form and Signature]
  - (a) The international application shall be presented on the official form in one copy.
  - (b) The international application shall be signed by the Office of origin and, where the Office of origin so requires, also by the applicant. Where the Office of origin does not require the applicant to sign the international application but allows that the applicant also sign it, the applicant may do so.
- (3) [Fees] The prescribed fees applicable to the international application shall be paid as provided for in Rules 10, 34 and 35.
- (4) [Contents of All International Applications]
  - (a) Subject to paragraphs (5), (6) and (7), the international application shall contain or indicate

- (i) the name of the applicant; where the applicant is a natural person, the name to be indicated is the family or principal name and the given or secondary name(s) of the natural person; where the applicant is a legal entity, the name to be indicated is the full official designation of the legal entity; where the name of the applicant is in characters other than Latin characters, the indication of that name shall consist of a transliteration into Latin characters which shall follow the phonetics of the language of the international application; where the applicant is a legal entity, and its name is in characters other than Latin characters, the said transliteration may be replaced by a translation into the language of the international application,
- (ii) the address of the applicant; that address shall be given in such way as to satisfy the customary requirements for prompt postal delivery and shall consist, at least, of all the relevant administrative units up to, and including, the house number, if any; in addition, telephone and telefacsimile numbers as well as a different address for correspondence may be indicated; where there are two or more applicants with different addresses, one address for correspondence shall be indicated; where no such address is indicated, the address for correspondence shall be the address of the applicant named first in the international application,
- (iii) the name and address of the representative, if any; in addition, telephone and telefacsimile numbers may be indicated; where the name of the representative is in characters other than Latin characters, the indication of that name shall consist of a transliteration into Latin characters which shall follow the phonetics of the language of the international application; where the representative is a legal entity, and its name is in characters other than Latin characters, the said transliteration may be replaced by a translation into the language of the international application,
- (iv) where the applicant wishes, under the Paris Convention for the Protection of Industrial Property,<sup>1</sup> to take advantage of the priority of an earlier filing, a declaration claiming the priority of that earlier filing, together with an indication of the name of the Office where such filing was made and of the date and, where available, the number of that filing, and, where the priority claim relates to less than all the goods and services listed in the international application, the indication of those goods and services to which the priority claim relates,
- (v) a reproduction of the mark that shall fit in the box provided on the official form; that reproduction shall be clear and shall, depending on whether the reproduction in the basic application or the basic registration is in black and white or in color, be in black and white or in color,
- (vi) where the applicant wishes that the mark be considered as a mark in standard characters, a declaration to that effect,
- (vii) where, according to Article 3(3) of the Agreement or Article 3(3) of the Protocol, the applicant claims color as a distinctive feature of the mark, an indication of that fact and an indication by words of the color or combination of colors claimed and, where the reproduction finished under item (v) is in black and white, one reproduction of the mark in color,
- (viii) where the basic application or the basic registration relates to a three-dimensional mark, the indication "three-dimensional mark,"
- (ix) where the basic application or the basic registration relates to a sound mark, the indication "sound mark,"
- (x) where the basic application or the basic registration relates to a collective mark or a certification mark or a guarantee mark, an indication to that effect,
- (xi) where the basic application or the basic registration contains a description of the mark by words, the same description; where the said description is in a language other than the language of the international application, it shall be given in the language of the international application,

<sup>1</sup>Treaty Series: No. 61 (1970) Cmnd. 4431.

- (xii) where the mark consists of or contains matter in characters other than Latin characters or numbers expressed in numerals other than Arabic or Roman numerals, a transliteration of that matter in Latin characters and Arabic numerals; the transliteration into Latin characters shall follow the phonetics of the language of the international application,
  - (xiii) the names of the goods and services for which the international registration of the mark is sought, grouped in the appropriate classes of the International Classification of Goods and Services, each group preceded by the number of the class and presented in the order of the classes of that Classification; the goods and services shall be indicated in precise terms, preferably using the words appearing in the Alphabetical List of the said Classification; the international application may contain limitations of the list of goods and services in respect of one or more designated Contracting Parties; the limitation in respect of each Contracting Party may be different, and
  - (xiv) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions.
- (b) The international application may also contain,
- (i) where the applicant is a natural person, an indication of the State of which the applicant is a national;
  - (ii) where the applicant is a legal entity, indications concerning the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
  - (iii) where the mark consists of or contains a word or words that can be translated, a translation of that word or those words into French if the international application is governed exclusively by the Agreement, or into English or French or both if the international application is governed exclusively by the Protocol or is governed by both the Agreement<sup>1</sup> and the Protocol;<sup>2</sup>
  - (iv) where the applicant claims color as a distinctive feature of the mark, an indication by words, in respect of each color, of the principal parts of the mark which are in that color.
- (5) [Additional Contents of an International Application Governed Exclusively by the Agreement]
- (a) In the case of an international application governed exclusively by the Agreement, the international application shall contain or indicate, in addition to the indications referred to in paragraph (4)(a),
- (i) the Contracting State party to the Agreement in which the applicant has a real and effective industrial or commercial establishment; if there is no such Contracting State, the Contracting State party to the Agreement in which the applicant is domiciled; if there is no such Contracting State, the Contracting State party to the Agreement of which the applicant is a national,
  - (ii) where the address of the applicant given in accordance with paragraph (4)(a)(ii) is in a State other than the State whose Office is the Office of origin, the address of the establishment or the domicile, referred to in item (i),
  - (iii) the States that are designated under the Agreement,
  - (iv) the date and the number of the basic registration, and
  - (v) the declaration by the Office of origin as specified in subparagraph (b).
- (b) The declaration referred to in subparagraph (a)(v) shall certify
- (i) the date on which the Office of origin received or, as provided in Rule 11(1), is deemed to have received, the request by the applicant to present the international application to the International Bureau,

<sup>1</sup>Treaty Series No. 71 (1970) Cmd. 4437.

<sup>2</sup>Entered into force for the United Kingdom on 1 December 1993.

- (ii) that the applicant named in the international application is the same as the holder of the basic registration,
  - (iii) that any indication referred to in paragraph (4)(a)(viii) to (xi) and appearing in the international application appears also in the basic registration,
  - (iv) that the mark that is the subject matter of the international application is the same as in the basic registration,
  - (v) that, if colors are claimed in the international application, the claim for color is the same as in the basic registration, and
  - (vi) that the goods and services indicated in the international application are covered by the list of goods and services appearing in the basic registration.
- (c) Where the international application is based on two or more basic registrations of the same mark in the Office of origin, the declaration referred to in subparagraph (a)(v) shall be deemed to apply to all those basic registrations.
- (6) [Additional Contents of an International Application Governed Exclusively by the Protocol]
- (a) In the case of an international application governed exclusively by the Protocol, the international application shall contain or indicate, in addition to the indications referred to in paragraph (4)(a),
    - (i) where the basic application has been filed with, or where the basic registration has been made by, the Office of a Contracting State of which the applicant is a national or in which the applicant is domiciled or has a real and effective industrial or commercial establishment, that Contracting State,
    - (ii) where the address of the applicant given in accordance with paragraph (4)(a)(ii) is in a State other than the State whose Office is the Office of origin, the domicile or the address of the establishment, referred to in item (i),
    - (iii) where the basic application has been filed with the Office of a Contracting Organization or where the basic registration has been made by such an Office, that organization and the State member of that organization of which the applicant is a national, or a statement that the applicant is domiciled in the territory in which the constituting treaty of the said organization applies, or a statement that the applicant has a real and effective industrial or commercial establishment in that territory,
    - (iv) where the address of the applicant given in accordance with paragraph (4)(a)(ii) is not in the territory in which the constituting treaty of the Contracting Organization whose Office is the Office of origin applies, the domicile or the address of the establishment, referred to in item (iii),
    - (v) the Contracting Parties that are designated under the Protocol,
    - (vi) the date and the number of the basic application, or the date and the number of the basic registration, as the case may be, and
    - (vii) the declaration by the Office of origin as specified in subparagraph (b).
  - (b) The declaration referred to in subparagraph (a)(vii) shall certify
    - (i) the date on which the Office of origin received the request by the applicant to present the international application to the International Bureau,
    - (ii) that the applicant named in the international application is the same as the applicant named in the basic application or the holder named in the basic registration, as the case may be,
    - (iii) that any indication referred to in paragraph (4)(a)(viii) to (xi) and appearing in the international application appears also in the basic application or the basic registration, as the case may be,
    - (iv) that the mark that is the subject matter of the international application is the same as in the basic application or the basic registration, as the case may be,
    - (v) that, if colors are claimed in the international application, the claim for color is the same as in the basic application or the basic registration, as the case may be, and

- (vi) that the goods and services indicated in the international application are covered by the list of goods and services appearing in the basic application or basic registration, as the case may be.
  - (c) Where the international application is based on two or more basic applications for or basic registrations of the same mark in the Office of origin, the declaration referred to in subparagraph (a)(vii) shall be deemed to apply to all those basic applications and basic registrations.
  - (d) The international application shall also contain, where a designation concerns a Contracting Party that has made a notification under Rule 7(2), a declaration of intention to use the mark in the territory of that Contracting Party; the declaration shall be considered part of the designation of the Contracting Party requiring it and shall, as required by that Contracting Party,
    - (i) be signed by the applicant himself and be made on a separate official form annexed to the international application, or
    - (ii) be included in the international application.
- (7) [Contents of an International Application Governed by Both the Agreement and the Protocol] In the case of an international application governed by both the Agreement and the Protocol, the international application shall contain or indicate, in addition to the indications referred to in paragraph (4)(a), the indications referred to in paragraphs (5) and (6), it being understood that only a basic registration, and not a basic application, may be indicated under paragraph (6)(a)(vi), and that that basic registration is the same basic registration as the one referred to in paragraph (5)(a)(iv).

## RULE 10

### Fees concerning the International Application

- (1) [International Applications Governed Exclusively by the Agreement] An international application governed exclusively by the Agreement shall be subject to the payment of the basic fee, the complementary fee and, where applicable, the supplementary fee, specified in item 1 of the Schedule of Fees. Those fees shall be paid in two instalments of ten years each. For the payment of the second instalment, Rule 30 shall apply.
- (2) [International Applications Governed Exclusively by the Protocol] An international application governed exclusively by the Protocol shall be subject to the payment of the basic fee, the complementary fee and/or the individual fee and, where applicable, the supplementary fee, specified or referred to in item 2 of the Schedule of Fees. Those fees shall be paid for ten years.
- (3) [International Applications Governed by Both the Agreement and the Protocol] An international application governed by both the Agreement and the Protocol shall be subject to the payment of the basic fee, the complementary fee and, where applicable, the individual fee and the supplementary fee, specified or referred to in item 3 of the Schedule of Fees. As far as the Contracting Parties designated under the Agreement are concerned, paragraph (1) shall apply. As far as the Contracting Parties designated under the Protocol are concerned, paragraph (2) shall apply.

## RULE 11

### Irregularities other than those concerning the Classification of Goods and Services or their Indication

- (1) [Premature Request to the Office of Origin]
  - (a) Where the Office of origin received a request to present to the International Bureau an international application governed exclusively by the Agreement before the mark which is referred to in that request is registered in the register of the said Office, the said request shall be deemed to have been received by the Office of origin, for the purposes of Article 3(4) of the Agreement, on the date of the registration of the mark in the register of the said Office.
  - (b) Subject to subparagraph (c), where the Office of origin receives a request to present to the International Bureau an international application governed by both the Agreement and the Protocol before the mark which is referred to in that

request is registered in the register of the said Office, the international application shall be treated as an international application governed exclusively by the Protocol, and the Office of origin shall delete the designation of any Contracting Party bound by the Agreement.

- (c) Where the request referred to in subparagraph (b) is accompanied by an express request that the international application be treated as an international application governed by both the Agreement and the Protocol once the mark is registered in the register of the Office of origin, the said Office shall not delete the designation of any Contracting Party bound by the Agreement and the request to present the international application shall be deemed to have been received by the said Office, for the purposes of Article 3(4) of the Agreement and Article 3(4) of the Protocol, on the date of the registration of the mark in the register of the said Office.

(2) [Irregularities to Be Remedied by the Applicant]

- (a) If the International Bureau considers that the international application contains irregularities other than those referred to in paragraphs (3), (4) and (6) and in Rules 12 and 13, it shall notify the applicant of the irregularity and at the same time inform the Office of origin.
- (b) Such irregularities may be remedied by the applicant within three months from the date of the notification of the irregularity by the International Bureau. If an irregularity is not remedied within three months from the date of the notification of that irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the applicant and the Office of origin.

(3) [Irregularity to Be Remedied by the Applicant or by the Office of Origin]

- (a) Notwithstanding paragraph (2), where the fees payable under Rule 10 have been paid to the International Bureau by the Office of origin and the International Bureau considers that the amount of the fees received is less than the amount required, it shall notify at the same time the Office of origin and the applicant. The notification shall specify the missing amount.
- (b) The missing amount may be paid by the Office of origin or by the applicant within three months from the date of the notification by the International Bureau. If the missing amount is not paid within three months from the date of the notification of the irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the Office of origin and the applicant.

(4) [Irregularities to Be Remedied by the Office of Origin]

- (a) If the International Bureau
  - (i) finds that the international application does not fulfil the requirements of Rule 2(1)(a) or was not presented on the official form prescribed under Rule 9(2)(a),
  - (ii) finds that the international application contains any of the irregularities referred to in Rule 15(1)(a),
  - (iii) considers that the international application contains irregularities relating to the entitlement of the applicant to file an international application,
  - (iv) considers that the international application contains irregularities relating to the declaration by the Office of origin referred to in Rule 9(5)(a)(v) or (6)(a)(vii),
  - (v) finds that the original referred to in Rule 2(3)(a)(ii) has not been received within the one-month period referred to in Rule 2(3)(b), or
  - (vi) finds that the international application is not signed by the Office of origin,

it shall notify the Office of origin and at the same time inform the applicant.

- (b) Such irregularities may be remedied by the Office of origin within three months from the date of notification of the irregularity by the International Bureau. If an irregularity is not remedied within three months from the date of the notification



of that irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the Office of origin and the applicant.

(5) [Reimbursement of Fees] Where, in accordance with paragraphs (2)(b), (3) or (4)(b), the international application is considered abandoned, the International Bureau shall refund any fees paid in respect of that application, after deduction of an amount corresponding to one-half of the basic fee referred to in items 1.1.1, 2.1.1 or 3.1.1 of the Schedule of Fees, to the party having paid those fees.

(6) [Other Irregularity With Respect to the Designation of a Contracting Party Under the Protocol]

(a) Where, in accordance with Article 3(4) of the Protocol, an international application is received by the International Bureau within a period of two months from the date of receipt of that international application by the Office of origin and the International Bureau considers that a declaration of intention to use the mark is required according to Rule 9(6)(d)(i) or (7) but is missing or does not comply with the applicable requirements, the International Bureau shall promptly notify accordingly and at the same time the applicant and the Office of origin.

(b) The declaration of intention to use the mark shall be deemed to have been received by the International Bureau together with the international application if the missing or corrected declaration is received by the International Bureau within the period of two months referred to in subparagraph (a).

(c) The international application shall be deemed not to contain the designation of the Contracting Party for which a declaration of intention to use the mark is required if the missing or corrected declaration is received after the period of two months referred to in subparagraph (b). The International Bureau shall notify accordingly and at the same time the applicant and the Office of origin, reimburse any designation fee already paid in respect of that Contracting Party and indicate that the designation of the said Contracting Party may be effected as a subsequent designation under Rule 24, provided that such designation is accompanied by the required declaration.

(7) [International Application Not Considered as Such] If the international application is presented direct to the International Bureau by the applicant or does not comply with the requirement applicable under Rule 6(1), the international application shall not be considered as such and shall be returned to the sender.

## RULE 12

### Irregularities with Respect to the Classification of Goods and Services

(1) [Proposal for Classification]

(a) If the International Bureau considers that the requirements of Rule 9(4)(a)(xiii) are not complied with, it shall make a proposal of its own for the classification and grouping and shall send a notification of its proposal to the Office of origin and at the same time inform the applicant.

(b) The notification of the proposal shall also state the amount, if any, of the fees due as a consequence of the proposed classification and grouping.

(2) [Opinion Differing From the Proposal] The Office of origin may communicate to the International Bureau an opinion on the proposed classification and grouping within three months from the date of the notification of the proposal.

(3) [Reminder of the Proposal] If, within two months from the date of the notification referred to in paragraph (1)(a), the Office of origin has not communicated an opinion on the proposed classification and grouping, the International Bureau shall send to the Office of origin and to the applicant a communication reiterating the proposal. The sending of such a communication shall not affect the three-month period referred to in paragraph (2).

- (4) [Withdrawal of Proposal] If, in the light of the opinion communicated under paragraph (2), the International Bureau withdraws its proposal, it shall notify the Office of origin accordingly and at the same time inform the applicant.
- (5) [Modification of Proposal] If, in the light of the opinion communicated under paragraph (2), the International Bureau modifies its proposal, it shall notify the Office of origin and at the same time inform the applicant of such modification and of any consequent changes in the amount indicated under paragraph (1)(b).
- (6) [Confirmation of Proposal] If, notwithstanding the opinion referred to in paragraph (2), the International Bureau confirms its proposal, it shall notify the Office of origin accordingly and at the same time inform the applicant.
- (7) [Fees]
- (a) If no opinion has been communicated to the International Bureau under paragraph (2), the amount referred to in paragraph (1)(b) shall be payable within four months from the date of the notification referred to in paragraph (1)(a), failing which the international application shall be considered abandoned and the International Bureau shall notify the Office of origin accordingly and at the same time inform the applicant.
- (b) If an opinion has been communicated to the International Bureau under paragraph (2), the amount referred to in paragraph (1)(b) or, where applicable, paragraph (5) shall be payable within three months from the date of the communication by the International Bureau of the modification or confirmation of its proposal under paragraph (5) or (6), as the case may be, failing which the international application shall be considered abandoned and the International Bureau shall notify the Office of origin accordingly and at the same time inform the applicant.
- (c) If an opinion has been communicated to the International Bureau under paragraph (2) and if, in the light of that opinion, the International Bureau withdraws its proposal in accordance with paragraph (4), the amount referred to in paragraph (1)(b) shall not be due.
- (8) [Reimbursement of Fees] Where, in accordance with paragraph (7), the international application is considered abandoned, the International Bureau shall refund any fees paid in respect of that application, after deduction of an amount corresponding to one-half of the basic fee referred to in items 1.1.1, 2.1.1 or 3.1.1 of the Schedule of Fees, to the party having paid those fees.
- (9) [Classification in the Registration] Subject to the conformity of the international application with the other applicable requirements, the mark shall be registered with the classification and grouping that the International Bureau considers to be correct.

### RULE 13

#### **Irregularities with Respect to the Indication of Goods and Services**

- (1) [Communication of Irregularity by the International Bureau to the Office of Origin] If the International Bureau considers that any of the goods and services is indicated in the international application by a term that is too vague for the purposes of classification or is incomprehensible or is linguistically incorrect, it shall notify the Office of origin accordingly and at the same time inform the applicant. In the same notification, the International Bureau may suggest a substitute term, or the deletion of the term.
- (2) [Time Allowed to Remedy Irregularity]
- (a) The Office of origin may make a proposal for remedying the irregularity within three months from the date of the notification referred to in paragraph (1).
- (b) If no proposal acceptable to the International Bureau for remedying the irregularity is made within the period indicated in subparagraph (a), the International Bureau shall include in the international registration the term as appearing in the international application, provided that the Office of origin has specified the class in which such term should be classified; the international registration shall contain an indication to the effect that, in the opinion of the International Bureau, the specified term is too vague for the purposes of classification or is incomprehensible

or is linguistically incorrect, as the case may be. Where no class has been specified by the Office of origin, the International Bureau shall delete the said term *ex officio* and shall notify the Office of origin accordingly and at the same time inform the applicant.

## CHAPTER 3

### INTERNATIONAL REGISTRATIONS

#### RULE 14

##### Registration of the Mark in the International Register

- (1) [Registration of the Mark in the International Register] Where the International Bureau finds that the international application conforms to the applicable requirements, it shall register the mark in the International Register, notify the Offices of the designated Contracting Parties of the international registration and inform the Office of origin accordingly, and send a certificate to the holder.
- (2) [Contents of the Registration] The international registration shall contain
  - (i) all the data contained in the international application, except any priority claim under Rule 9(4)(a)(iv) where the date of the earlier filing is more than six months before the date of the international registration,
  - (ii) the date of the international registration,
  - (iii) the number of the international registration,
  - (iv) where the mark can be classified according to the International Classification of Figurative Elements, and unless the international application contains a declaration to the effect that the applicant wishes that the mark be considered as a mark in standard characters, the relevant classification symbols of the said Classification as determined by the International Bureau,
  - (v) an indication, with respect to each designated Contracting Party, as to whether it is a Contracting Party designated under the Agreement or a Contracting Party designated under the Protocol.

#### RULE 15

##### Date of the International Registration in Special Cases

- (1) [Irregular International Application]
  - (a) Where the international application received by the International Bureau does not contain all of the following elements:
    - (i) indications allowing the identity of the applicant to be established and sufficient to contact the applicant or his representative, if any,
    - (ii) the indications referred to in Rule 9(5)(a)(i) or Rule 9(6)(a)(i) or (iii),
    - (iii) the indications referred to in Rule 9(5)(a)(iii) or Rule 9(6)(a)(v),
    - (iv) the indications referred to in Rule 9(5)(a)(iv) or Rule 9(6)(a)(vi),
    - (v) the declaration referred to in Rule 9(5)(a)(v) or Rule 9(6)(a)(vii),
    - (vi) a reproduction of the mark,
    - (vii) the indication of the goods and services for which registration of the mark is sought,

the international registration shall bear the date on which the last of the missing elements has reached the International Bureau, provided that, where the last of the missing elements reaches the International Bureau within the two-month time limit referred to in Article 3(4) of the Agreement and Article 3(4) of the Protocol, the international registration shall bear the date on which the defective international application has been received by the Office of origin.

- (b) Where the international application received by the International Bureau does not comply with any applicable requirement other than those which are referred to in subparagraph (a), but where all such irregularities have been remedied within three months following the date of the notification referred to in Rule 11(2)(a), (3)(a) or (4)(a), the international registration shall bear
- (i) the date on which the defective international application was received by the Office of origin, if the International Bureau has received the international application within the two-month time limit referred to in Article 3(4) of the Agreement and Article 3(4) of the Protocol;
  - (ii) the date on which the defective international application was received by the International Bureau, if the International Bureau has received the international application after the expiry of the two-month time limit referred to in Article 3(4) of the Agreement and Article 3(4) of the Protocol.
- (2) [Irregular Classification] The date of the international registration shall not be affected by an irregularity in respect of the classification of goods and services if the amount referred to in Rule 12(1)(b) is paid to the International Bureau within whichever of the periods referred to in Rule 12(7)(a) and (b) is applicable.

## CHAPTER 4

### FACTS IN CONTRACTING PARTIES AFFECTING INTERNATIONAL REGISTRATIONS

#### RULE 16

##### Time Limit for Refusal in Case of Opposition

- (1) [Information Relating to Possible Oppositions]
- (a) Where a declaration has been made by a Contracting Party pursuant to Article 5(2)(b) and (c), first sentence, of the Protocol, the Office of that Contracting Party shall, where applicable, inform the International Bureau of the number, and the name of the holder, of the international registration in respect of which oppositions may be filed after the expiry of the 18-month time limit referred to in Article 5(2)(b) of the Protocol.
  - (b) Where, at the time of the communication of the information referred to in subparagraph (a), the dates on which the opposition period begins and ends are known, those dates shall be indicated in the communication. If such dates are not yet known at that time, they shall be communicated to the International Bureau once they become known.
  - (c) Where subparagraph (a) applies and the Office referred to in the said subparagraph has, before the expiry of the 18-month time limit referred to in the same subparagraph, informed the International Bureau of the fact that the time limit for filing oppositions will expire within the 30 days preceding the expiry of the 18-month time limit and of the possibility that oppositions may be filed during those 30 days, a refusal based on an opposition filed during the said 30 days may be notified to the International Bureau within one month from the date of filing of the opposition.
- (2) [Recordal and Transmittal of the Information] The International Bureau shall record in the International Register the information received under paragraph (1), and shall transmit that information to the Office of origin, if that Office has informed the International Bureau that it wishes to receive such information, and, at the same time, to the holder.

#### RULE 17

##### Notification of Refusal

- (1) [Notification of Refusal] The notification of any refusal of protection under Article 5 of the Agreement and Article 5 of the Protocol shall relate to one international registration, shall be dated and shall be signed by the Office making the notification.

(2) [Refusals Not Based on an Opposition] Where the refusal of protection is not based on an opposition, the notification referred to in paragraph (1) shall contain or indicate

- (i) the Office making the notification,
- (ii) the number of the international registration,
- (iii) the name of the holder,
- (iv) all the grounds on which the refusal is based together with a reference to the corresponding essential provisions of the law,
- (v) where the grounds on which the refusal is based refer to a mark which has been the subject of an application or registration and with which the mark that is the subject of the international registration appears to be in conflict, the filing date and number, the priority date (if any), the registration date and number (if available), the name and address of the owner, and a reproduction, of the former mark, together with the list of all or the relevant goods and services in the application or registration of the former mark, it being understood that the said list may be in the language of the said application or registration,
- (vi) if the refusal does not affect all the goods and services, those which are affected by the refusal or those which are not affected by the refusal,
- (vii) whether the refusal may be subject to review or appeal and, if so, the time limit, reasonable under the circumstances, for any request for review of, or appeal against, the refusal and the authority to which such request for review or appeal shall lie, with the indication, where applicable, that the request for review or the appeal has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party whose Office has pronounced the refusal, and
- (viii) the date on which the refusal was pronounced.

(3) [Refusals Based on an Opposition] Where the refusal of protection is based on an opposition or on an opposition and other grounds, the notification referred to in paragraph (1) shall, in addition to complying with the requirements referred to in paragraph (2), contain an indication of that fact and the name and address of the opponent; however, notwithstanding paragraph (2)(v), the Office communicating the refusal must, where the opposition is based on a mark which has been the subject of an application or registration, communicate the list of the goods and services on which the opposition is based and may, in addition, communicate the complete list of goods and services of that earlier application or registration, it being understood that the said lists may be in the language of the earlier application or registration.

(4) [Recordal; Review or Appeal]

- (a) The International Bureau shall record the refusal in the International Register together with the data contained in the notification, with an indication of the date on which the notification of refusal was sent or is regarded under Rule 18(1)(c) as having been sent to the International Bureau.
- (b) Where the notification of refusal under paragraphs (2) or (3) indicates that the refusal may be subject to review or appeal, the Office that communicated the refusal
  - (i) shall, where a request for review or an appeal has been lodged, or where the applicable time limit has expired without a request for review or an appeal having been lodged, and the said Office is aware thereof, inform the International Bureau of that fact in a way agreed upon between the International Bureau and that Office;
  - (ii) shall, where it has informed the International Bureau that a request for review or an appeal has been lodged or where a request for review or an appeal has been lodged without the International Bureau having been informed accordingly, notify the International Bureau as soon as possible of the final decision taken on the review or appeal or, where the request for review or the appeal has been withdrawn, inform as soon as possible the International Bureau of that withdrawal.

- (c) The International Bureau shall record in the International Register the relevant facts and data referred to in subparagraph (b) of which it has been informed.
- (5) [Transmittal of Copies of Notifications] The International Bureau shall transmit copies of notifications received under paragraphs (2) to (4) to the Office of origin, if that Office has informed the International Bureau that it wishes to receive such copies, and, at the same time, to the holder.

## RULE 18

### Irregular Refusals

- (1) [Contracting Party Designated Under the Agreement]
- (a) In the case of a refusal concerning the effect of the international registration in a Contracting Party designated under the Agreement, the notification of refusal shall not be regarded as such by the International Bureau
- (i) if it does not indicate the number of the international registration concerned, unless other indications contained in the notification permit the said registration to be identified,
  - (ii) if it does not indicate any grounds for refusal, or
  - (iii) if it is sent too late to the International Bureau, that is, if it is sent after the expiry of one year from the date on which the recordal of the international registration or the recordal of the designation made subsequently to the international registration has been effected, it being understood that the said date is the same as the date of sending the notification of the international registration or of the designation made subsequently. In the case of a notification of refusal sent through a postal service, the date of dispatch shall be determined by the postmark. If the postmark is illegible or missing, the International Bureau shall treat such notification as if it was sent 20 days before the date of its receipt by the International Bureau. However, if the date of dispatch thus determined is earlier than the date on which the refusal was pronounced, the International Bureau shall treat such notification as if it had been sent on the latter date. In the case of a notification of reprisal sent through a delivery service, the date of dispatch shall be determined by the indication given by such delivery service on the basis of the details of the mailing as recorded by it.
- (b) Where subparagraph (a) applies, the International Bureau shall nevertheless transmit a copy of the notification to the holder, shall inform, at the same time, the holder and the Office that sent the notification that the notification of refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.
- (c) If the notification of refusal
- (i) is not signed on behalf of the Office which communicated the refusal, or does not otherwise comply with the requirements of Rule 2(1)(a) or with the requirement applicable under Rule 6(2),
  - (ii) does not contain, where applicable, the details of the mark with which the mark that is the subject of the international registration appears to be in conflict (Rule 17(2)(v) and (3)),
  - (iii) does not contain, where the refusal indicates that not all the goods and services are affected, the indication of those goods and services that are affected by the refusal or the indication of those goods and services that are not affected by the refusal (Rule 17(2)(vi)),
  - (iv) does not contain, where applicable, the indication of the authority to which a request for review or an appeal lies and the applicable time limit, reasonable under the circumstances, for lodging such a request or appeal (Rule 17(2)(vii)),
  - (v) does not contain the indication of the date on which the refusal was pronounced (Rule 17(2)(viii)), or
  - (vi) does not contain, where applicable, the name and address of the opponent and the indication of the goods and services on which the opposition is based (Rule 17(3)),

the International Bureau shall invite the Office which communicated the refusal to rectify its notification within two months from the invitation and shall transmit to the holder copies of the irregular notification of refusal and of the invitation sent to the Office concerned. If the notification is so rectified, the rectified notification shall be regarded as having been sent to the International Bureau on the date on which the defective notification had been sent to it. The International Bureau shall transmit copies of the rectified notification to the Office of origin, if that Office has informed the International Bureau that it wishes to receive such copies, and to the holder. If the notification is not so rectified, it shall not be regarded as a notification of refusal. In the latter case, the International Bureau shall inform, at the same time, the holder and the Office that sent the notification that the notification of refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.

(2) [Contracting Party Designated Under the Protocol]

- (a) Paragraph (1) shall also apply in the case of a refusal concerning the effect of the international registration in a Contracting Party designated under the Protocol, it being understood that the time limit referred to in paragraph (1)(a)(iii) shall be the time limit applicable under Article 5(2)(a), (b) or (c)(ii) of the Protocol.
- (b) Paragraph (1)(a) shall apply to determine whether the time limit before the expiry of which the Office of the Contracting Party concerned must give the International Bureau the information referred to in Article 5(2)(c)(i) of the Protocol has been complied with. If such information is given after the expiry of that time limit, it shall be regarded as not having been given and the International Bureau shall inform the Office concerned accordingly.
- (c) Where the notification of refusal is made under Article 5(2)(c)(ii) of the Protocol without the requirements of Article 5(2)(c)(i) of the Protocol having been complied with, it shall not be regarded as a notification of refusal. In such a case, the International Bureau shall nevertheless transmit a copy of the notification to the holder, shall inform, at the same time, the holder and the Office that sent the notification that the notification of refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.

RULE 19

**Invalidations in Designated Contracting Parties**

(1) [Contents of the Notification of Invalidation] Where the effects of an international registration are invalidated in a designated Contracting Party under Article 5(6) of the Agreement or Article 5(6) of the Protocol and the invalidation is no longer subject to appeal, the Office of the Contracting Party whose competent authority has pronounced the invalidation shall notify the International Bureau accordingly. The notification shall contain or indicate

- (i) the authority which pronounced the invalidation,
- (ii) the fact that the invalidation is no longer subject to appeal,
- (iii) the number of the international registration,
- (iv) the name of the holder,
- (v) if the invalidation does not concern all the goods and services, those in respect of which the invalidation has been pronounced or those in respect of which the invalidation has not been pronounced, and
- (vi) the date on which the invalidation was pronounced and, where possible, its effective date.

(2) [Recordal of the Invalidation and Information of the Office of Origin and the Holder] The International Bureau shall record the invalidation in the International Register, together with the data contained in the notification of invalidation, and shall inform accordingly the Office of origin, if that Office has informed the International Bureau that it wishes to receive such information, and, at the same time, the holder.

## RULE 20

### **Restriction of the Holder's Right of Disposal**

- (1) [Communication of Information] The Office of any designated Contracting Party may inform the International Bureau that the holder's right of disposal has been restricted in respect of the international registration in the territory of that Contracting Party. Such information, if given, shall consist of a summary statement of the main facts concerning the restriction.
- (2) [Partial or Total Removal of Restriction] Where the International Bureau has been informed of a restriction of the holder's right of disposal in accordance with paragraph (1), the Office of the Contracting Party which communicated the information shall also inform the International Bureau of any partial or total removal of that restriction.
- (3) [Recordal] The International Bureau shall record the information communicated under paragraphs (1) and (2) in the International Register and shall inform the holder accordingly.
- (4) [Licenses] The present Rule shall not apply to licenses.

## RULE 21

### **Replacement of a National or Regional Registration by an International Registration**

- (1) [Notification] Where, in accordance with Article 4*bis*(2) of the Agreement or Article 4*bis*(2) of the Protocol, the Office of a designated Contracting Party has taken note in its Register, following a request made direct by the holder with that Office, that a national or a regional registration has been replaced by an international registration, that Office shall notify the International Bureau accordingly. Such notification shall indicate
  - (i) the number of the international registration concerned,
  - (ii) where the replacement concerns only one or some of the goods and services listed in the international registration, those goods and services, and
  - (iii) the filing date and number, the registration date and number, and, if any, the priority date of the national or regional registration which has been replaced by the international registration.
- (2) [Recordal] The International Bureau shall record the indications notified under paragraph (1) in the International Register and shall inform the holder accordingly.

## RULE 22

### **Ceasing of Effect of the Basic Application, of the Registration Resulting therefrom, or of the Basic Registration**

- (1) [Notification Relating to Ceasing of Effect of the Basic Application, of the Registration Resulting Therefrom, or of the Basic Registration]
  - (a) Where Article 6(3) and (4) of the Agreement or Article 6(3) and (4) of the Protocol, or both, apply, the Office of origin shall notify the International Bureau accordingly and shall indicate
    - (i) the number of the international registration,
    - (ii) the name of the holder,
    - (iii) the facts and decisions affecting the basic registration, or, where the international registration concerned is based on a basic application which has not resulted in a registration, the facts and decisions affecting the basic application, or, where the international registration is based on a basic application which has resulted in a registration, the facts and decisions affecting that registration, and the effective date of those facts and decisions, and
    - (iv) where the said facts and decisions affect the international registration only with respect to some of the goods and services, those goods and services which are affected by the facts and decisions or those which are not affected by the facts and decisions.



- (b) Where a judicial action referred to in Article 6(4) of the Agreement, or a proceeding referred to in item (i), (ii) or (iii) of Article 6(3) of the Protocol, began before the expiry of the five-year period but has not, before the expiry of that period, resulted in the final decision referred to in Article 6(4) of the Agreement, or in the final decision referred to in the second sentence of Article 6(3) of the Protocol or in the withdrawal or renunciation referred to in the third sentence of Article 6(3) of the Protocol, the Office of origin shall, where it is aware thereof and as soon as possible after the expiry of the said period, notify the International Bureau accordingly.
  - (c) Once the judicial action or proceeding referred to in subparagraph (b) has resulted in the final decision referred to in Article 6(4) of the Agreement, in the final decision referred to in the second sentence of Article 6(3) of the Protocol or in the withdrawal or renunciation referred to in the third sentence of Article 6(3) of the Protocol, the Office of origin shall, where it is aware thereof, promptly notify the International Bureau accordingly and shall give the indications referred to in subparagraph (a)(i) to (iv).
- (2) [Recordal and Transmittal of the Notification; Cancellation of the International Registrations]
- (a) The International Bureau shall record any notification referred to in paragraph (1) in the International Register and shall transmit a copy of the notification to the Offices of the designated Contracting Parties and to the holder.
  - (b) Where any notification referred to in paragraph (1)(a) or (c) requests cancellation of the international registration and complies with the requirements of that paragraph, the International Bureau shall cancel, to the extent applicable, the international registration in the International Register.
  - (c) Where the international registration has been cancelled in the International Register in accordance with subparagraph (b), the International Bureau shall notify the Offices of the designated Contracting Parties and the holder of the following:
    - (i) the date on which the international registration was cancelled in the International Register;
    - (ii) where the cancellation concerns all goods and services, that fact;
    - (iii) where the cancellation concerns only some of the goods and services, the goods and services indicated under paragraph (1)(a)(iv).

#### RULE 23

##### Division of the Basic Application, of the Registration Resulting therefrom, or of the Basic Registration

- (1) [Notification of the Division of the Basic Application] Where, during the five-year period referred to in Article 6(3) of the Protocol, the basic application is divided into two or more applications, the Office of origin shall notify the International Bureau accordingly and shall indicate
- (i) the number of the international registration or, if the international registration has not yet been effected, the number of the basic application,
  - (ii) the name of the holder or applicant,
  - (iii) the number of each application.
- (2) [Recordal and Notification by the International Bureau] The International Bureau shall record the notification referred to in paragraph (1) in the International Register and shall notify the Offices of the designated Contracting Parties and, at the same time, the holder.
- (3) [Division of the Registration Resulting From the Basic Application or of the Basic Registration] Paragraphs (1) and (2) shall apply, *mutatis mutandis*, to the division of any registration which resulted from the basic application referred to in Article 6(3) of the Protocol and to the division of the basic registration referred to in Article 6(3) of the Agreement and in Article 6(3) of the Protocol.

## CHAPTER 5

### SUBSEQUENT DESIGNATIONS; CHANGES

#### RULE 24

##### Designation Subsequent to the International Registration

- (1) [Entitlement]
  - (a) A Contracting Party may be the subject of a designation made subsequent to the international registration (hereinafter referred to as "subsequent designation") where, at the time of that designation, the holder is entitled, under Articles 1(2) and 2 of the Agreement or Article 2 of the Protocol and subject to Article 9*sexies* of the Protocol, to designate such a Contracting Party.
  - (b) The holder of an international registration resulting from an international application governed exclusively by the Agreement may designate Contracting Parties bound by the Protocol but not by the Agreement, provided that, at the time of that designation, the Contracting Party whose Office is the Office of origin is bound by the Protocol, or, where a change in ownership has been recorded, the Contracting Party, or at least one of the Contracting Parties, in respect of which the new holder fulfils the conditions to be the holder of an international registration is bound by the Protocol.
  - (c) The holder of an international registration resulting from an international application governed exclusively by the Protocol may designate Contracting Parties bound by the Agreement, whether or not those Contracting Parties are bound also by the Protocol, provided that, at the time of that designation, the Contracting Party whose Office is the Office of origin is bound by the Agreement, or, where a change in ownership has been recorded, the Contracting Party, or at least one of the Contracting Parties, in respect of which the new holder fulfils the conditions to be the holder of an international registration, is bound by the Agreement, and provided that either the international registration is based on a basic registration, or, if it is based on a basic application and the said application resulted in a registration, the Office of origin has sent, at the request of the holder of the international registration, a declaration to the International Bureau certifying that fact and indicating the date of the registration and the list of goods and services included in that registration, and the International Bureau has recorded the contents of that declaration.
- (2) [Presentation; Form and Signature]
  - (a) A subsequent designation shall be presented to the International Bureau by the holder, by the Office of origin, or by another interested Office if the holder asks for, and that Office admits, such presentation; however,
    - (i) where Rule 7(1) applies, it must be presented by the Office of origin;
    - (ii) where any of the Contracting Parties are designated under the Agreement, the subsequent designation must be presented by the Office of origin or another interested Office.
  - (b) The subsequent designation shall be presented on the official form in one copy. Where it is presented by the holder, it shall be signed by the holder. Where it is presented by an Office, it shall be signed by that Office and, where the Office so requires, also by the holder. Where it is presented by an Office and that Office, without requiring that the holder also sign it, allows that the holder also sign it, the holder may do so.
- (3) [Contents]
  - (a) The subsequent designation shall contain or indicate
    - (i) the number of the international registration concerned,
    - (ii) the name and address of the holder,
    - (iii) the Contracting Party that is designated,

- (iv) where the subsequent designation is for all the goods and services listed in the international registration concerned, that fact, or, where the subsequent designation is for only part of the goods and services listed in the international registration concerned, those goods and services,
  - (v) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions, and,
  - (vi) where the subsequent designation is presented by an Office, the date on which it was received by that Office.
- (b) Where the subsequent designation concerns a Contracting Party that has made a notification under Rule 7(2), that subsequent designation shall also contain a declaration of intention to use the mark in the territory of that Contracting Party; the declaration shall, as required by the said Contracting Party,
- (i) be signed by the holder himself and be made on a separate official form annexed to the subsequent designation, or
  - (ii) be included in the subsequent designation.
- (c) The subsequent designation may also contain the indications and translation or translations, as the case may be, referred to in Rule 9(4)(b).
- (4) [Fees] The subsequent designation shall be subject to the payment of the fees specified or referred to in item 5 of the Schedule of Fees.
- (5) [Irregularities]
- (a) If the subsequent designation does not comply with the applicable requirements, and subject to paragraph (9), the International Bureau shall notify that fact to the holder and, if the subsequent designation was presented by an Office, that Office.
  - (b) If the irregularity is not remedied within three months from the date of the notification of the irregularity by the International Bureau, the subsequent designation shall be considered abandoned, and the international Bureau shall notify accordingly and at the same time the holder and, if the subsequent designation was presented by an Office, that Office, and refund any fees paid, after deduction of an amount corresponding to one-half of the basic fee referred to in item 5.1 of the Schedule of Fees, to the party having paid those fees.
  - (c) Notwithstanding subparagraphs (a) and (b), if a subsequent designation is presented under paragraph (1)(b) or (c) and the requirements of paragraph (1)(b) or (c), as the case may be, are not complied with in respect of one or more of the designated Contracting Parties, the subsequent designation shall be deemed not to contain the designation of those Contracting Parties, and any complementary or individual fees already paid in respect of those Contracting Parties shall be reimbursed. If the requirements of paragraph (1)(b) or (c) are not complied with in respect of all the designated Contracting Parties, subparagraph (b) shall apply.
- (6) [Date of Subsequent Designation]
- (a) A subsequent designation presented by the holder direct to the International Bureau shall, subject to subparagraph (c)(i), bear the date of its receipt by the International Bureau.
  - (b) A subsequent designation presented to the International Bureau by an Office shall, subject to subparagraph (c)(i), bear the date on which it was received by that Office, provided that the said designation has been received by the International Bureau within a period of two months from that date. If the subsequent designation has not been received by the International Bureau within that period, it shall, subject to subparagraph (c)(i), bear the date of its receipt by the International Bureau.
  - (c) Where the subsequent designation does not comply with the applicable requirements and the irregularity is remedied within three months from the date of the notification referred to in paragraph (5)(a),

- (i) the subsequent designation shall, where the irregularity concerns any of the requirements referred to in paragraph (3)(a)(i), (iii) and (iv) and (b)(i), bear the date on which that designation is put in order, unless the said designation was presented to the International Bureau by an Office and the irregularity is remedied within the period of two months referred to in subparagraph (b); in the latter case, the subsequent designation shall bear the date on which it was received by the said Office;
  - (ii) the date applicable under subparagraph (a) or (b), as the case may be, shall not be affected by an irregularity concerning requirements other than those which are referred to in paragraph (3)(a)(i), (iii) and (iv) and (b)(i).
- (7) [Recordal and Notification] Where the International Bureau finds that the subsequent designation conforms to the applicable requirements, it shall record it in the International Register and shall notify accordingly the Office of the Contracting Party that has been designated in the subsequent designation and at the same time inform the holder and, if the subsequent designation was presented by an Office, that Office.
- (8) [Refusal] Rules 16. to 18 shall apply *mutatis mutandis*.
- (9) [Subsequent Designation Not Considered as Such] If the requirements of paragraph (2)(a) are not complied with, the subsequent designation shall not be considered as such and the International Bureau shall inform the sender accordingly.

## RULE 25

### Request for Recordal of a Change; Request for Recordal of a Cancellation

- (1) [Presentation of the Request]
- (a) A request for recordal shall be presented to the International Bureau on the relevant official form, in one copy, where the request relates to any of the following:
    - (i) a change in the ownership of the international registration in respect of all or some of the goods and services and all or some of the designated Contracting Parties;
    - (ii) a limitation of the list of goods and services in respect of all or some of the designated Contracting Parties;
    - (iii) a renunciation in respect of some of the designated Contracting Parties for all the goods and services;
    - (iv) a change in the name or address of the holder or of the representative;
    - (v) cancellation of the international registration in respect of all the designated Contracting Parties for all or some of the goods and services.
  - (b) The request shall be presented by the holder or by the Office of origin or another interested Office, except that
    - (i) the request for recordal of a change other than a change in the name or address of the holder or of the representative must be presented by the Office of origin or another interested Office where the change affects any Contracting Party designated under the Agreement, and
    - (ii) the request for the recordal of a cancellation must be presented by the Office of origin or another interested Office where any of the designated Contracting Parties covered by the international registration to be cancelled had been designated under the Agreement.
  - (c) Where the request is presented by the holder, it shall be signed by the holder. Where it is presented by an Office, it shall be signed by that Office and, where the Office so requires, also by the holder. Where it is presented by an Office and that Office, without requiring that the holder also sign it, allows that the holder also sign it, the holder may do so.

(2) [Contents of the Request]

- (a) The request for the recordal of a change or the request for the recordal of a cancellation shall, in addition to the requested change or cancellation, contain or indicate
- (i) the number of the international registration concerned,
  - (ii) the name of the holder, unless the change relates to the name or address of the representative,
  - (iii) in case of a change in the ownership of the international registration, the name and address, indicated in accordance with Rule 9(4)(a)(i) and (ii), of the natural person or legal entity mentioned in the request as the new holder of the international registration (hereinafter referred to as "the transferee"),
  - (iv) in case of a change in the ownership of the international registration, the Contracting Party or Parties in respect of which the transferee fulfils the conditions, under Articles 1(2) and 2 of the Agreement or under Article 2(1) of the Protocol, to be the holder of an international registration,
  - (v) in case of a change in the ownership of the international registration, where the address of the transferee given in accordance with subparagraph (a)(iii) is not in the territory of the Contracting Party, or of one of the Contracting Parties, given in accordance with subparagraph (a)(iv), and unless the transferee has indicated that he is a national of a Contracting State or of a State member of a Contracting Organization, the address of the establishment, or the domicile, of the transferee in the Contracting Party, or in one of the Contracting Parties, in respect of which the transferee fulfils the conditions to be the holder of an international registration,
  - (vi) in case of a change in the ownership of the international registration that does not relate to all the goods and services and to all the designated Contracting Parties, the goods and services and the designated Contracting Parties to which the change in ownership relates, and
  - (vii) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions.
- (b) The request for the recordal of a change in the ownership of the international registration may also contain,
- (i) where the transferee is a natural person, an indication of the State of which the transferee is a national;
  - (ii) where the transferee is a legal entity, indications concerning the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized.

(3) [Request Not Admissible] A change in the ownership of an international registration may not be recorded in respect of a given designated Contracting Party if that Contracting Party

- (i) is bound by the Agreement but not by the Protocol, and the Contracting Party indicated under paragraph (2)(a)(iv) is not bound by the Agreement, or none of the Contracting Parties indicated under that paragraph is bound by the Agreement;
- (ii) is bound by the Protocol but not by the Agreement, and the Contracting Party indicated under paragraph (2)(a)(iv) is not bound by the Protocol, or none of the Contracting Parties indicated under that paragraph is bound by the Protocol.

(4) [Several Transferees] Where the request for the recordal of a change in the ownership of the international registration mentions several transferees, that change may not be recorded in respect of a given designated Contracting Party if any of the transferees does not fulfil the conditions to be holder of the international registration in respect of that Contracting Party.

## RULE 26

### **Irregularities in Requests for Recordal of a Change and for Recordal of a Cancellation**

- (1) [Irregular Request] If the request for the recordal of a change, or the request for the recordal of a cancellation, referred to in Rule 25(1)(a) does not comply with the applicable requirements, and subject to paragraph (3), the International Bureau shall notify that fact to the holder and, if the request was made by an Office, to that Office.
- (2) [Time Allowed to Remedy Irregularity] The irregularity may be remedied within three months from the date of the notification of the irregularity by the International Bureau. If the irregularity is not remedied within three months from the date of the notification of the irregularity by the International Bureau, the request shall be considered abandoned, and the International Bureau shall notify accordingly and at the same time the holder and, if the request for the recordal of a change or the request for the recordal of a cancellation was presented by an Office, that Office, and refund any fees paid, after deduction of an amount corresponding to one-half of the relevant fees referred to in item 7 of the Schedule of Fees, to the party having paid those fees.
- (3) [Requests Not Considered as Such] If the requirements of Rule 25(1)(b) are not complied with, the request shall not be considered as such and the International Bureau shall inform the sender accordingly.

## RULE 27

### **Recordal and Notification of a Change or of a Cancellation; Declaration that a Change in Ownership has no effect**

- (1) [Recordal and Notification of a Change or of a Cancellation]
  - (a) The International Bureau shall, provided that the request referred to in Rule 25(1)(a) is in order, promptly record the change or the cancellation in the International Register, shall notify accordingly the Offices of the designated Contracting Parties in which the change has effect or, in the case of a cancellation, the Offices of all the designated Contracting Parties, and shall inform at the same time the holder and, if the request was presented by an Office, that Office. Where the request for the recordal of a cancellation was presented by the holder or an interested Office during the five-year period referred to in Article 6(3) of the Agreement and Article 6(3) of the Protocol, the International Bureau shall also inform the Office of origin.
  - (b) The recordal of the change shall show the date of receipt by the International Bureau of the request complying with the applicable requirements.
- (2) [Recordal of Partial Change in Ownership] Assignment or other transfer of the international registration in respect of some only of the goods and services or some only of the designated Contracting Parties shall be recorded in the International Register under the number of the international registration of which a part has been assigned or otherwise transferred; any assigned or otherwise transferred part shall be cancelled under the number of the said international registration and recorded as a separate international registration. The separate international registration shall bear the number of the registration of which a part has been assigned or otherwise transferred, together with a capital letter.
- (3) [Recordal of Merger of International Registrations] Where the same natural person or legal entity becomes the holder of two or more international registrations resulting from a partial change in ownership under paragraph (2), the registrations shall be merged at the request of the said person or entity, and paragraph (1) and Rules 25 and 26 shall apply *mutatis mutandis*. The international registration resulting from the merger shall bear the number of the international registration of which a part had been assigned or otherwise transferred, together, where applicable, with a capital letter.
- (4) [Declaration That a Change in Ownership Has No Effect]
  - (a) The Office of a designated Contracting Party which is notified, by the International Bureau, of a change in ownership affecting that Contracting Party may declare that the change in ownership has no effect in the said Contracting Party. The

effect of such a declaration shall be that, with respect to the said Contracting Party, the international registration concerned shall remain in the name of the transferor.

- (b) The declaration referred to in subparagraph (a) shall indicate
  - (i) the reasons for which the change in ownership has no effect,
  - (ii) the corresponding essential provisions of the law, and
  - (iii) whether such declaration may be subject to review or appeal.
- (c) The declaration referred to in subparagraph (a) shall be notified to the International Bureau which shall notify accordingly the party (holder or Office) that presented the request for the recordal of a change in ownership and the new holder.
- (d) Any final decision relating to the declaration referred to in subparagraph (a) above shall be notified to the International Bureau which shall notify accordingly the party (holder or Office) that presented the request for the recordal of a change in ownership and the new holder.
- (e) The International Bureau shall record in the International Register any declaration referred to in subparagraph (a) which is not subject to review or appeal or any final decision referred to in subparagraph (d), and, as the case may be, record as a separate international registration that part of the international registration which has been the subject of the said declaration or final decision. The separate international registration shall bear the number of the registration of which a part has been assigned or otherwise transferred, together with a capital letter.

#### RULE 28

##### Corrections in the International Register

- (1) [Correction] Where the International Bureau, acting *ex officio* or at the request of the holder or of an Office, considers that there is an error concerning an international registration in the International Register, it shall modify the Register accordingly.
- (2) [Notification] The International Bureau shall notify accordingly the holder and, at the same time, the Offices of the designated Contracting Parties in which the correction has effect.
- (3) [Refusal of Effects of Correction] Any Office referred to in paragraph (2) shall have the right to declare in a notification to the International Bureau that it refuses to recognize the effects of the correction. Article 5 of the Agreement or Article 5 of the Protocol and Rules 16 to 18 shall apply *mutatis mutandis*, it being understood that the date of sending the notification of the correction shall be the date from which the time limit for pronouncing a refusal is counted.

#### CHAPTER 6

##### RENEWALS

#### RULE 29

##### Unofficial Notice of Expiry

The fact that the unofficial notice referred to in Article 7(4) of the Agreement and Article 7(3) of the Protocol is not received shall not constitute an excuse for failure to comply with any time limit under Rule 30.

#### RULE 30

##### Details Concerning Renewal

- (1) [Fees]
  - (a) The international registration shall be renewed upon payment, at the latest on the date on which the renewal of the international registration is due, of
    - (i) the basic fee,
    - (ii) where applicable, the supplementary fee, and,

- (iii) the complementary fee or individual fee, as the case may be, for each designated Contracting Party for which no refusal or invalidation is recorded in the International Register in respect of all the goods and services concerned,

as specified or referred to in item 6 of the Schedule of Fees. However, such payment may be made within six months from the date on which the renewal of the international registration is due, provided that the surcharge specified in item 6.5 of the Schedule of Fees is paid at the same time.

- (b) If any payment made for the purposes of renewal is received by the International Bureau earlier than three months before the date on which the renewal of the international registration is due, it shall be considered as having been received three months before the date on which renewal is due.

(2) [Further Details]

- (a) Where the holder does not wish to renew the international registration in respect of a designated Contracting Party for which no refusal is recorded in the International Register in respect of all the goods and services concerned, payment of the required fees shall be accompanied by a statement that the renewal of the international registration is not to be recorded in the International Register in respect of that Contracting Party.
- (b) Where the holder wishes to renew the international registration in respect of a designated Contracting Party notwithstanding the fact that a refusal is recorded in the International Register for that Contracting Party in respect of all the goods and services concerned, payment of the required fees, including the complementary fee or individual fee, as the case may be, for that Contracting Party, shall be accompanied by a statement that the renewal of the international registration is to be recorded in the International Register in respect of that Contracting Party.
- (c) The international registration may not be renewed in respect of any designated Contracting Party in respect of which an invalidation has been recorded for all goods and services under Rule 19(2) or in respect of which a renunciation has been recorded under Rule 27(1)(a). The international registration may not be renewed in respect of any designated Contracting Party for those goods and services in respect of which an invalidation of the effects of the international registration in that Contracting Party has been recorded under Rule 19(2) or in respect of which a limitation has been recorded under Rule 27(1)(a).
- (d) The fact that the international registration is not renewed in respect of all of the designated Contracting Parties shall not be considered to constitute a change for the purposes of Article 7(2) of the Agreement or Article 7(2) of the Protocol.

(3) [Insufficient Fees]

- (a) If the amount of the fees received is less than the amount of the fees required for renewal, the International Bureau shall promptly notify at the same time both the holder and the representative, if any, accordingly. The notification shall specify the missing amount.
- (b) If the amount of the fees received is, on the expiry of the period of six months referred to in paragraph (1)(a), less than the amount required under paragraph (1), the International Bureau shall not, subject to subparagraph (c), record the renewal, and shall reimburse the amount received to the party having paid it and notify accordingly the holder and the representative, if any.
- (c) If the notification referred to in subparagraph (a) was sent during the three months preceding the expiry of the period of six months referred to in paragraph (1)(a) and if the amount of the fees received is, on the expiry of that period, less than the amount required under paragraph (1) but is at least 70 per cent of that amount, the International Bureau shall proceed as provided in Rule 31(1) and (3). If the amount required is not fully paid within three months from the said notification, the International Bureau shall cancel the renewal, notify accordingly the holder, the representative, if any, and the Offices which had been notified of the renewal, and reimburse the amount received to the party having paid it.



(4) [Period for Which Renewal Fees Are Paid] The fees required for each renewal shall be paid for ten years, irrespective of the fact that the international registration contains, in the list of designated Contracting Parties, only Contracting Parties designated under the Agreement, only Contracting Parties designated under the Protocol, or both Contracting Parties designated under the Agreement and Contracting Parties designated under the Protocol. As regards payments under the Agreement, the payment for ten years shall be considered to be a payment for an instalment of ten years.

## RULE 31

### Recordal of the Renewal; Notification and Certificate

(1) [Recordal and Effective Date of the Renewal] Renewal shall be recorded in the International Register with the date on which renewal was due, even if the fees required for renewal are paid within the period of grace referred to in Article 7(5) of the Agreement and in Article 7(4) of the Protocol.

(2) [Renewal Date in the Case of Subsequent Designations] The effective date of the renewal shall be the same for all designations contained in the international registration, irrespective of the date on which such designations were recorded in the International Register.

(3) [Notification and Certificate] The International Bureau shall notify the Offices of the designated Contracting Parties concerned of the renewal and shall send a certificate to the holder.

(4) [Notification in Case of Non-Renewal]

(a) Where an international registration is not renewed, the International Bureau shall notify accordingly the Offices of all of the Contracting Parties designated in that international registration.

(b) Where an international registration is not renewed in respect of a designated Contracting Party, the International Bureau shall notify the Office of that Contracting Party accordingly.

## CHAPTER 7

### GAZETTE AND DATA BASE

## RULE 32

### Gazette

(1) [Information Concerning International Registrations]

(a) The International Bureau shall publish in the Gazette relevant data concerning

- (i) international registrations effected under Rule 14;
- (ii) information communicated under Rule 16(1);
- (iii) refusals recorded under Rule 17(4), with an indication as to whether there is a possibility of review or appeal, but without the grounds for refusal;
- (iv) renewals recorded under Rule 31(1);
- (v) subsequent designations recorded under Rule 24(7);
- (vi) continuation of effects of international registrations under Rule 39;
- (vii) changes in ownership, limitations, renunciations and changes of name or address of the holder recorded under Rule 27;
- (viii) cancellations effected under Rule 22(2) or recorded under Rule 27(1);
- (ix) corrections effected under Rule 28;
- (x) invalidations recorded under Rule 19(2);
- (xi) information recorded under Rules 20, 21, 22(2)(a), 23, 27(4) and 40(3);
- (xii) international registrations which have not been renewed.

- (b) The reproduction of the mark shall be published as it appears in the international application. Where the applicant has made the declaration referred to in Rule 9(4)(a)(vi), the publication shall indicate that fact.
- (c) Where a color reproduction of the mark is furnished under Rule 9(4)(a)(v) or (vii), the Gazette shall contain both a reproduction of the mark in black and white and the reproduction in color.

(2) [Information Concerning Particular Requirements and Certain Declarations of Contracting Parties, and Other General Information] The International Bureau shall publish in the Gazette

- (i) any notification made under Rule 7;
- (ii) any declarations made under Article 5(2)(b) or Article 5(2)(b) and (c), first sentence, of the Protocol;
- (iii) any declarations made under Article 8(7) of the Protocol;
- (iv) any notification made under Rule 34(1)(b);
- (v) a list of the days on which the International Bureau is not scheduled to be open to the public during the current and the following calendar year and such a list for each Office which has communicated it to the International Bureau.

(3) [Yearly Index] In respect of every year, the International Bureau shall publish an index indicating, in alphabetical order, the names of the holders of the international registrations concerning which one or more entries were published in the Gazette during that year. The name of the holder shall be accompanied by the number of the international registration, the page number of the Gazette issue in which the entry affecting the international registration was published and the indication of the nature of the entry, such as registration, renewal, refusal, invalidation, cancellation or change.

(4) [Number of Copies for Offices of Contracting Parties]

- (a) The International Bureau shall send to the Office of each Contracting Party copies of the Gazette. Each Office shall be entitled, free of charge, to two copies and, where during a given calendar year the number of designations recorded with respect to the Contracting Party concerned has exceeded 2,000, in the following year one additional copy and further additional copies for every 1,000 designations in excess of 2,000. Each Contracting Party may purchase every year, at half of the subscription price, the same number of copies as that to which it is entitled free of charge.
- (b) If the Gazette is available in more than one form, each Office may choose the form in which it wishes to receive any copy to which it is entitled.

## RULE 33

### Electronic Data Base

(1) [Contents of Data Base] The data which are both recorded in the International Register and published in the Gazette under Rule 32 shall be entered in an electronic data base.

(2) [Data Concerning Pending International Applications and Subsequent Designations] If an international application or a designation under Rule 24 is not recorded in the International Register within three working days following the receipt by the International Bureau of the international application or designation, the International Bureau shall enter in the electronic data base, notwithstanding any irregularities that may exist in the international application or designation as received, all the data contained in the international application or designation.

(3) [Access to Electronic Data Base] The electronic data base shall be made accessible to the Offices of the Contracting Parties and, against payment of the prescribed fee, if any, to the public, by on-line access and through other appropriate means determined by the International Bureau. The cost of accessing shall be borne by the user. Data

entered under paragraph (2) shall be accompanied by a warning to the effect that the International Bureau has not yet made a decision on the international application or on the designation under Rule 24.

## CHAPTER 8

### FEES

#### RULE 34

##### Payment of Fees

- (1) [Payments]
  - (a) The fees indicated in the Schedule of Fees may be paid to the International Bureau by the applicant or the holder, or, where the Office of origin or another interested Office accepts to collect and forward such fees, and the applicant or the holder so wishes, by that Office.
  - (b) Any Contracting Party whose Office accepts to collect and forward fees shall notify that fact to the Director General.
- (2) [Modes of Payment] The fees indicated in the Schedule of Fees may be paid to the International Bureau
  - (i) by debit to a current account with the International Bureau,
  - (ii) by payment into the Swiss postal cheque account or to any of the specified bank accounts of the International Bureau,
  - (iii) by a banker's cheque,
  - (iv) by payment in cash at the International Bureau.
- (3) [Indications Accompanying the Payment] At the time of the payment of any fee to the International Bureau, an indication must be given,
  - (i) before international registration, of the name of the applicant, the mark concerned and the purpose of the payment;
  - (ii) after international registration, of the name of the holder, the number of the international registration concerned and the purpose of the payment.
- (4) [Date of Payment]
  - (a) Subject to Rule 30(1)(b) and to subparagraph (b), any fee shall be considered to have been paid to the International Bureau on the day on which the International Bureau receives the required amount.
  - (b) Where the required amount is available in an account opened with the International Bureau and that Bureau has received instructions from the holder of the account to debit it, the fee shall be considered to have been paid to the International Bureau on the day on which the International Bureau receives an international application, a subsequent designation, a request for the recordal of a change, or an instruction to renew an international registration.
- (5) [Change in the Amount of the Fees]
  - (a) Where the amount of the fees payable in respect of the filing of an international application is changed between, on the one hand, the date on which the request to present the international application to the International Bureau is received, or is deemed to have been received under Rule 41(1)(a) or (c), by the Office of origin and, on the other hand, the date of the receipt of the international application by the International Bureau, the fee that was valid on the first date shall be applicable.
  - (b) Where a designation under Rule 24 is presented by the Office of origin or by another interested Office and the amount of the fees payable in respect of that designation is changed between, on the one hand, the date of receipt, by the Office, of the request by the holder to present the said designation and, on the other hand, the date on which the designation is received by the International Bureau, the fee that was valid on the first date shall be applicable.

- (c) Where the amount of the fees payable in respect of the renewal of an international registration is changed between the date of payment and the due date of the renewal, the fee that was valid on the date of payment, or on the date considered to be the date of payment under Rule 30(1)(b), shall be applicable. Where the payment is made after the due date, the fee that was valid on the due date shall be applicable.
- (d) Where the amount of any fee other than the fees referred to in subparagraphs (a), (b) and (c) is changed, the amount valid on the date on which the fee was received by the International Bureau shall be applicable.

#### RULE 35

##### Currency of Payments

- (1) [Obligation to Use Swiss Currency] All payments due under these Regulations shall be made to the International Bureau in Swiss currency irrespective of the fact that, where the fees are paid by the Office of origin or by another interested Office, such Office may have collected those fees in another currency.
- (2) [Establishment of the Amount of Individual Fees in Swiss Currency]
  - (a) Where a Contracting Party makes a declaration under Article 8(7)(a) of the Protocol that it wants to receive an individual fee, the amount of the individual fee indicated to the International Bureau shall be expressed in the currency used by its Office.
  - (b) Where the fee is indicated in the declaration referred to in subparagraph (a) in a currency other than Swiss currency, the Director General shall, after consultation with the Office of the Contracting Party concerned, establish the amount of the individual fee in Swiss currency on the basis of the official exchange rate of the United Nations.
  - (c) Where, for more than 30 consecutive days, the official exchange rate of the United Nations between the Swiss currency and the other currency in which the amount of an individual fee has been indicated by a Contracting Party is higher or lower by at least 5 per cent than the last exchange rate applied to establish the amount of the individual fee in Swiss currency, the Office of that Contracting Party may ask the Director General to establish a new amount of the individual fee in Swiss currency according to the official exchange rate of the United Nations prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount in the Gazette.
  - (d) Where, for more than 30 consecutive days, the official exchange rate of the United Nations between the Swiss currency and the other currency in which the amount of an individual fee has been indicated by a Contracting Party is higher or lower by at least 10 per cent than the last exchange rate applied to establish the amount of the individual fee in Swiss currency, the Director General shall, after consultation with the Office of that Contracting Party, establish a new amount of the individual fee in Swiss currency according to the official exchange rate of the United Nations prevailing on the day preceding the day on which the consultation is initiated by the Director General. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount in the Gazette.

#### RULE 36

##### Exemption from Fees

Recordal of the following shall be exempt from fees:

- (i) the appointment of a representative, any change concerning a representative and the cancellation of the recordal of a representative,

- (ii) any change concerning the telephone and telefacsimile numbers of the holder,
- (iii) the cancellation of the international registration,
- (iv) any renunciation under Rule 25(1)(a)(iii),
- (v) any limitation effected in the international application itself under Rule 9(4)(a)(xiii) or in a subsequent designation under Rule 24(3)(a)(iv),
- (vi) any request by an Office under Article 6(4), first sentence, of the Agreement or Article 6(4), first sentence, of the Protocol,
- (vii) the existence of a judicial proceeding or of a final decision affecting the basic application, or the registration resulting therefrom, or the basic registration,
- (viii) any refusal under Rule 17, Rule 24(8) or Rule 28(3), any declaration under Rule 27(4), or any notification under Rule 17(4)(b),
- (ix) the invalidation of the international registration,
- (x) information communicated under Rule 20,
- (xi) any notification under Rule 21 or Rule 23,
- (xii) any correction in the International Register.

#### RULE 37

##### Distribution of Supplementary Fees and Complementary Fees

(1) The coefficient referred to in Article 8(5) and (6) of the Agreement and Article 8(5) and (6) of the Protocol shall be as follows:

for Contracting Parties which examine only for absolute grounds of refusal . . . two

for Contracting Parties which also examine for prior rights:

(a) following opposition by third parties . . . . . three

(b) *ex officio* . . . . . four

(2) Coefficient four shall also be applied to Contracting Parties which carry out *ex officio* searches for prior rights with an indication of the most significant prior rights.

#### RULE 38

##### Crediting of Individual Fees to the Accounts of the Contracting Parties Concerned

Any individual fee paid to the International Bureau in respect of a Contracting Party having made a declaration under Article 8(7)(a) of the Protocol shall be credited to the account of that Contracting Party with the International Bureau within the month following the month in the course of which the recordal of the international registration, subsequent designation or renewal for which that fee has been paid was effected.

### CHAPTER 9

#### MISCELLANEOUS

#### RULE 39

##### Continuation of Effects of International Registrations in Certain Successor States

(1) Where any State ("the successor State") whose territory was, before the independence of that State, part of the territory of a Contracting State ("the predecessor country") has deposited with the Director General a declaration of continuation the effect of which is that the Agreement is applied by the successor State, the effects in the successor State

of any international registration with a territorial extension to the predecessor country which is effective from a date prior to the date fixed under paragraph (2) shall be subject to

- (i) the filing with the International Bureau, within six months from the date of a notice addressed for that purpose by the International Bureau to the holder of the international registration concerned, of a request that such international registration continue its effects in the successor State, and
  - (ii) the payment to the international Bureau, within the same time limit, of a fee of 23 Swiss francs, which shall be transferred by the International Bureau to the Office of the successor State, and of a fee of 41 Swiss francs for the benefit of the International Bureau.
- (2) The date referred to in paragraph (1) shall be the date notified by the successor State to the International Bureau for the purposes of this Rule, provided that such date may not be earlier than the date of independence of the successor State.
- (3) The International Bureau shall, upon receipt of the request and the fees referred to in paragraph (1), notify the Office of the successor State and make the corresponding recordal in the International Register.
- (4) With respect to any international registration concerning which the Office of the successor State has received a notification under paragraph (3), that Office may only refuse protection if the time limit referred to in Article 5(2) of the Agreement has not expired with respect to the territorial extension to the predecessor country and if the notification of refusal is received by the International Bureau within that time limit.
- (5) This Rule shall not apply to the Russian Federation.

#### RULE 40

##### Entry into Force; Transitional Provisions

- (1) [Entry into Force] These Regulations shall enter into force on April 1, 1996, and shall, as of that date, replace the Regulations under the Agreement as in force on March 31, 1996 (hereinafter referred to as "the Regulations under the Agreement").
- (2) [General Transitional Provisions]
- (a) Notwithstanding paragraph (1),
- (i) an international application the request for presentation to the International Bureau of which was received, or is deemed to have been received under Rule 11(I)(a) or (c), by the Office of origin before April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 14;
  - (ii) a request for the recording of a change under Rule 20 of the Regulations under the Agreement sent by the Office of origin or by another interested Office to the International Bureau before April 1, 1996, or, where such date can be identified, whose date of receipt by the Office of origin or by another interested Office for presentation to the International Bureau is earlier than April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 24(7) or to be in order for the purposes of Rule 27;
  - (iii) an international application, or a request for the recording of a change under Rule 20 of the Regulations under the Agreement, that, before April 1, 1996, has been the subject of any action by the International Bureau under Rules 11, 12, 13 or 21 of the Regulations under the Agreement, shall continue to be processed by the International Bureau under the said Rules; the date of the resulting international registration or recordal in the International Register shall be governed by Rules 15 or 22 of the Regulations under the Agreement;

- (iv) a notification of refusal or a notification of invalidation sent by the Office of a designated Contracting Party before April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 17(4) and (5) or of Rule 19(2).
  - (b) For the purposes of Rule 34(5), the fees valid at any date before April 1, 1996, shall be the fees prescribed by Rule 32 of the Regulations under the Agreement.
  - (c) Notwithstanding Rule 10(1), where, in accordance with Rule 34(5)(a), the fees paid in respect of the filing of an international application are the fees prescribed for 20 years by Rule 32 of the Regulations under the Agreement, no second instalment shall be due.
  - (d) Where, in accordance with Rule 34(5)(b), the fees paid in respect of a subsequent designation are the fees prescribed by Rule 32 of the Regulations under the Agreement, paragraph (3) shall not apply.
- (3) [Transitional Provisions Applicable to International Registrations for Which Fees Have Been Paid for 20 Years]
- (a) Where an international registration for which the required fees had been paid for 20 years is the subject of a subsequent designation under Rule 24 and where the current term of protection of that international registration expires more than ten years after the effective date of the subsequent designation as determined in accordance with Rule 24(6), the provisions of subparagraphs (b) and (c) shall apply.
  - (b) Six months before the expiry of the first period of ten years of the current term of protection of the international registration, the International Bureau shall send to the holder and his representative, if any, a notice indicating the exact date of expiry of the first period of ten years and the Contracting Parties which were the subject of subsequent designations referred to in subparagraph (a). Rule 29 shall apply *mutatis mutandis*.
  - (c) Payment of complementary and individual fees corresponding to the fees referred to in Rule 30(1)(iii) shall be required for the second period of ten years in respect of the subsequent designations referred to in subparagraph (a). Rule 30(1) and (3) shall apply *mutatis mutandis*.
  - (d) The International Bureau shall record in the International Register the fact that payment has been made to the International Bureau for the second period of ten years. The date of recordal shall be the date of expiry of the first period of ten years, even if the fees required are paid within the period of grace referred to in Article 7(5) of the Agreement and in Article 7(4) of the Protocol.
  - (e) The International Bureau shall notify the Offices of the designated Contracting Parties concerned of the fact that payment has or has not been made for the second period of ten years and shall at the same time inform the holder.

## SCHEDULE OF FEES

*Swiss francs*

1. *International applications governed exclusively by the Agreement*  
 The following fees shall be payable and shall cover 10 years:
  - 1.1 Basic fee (Article 8(2)(a) of the Agreement)
    - 1.1.1 where no reproduction of the mark is in color 653
    - 1.1.2 where any reproduction of the mark is in color 903
  - 1.2 Supplementary fee for each class of goods and services beyond three classes (Article 8(2)(b) of the Agreement) 73
  - 1.3 Complementary fee for the designation of each designated Contracting State (Article 8(2)(c) of the Agreement) 73
  
2. *International applications governed exclusively by the Protocol*  
 The following fees shall be payable and shall cover 10 years:
  - 2.1 Basic fee (Article 8(2)(i) of the Protocol)
    - 2.1.1 where no reproduction of the mark is in color 653
    - 2.1.2 where any reproduction of the mark is in color 903
  - 2.2 Supplementary fee for each class of goods and services beyond three classes (Article 8(2)(ii) of the Protocol), except if only Contracting Parties in respect of which individual fees (see 2.4, below) are payable are designated (see Article 8(7)(a)(i) of the Protocol) 73
  - 2.3 Complementary fee for the designation of each designated Contracting Party (Article 8(2)(iii) of the Protocol), except if the designated Contracting Party is a Contracting Party in respect of which an individual fee is payable (see 2.4 below) (see Article 8(7)(a)(ii) of the Protocol) 73
  - 2.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned
  
3. *International applications governed by both the Agreement and the Protocol*  
 The following fees shall be payable and shall cover 10 years:
  - 3.1 Basic fee
    - 3.1.1 where no reproduction of the mark is in color 653
    - 3.1.2 where any reproduction of the mark is in color 903
  - 3.2 Supplementary fee for each class of goods and services beyond three classes 73
  - 3.3 Complementary fee for the designation of each designated Contracting Party in respect of which no individual fee is payable 73



- 3.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee is payable (see Article 8(7)(a) of the Protocol), except where the designated State is a State bound (also) by the Agreement and the Office of origin is the Office of a State bound (also) by the Agreement (in respect of such a State, a complementary fee is payable): the amount of the individual fee is fixed by each Contracting Party concerned
4. *Irregularities with respect to the classification of goods and services*
- The following fees shall be payable (Rule 12(1)(b)):
- 4.1 Where the goods and services are not grouped in classes 77 plus 4 per term in excess of 20
- 4.2 Where the classification, as appearing in the application, of one or more terms is incorrect 20 plus 4 per incorrectly classified term
- provided that, where the total amount due under this item in respect of an international application is less than 150 Swiss francs, no fees shall be payable
5. *Designation subsequent to international registration*
- The following fees shall be payable and shall cover the period between the effective date of the designation and the expiry of the then current term of the international registration:
- 5.1 Basic fee 300
- 5.2 Complementary fee for each designated Contracting Party indicated in the same request where an individual fee is not payable in respect of such designated Contracting Party (the fee covers the remainder of 10 years) 73
- 5.3 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned
6. *Renewal*
- The following fees shall be payable and shall cover 10 years:
- 6.1 Basic fee 653
- 6.2 Supplementary fee, except if the renewal is made only for designated Contracting Parties in respect of which individual fees are payable 73
- 6.3 Complementary fee for each designated Contracting Party in respect of which an individual fee is not payable 73
- 6.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned

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| 6.5 | Surcharge for the use of the period of grace  | 50% of the amount of the fee payable under item 6.1 |
| 7.  | <i>Change</i>   |   |
| 7.1 | Total transfer of an international registration   | 177   |
| 7.2 | Partial transfer (for some of the goods and services or for some of the Contracting Parties) of an international registration   | 177   |
| 7.3 | Limitation requested by the holder subsequent to international registration, provided that, if the limitation affects more than one Contracting Party, it is the same for all   | 177   |
| 7.4 | Change of name and/or address of the holder of one or more international registrations for which recordal of the same change is requested in the same request   | 150   |
| 8.  | <i>Information concerning international registrations</i>   |   |
| 8.1 | Establishing a certified extract from the International Register consisting of an analysis of the situation of an international registration (detailed certified extract),<br>up to three pages   | 155   |
|     | for each page after the third   | 10  |
| 8.2 | Establishing a certified extract from the International Register consisting of a copy of all publications, and of all notifications of refusal, made with respect to an international registration (simple certified extract),<br>up to three pages | 77  |
|     | for each page after the third   | 2   |
| 8.3 | A single attestation or information in writing for a single international registration  | 77  |
|     | for each additional international registration if the same information is requested in the same request   | 10  |
| 8.4 | Reprint or photocopy of the publication of an international registration, per page  | 5   |
| 9.  | <i>Special services</i>   |   |
|     | The International Bureau is authorized to collect a fee, whose amount it shall itself fix, for operations to be performed urgently and for services not covered by this Schedule of Fees.   |   |

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