This material is only intended to provide an introduction to and simplified profile of this jurisdiction’s local practice and procedure relevant to registrations obtained through the Madrid system. This material does not take the place of professional advice given with full knowledge of the specific circumstances of each case and proficiency in the laws of this jurisdiction such as might be provided by a local trademark attorney.

CONTRIBUTOR: Richard Milchior, Granrut Avocats, Paris, France

I. MEMBERSHIP

A. Adherence

- France is a party to both the Madrid Agreement and the Madrid Protocol.

B. Madrid Protocol

- France ratified or acceded to the Protocol on the following date: August 7, 1997.
- The Protocol came into force in France on the following date: November 7, 1997.
- The Protocol is completely self-executing (i.e., directly applicable without the need of implementing legislation).
- The following other national legislation covers the Protocol: the French “décret” No. 2004-41 of January 13, 2004, which is a publication order. The Madrid Agreement and Madrid Protocol are self-executing and thus do not require national implementation.

C. Madrid Agreement

- France ratified or acceded to the Agreement on the following date: July 15, 1892.
- The Agreement came into force in France on the following date: July 15, 1892. The Agreement was modified on December 14, 1900; June 2, 1911; November 6, 1925; June 2, 1934; June 15, 1957; July 14, 1967; September 28, 1979.
- The Agreement is completely self-executing (i.e., directly applicable without the need of implementing legislation).
- No other national legislation or regulation covers the Agreement.

D. Declarations/Notifications

- France has made the following declarations/notifications under the Agreement:
  - none.
- France has made the following declarations/notifications under the Protocol:
  - none.

E. E-Filing, Official Communications and Publication
The national/regional Office currently does not present an application for International Registration to the WIPO International Bureau by means of electronic communication (i.e., e-filing).

The national/regional Office does not, in any circumstance, directly forward official communications to the holder of an International Registration rather than by way of the WIPO International Bureau or the holder's appointed representative.

The national/regional Office does not record or publish International Registrations that have been extended to France, independently of publication in the WIPO Gazette.

II. PROSECUTION OF APPLICATIONS (AGREEMENT AND/OR PROTOCOL)

A. Basic Application/Registration and Fees

- The following length of time is the average time from the filing of a national/regional application to the grant of the registration: five to eight months.
- A basic national/regional registration can be obtained on an accelerated basis. The basic national registration may be temporarily obtained on an accelerated basis in the case of an opposition's being filed by a third party or if an IR is required.
- Accelerated treatment may be obtained in the following way: a temporary registration may be obtained if the applicant requests that the mark be registered over the objection of a third party and if the applicant can show that registration of the mark is indispensible to protection of the mark outside of France. If the opposition is upheld, the registration will be revoked.
- With accelerated treatment, the following length of time is the average time from the filing of a national application to the grant of the registration: a maximum of six months. The purpose of the accelerated procedure is to obtain registration of the mark notwithstanding opposition in order to extend said mark under priority at WIPO, where registration is mandatory in that France, as a member of both the Agreement and the Protocol, is bound by the Agreement, which requires a registration of the involved mark (unlike the Protocol, which requires only an application for the involved mark).
- The national/regional Office automatically certifies the existence and particulars of the basic application/registration.
- The national/regional Office will not defer an application for International Registration until the basic application achieves registration.
- It is not necessary for the applicant to order proof/evidence of existence and particulars of the basic national application/registration.
- The applicant may not pay the International filing and supplemental and complementary or individual fees through an account with the national/regional Office.
- The following other methods of payment of fees are permitted when filing through the national/regional Office:
  - currency paid at the national/regional Office;
  - check paid at the national/regional Office;
  - a current account with the National Office;
  - bank transfer;
  - postal money order.
- Please note that WIPO's fees must be paid first and directly at the WIPO office.
- The national/regional Office charges a handling fee in the amount of: EUR 60.

B. Later Extension of Protection to Additional Jurisdictions

- The national/regional Office automatically certifies the continuing existence of the original basic application/registration for the International Registration.

C. Administrative Examination

- The following is the usual length of time for the national/regional Office to report the
first examination of an application for International Registration or the extension to this jurisdiction of an existing International Registration: two to four months.

- Applications for International Registrations (including subsequent designations) are examined in the same order, with respect to filing date, as national/regional applications.
- Applications for International Registration (including subsequent designations) are examined by a specialized section of the national/regional Office. The basic national application is examined like any other application. The extension as an International Registration is processed by a special service: "service des marques internationales."
- The national/regional Office does not perform a priority search (for information purposes only and without issuing any official citation) upon examining an application for International Registration (including subsequent designations).
- The national/regional office examines applications for International Registration for the clarity and precision of list of goods and services.

D. Grounds of Refusal

- The national/regional Office examines applications for International Registration (including subsequent designations) on absolute grounds (i.e., inherent registrability).
- The national/regional Office does not examine applications for International Registration (including subsequent designations) on relative grounds (i.e., conflicts with third party marks).

E. Withdrawal of Citations

- Not Applicable

F. Responding to Ex Officio Objections

- The following are the most commonly raised objections by the national/regional Office to an application for International Registration (including subsequent designations):
  - classification of goods/services;
  - specification of goods/services;
  - descriptiveness/misdescriptiveness;
  - geographical significance.
- These same objections are also the most common in the case of national/regional applications.
- There is no time limit for responding to an official objection to an application for International Registration (including subsequent designations).
- Extensions of time to reply to an official objection to an application for International Registration (including subsequent designations) may be obtained.
- The following number of extensions are allowed, each for the following duration: normally, one, for one month.
- The following entities may respond to an objection to an application for International Registration (including subsequent designations) by the national/regional office:
  - a qualified lawyer in the local jurisdiction. The lawyer must have the following qualification(s): The lawyer must be qualified as an attorney at law ("Avocat à la Cour").
  - a trademark agent in the local jurisdiction or other practitioner authorized to practice in trademark matters. The agent or other practitioner must have the following qualification(s): The practitioner must be qualified as a "Conseil en Propriété Industrielle."
  - a qualified lawyer in another jurisdiction with a local address. The lawyer must have the following qualification(s): According to the decision of the French Supreme Court dated July 12, 2007, EU professionals admitted in their home
country may act on an occasional basis before the National Institute of Industrial Property ("INPI").
- a qualified lawyer in another jurisdiction without a local address. The lawyer must have the following qualification(s): According to the decision of the French Supreme Court dated July 12, 2007, EU professionals admitted in their home country may act on an occasional basis before the National Institute of Industrial Property ("INPI").
- The persons or entities that may respond to an objection to a national/regional application are the same as those that may respond to an objection to an application for International Registration (including subsequent designations).

G. Oral Hearings
- Oral hearings are permitted for national/regional filings.
- Oral hearings are not permitted for applications for International Registration.
- For national/regional filings, hearings take place at the following time, as part of an opposition proceeding and not as part of the registration process: The hearing date is communicated by the INPI by mail regarding an adversarial proceedings schedule within the six-month delay of the opposition procedure.

H. Representation
- The applicant need not have local representation for either national applications or applications for International Registration (including subsequent designations).

I. Third Party Observations
- The law/practice in this jurisdiction allows third parties to lodge informal observations or letters of protest to raise objections to either pending national applications or applications for International Registration (including subsequent designations).
- For both national/regional applications and applications for International Registration (including subsequent designations), the following persons may make such observations: any interested party.
- For both national/regional applications and applications for International Registration (including subsequent designations), the time for making such objections is: within two months from publication of the Application for registration.
- For both national/regional applications and applications for International Registration (including subsequent designations), observations may be made on the following grounds:
  - descriptiveness;
  - deceptiveness/misdescriptiveness;
  - genericness;
  - geographical meaning or deceptiveness.
- For national/regional applications the following proof/evidence may be submitted: any proof or evidence relevant to the matter at hand.
- For applications for International Registration (including subsequent designations), the following proof/evidence may be submitted: any proof or evidence relevant to the matter at hand.
- For national/regional applications the National Office does not inform the party making the observations of the action that has been taken pursuant to the observations. The National Office is not obliged to inform the objecting party of the action that has been taken pursuant to the objection.
- The party making the observations becomes a party to the proceedings.
- For applications for International Registration (including subsequent designations), the National Office does not inform the party making the observations of the action that has been taken pursuant to the observations. The National Office is not obliged to inform the objecting party of the action that has been taken pursuant to the objection.
J. Decision and Appeal

- For national/regional applications, the initial decision is usually rendered by the national/regional Office within the following time frame: two months after final submissions.
- For applications for International Registration (including subsequent designations), the initial decision is usually rendered by the national/regional Office within the following time frame: two months after final submissions.
- For national/regional applications and applications for International Registration (including subsequent designations), the following is the procedure for appeal from the initial prosecution decision to either the national/regional Office or a different authority: Appeal Court (Article D311-8 of the French Intellectual Property Code).
- For national/regional applications, there are no further actions that an applicant can take so that an application may proceed.
- For applications for International Registration (including subsequent designations) there are no further actions an applicant can take to permit an application to proceed.

K. Publication and Issue

- An application for International Registration (including subsequent designations) is not published in a local publication in addition to being published in the WIPO Gazette of International Marks.
- The national/regional Office does not issue a communication to the holder of an International Registration informing that the International Registration has been accepted/published.
- Proof of use of the mark is not required prior to completion of extension of protection.
- The national/regional Office does not issue any communication to the holder of an International Registration informing that the International Registration has successfully passed the period for possible oppositions.
- The national/regional Office does not issue a communication to the holder of an International Registration informing that the International Registration is finally protected in this jurisdiction.
- A separate certificate of registration evidencing the extension of protection is not issued.

III. TRANSFORMATION

A. National/Regional Procedure

- Transformation into a national/regional registration is not automatic and the application is examined anew.
- A new serial number is assigned to a transformed registration.
- The application is examined anew for absolute and relative grounds under national/regional law.
- The first examination report is not issued on an expedited basis, but rather in about the same amount of time as an initial national/regional application.
- The application/registration is published for opposition under national/regional law.
- A separate national/regional certificate of registration is issued.
- The following is the average length of time from the initial request for transformation to the grant of a national/regional registration if no objection is encountered: four to six months.

B. Effect on Existing Proceedings
IV. OPPOSITIONS

A. Procedure
- Opposition is available.

B. Grounds: Absolute and Relative
- The grounds for opposing a national/regional application are the same as those for opposing an application for International Registration (including subsequent designations). These grounds are:
  - relative grounds (based on proprietary rights, e.g., conflicting prior application/registration or owner of a well-known or famous mark).

C. Time Period for Filing
- For both national applications and applications for International Registration (including subsequent designations), the length of the opposition term is the same and is as follows: two months.
  - The date from which the opposition term of a national application is calculated is different from the date from which the opposition term of an application for International Registration (including subsequent designations) is calculated.
  - The opposition term of a national application is calculated from the following date: The date of publication of the Application in the Official Bulletin of Industrial Property.
  - The opposition term of an application for International Registration (including subsequent designations) is calculated from the following date: The first day of the month following the receipt of the bulletin "Les Marques Internationales" at the National Institute of Industrial Property.

D. Extensions
- Extensions to file an opposition are not permitted for either national applications or applications for International Registration (including subsequent designations).

E. Standing
- Standing requirements are the same for national applications and applications for International Registration (including subsequent designations). The following parties have standing to oppose either one:
  - any party owning a right that can be the basis for an opposition.

F. Proof of Ownership of Earlier Mark/Right
- To show ownership of a national, regional and/or International mark upon which an opposition is based, the opponent must provide evidence in the form of:
  - a copy of the publication of the filing or of the registration of the mark;
  - a copy of the prior mark, with the latest update;
  - for a well-known and unregistered trademark, any evidence proving that the mark is well known.
- Evidence of ownership of a national, regional and/or International mark must be submitted:
  - at the time of the filing of the opposition.
- With regard to evidence of ownership, for national applications and/or applications for International Registration (including subsequent designations), the applicant’s responsive evidence must be submitted by the following deadline: within two months of...
receipt of the statement of opposition.

- Extensions of time are not available for submission of applicant's evidence.

**G. Proof of Use of Earlier Mark**

- The opponent is/may be required to submit proof/evidence of use of the mark upon which the opposition is based.
- The period for which use must be shown is as follows: Upon request by the applicant within five years preceding the request; it should be noted that use of the mark need not be continuous but must be serious.
- The procedure for submission of such proof of use is as follows: Sending all dated documents proving without a doubt the commercial use of the trademark.
- For national applications and/or applications for International Registration (including subsequent designations), the opponent must submit such proof/evidence by the following deadline: within one month of a request by the applicant therefor.
- Extensions for such submissions are not available.
- With regard to opponent's proof of use of mark, for national applications and/or applications for International Registration (including subsequent designations), the applicant may submit responsive evidence by the following deadline: unspecified. Responsive evidence may be submitted with the exception of proof/evidence of use, which cannot be submitted at this stage.
- Extensions for such submissions are not available.

**H. Written Submissions/Arguments**

- For national applications and/or applications for International Registration (including subsequent designations), written arguments must be submitted by both the opponent and the applicant.
- For national applications and applications for International Registration (including subsequent designations), the written argument of the opponent must be submitted by the following deadline: when filing the statement of opposition.
- The consequences of the opponent failing to file written arguments are: the arguments of the opponent will not be taken into consideration when the decision is being made.
- For national applications and applications for International Registration (including subsequent designations), the applicant's responsive arguments must be submitted by the following deadline: within two months after submission of the statement of opposition.
- The consequences of the applicant failing to file responsive arguments are: the arguments of the applicant will not be taken into consideration when the decision is being made.
- Extensions for submission of applicant's evidence are available for national applications and applications for International Registration (including subsequent designations) for the following amount of time: Frequently, extensions of the initial opposition period are possible. An extension will often depend on a showing of proof of a good cause or legitimate reason for the requested extension.

**I. Oral Hearings**

- Oral hearings are permitted for national applications and/or applications for International Registration (including subsequent designations).
- Hearings are generally scheduled at the following point in the proceedings: a few days before the compulsory date given by law to the INPI to render its decision.
- The usual length of time between the scheduling of the hearing and the actual hearing date is: about one week or less.
J. Representation

- The opponent need not have local representation for either national applications or applications for International Registration (including subsequent designations). If the opponent is not represented by a lawyer or by a trademark agent, he must file a power of attorney in the month following the filing of the opposition.

K. Decision and Appeal

- For national applications and applications for International Registration (including subsequent designations), the usual time period between final submissions or oral hearings and the initial decision by the National Office is: a few days after final submissions or oral hearings.
- For national/regional applications and applications for International Registration (including subsequent designations), the following is the procedure for appeal from the initial opposition decision to either the national/regional Office or a different authority: Appeal Court (Article D211-6-1 of the French Intellectual Property Code).

L. Alternative to Appeal

- There is no procedure to contest the decision that one can initiate in lieu of an appeal.

V. CANCELLATION

A. Availability and Venue

- Cancellation is available.
- For national and International registrations, a cancellation action may be brought before the following bodies:
  - court: Tribunal de Grande Instance (First Instance Court).

B. Grounds: Absolute, Relative, Non-Use

- The grounds for bringing a cancellation action for both national and International registrations are:
  - earlier registered right;
  - earlier use based right;
  - descriptiveness;
  - deceptiveness/misdescriptiveness;
  - genericness;
  - geographical designation (including geographic deceptiveness);
  - misleading suggestion of connection with objecting party;
  - non-use;
  - prior trade name, or sign if known in the entire territory of France, if it creates a likelihood of confusion for the public;
  - prior commercial name, if it creates a likelihood of confusion for the public;
  - prior copyright;
  - prior design rights;
  - personality rights, including the person's name, pseudonym or image;
  - name, image or fame of local authorities.
- For grounds other than non-use, there are no limitations or deadlines for filing a cancellation action against national or International registrations. However, if the registration was made in good faith and if the applicant for cancellation was aware of the existence of the mark, a statute of limitations of five years is applied.
• For cancellation actions based on non-use, the time frame within which a mark must be used in order to avoid cancellation runs from:
  • the date of extension to the jurisdiction for which protection is sought.
  • Counting from the above date, to avoid cancellation for non-use, the mark must be used within: the five years preceding the request for evidence of use or the cease and desist letter, or the date of service of the complaint if no prior cease and desist letter was sent.

C. Time Period for Filing
• Not Applicable

D. Standing
• The following have standing to file a cancellation action against both national and International registrations:
  • any interested party;
  • a prior registrant;
  • an earlier unregistered right owner;
  • the Public Prosecutor who deals with criminal as civil matters; he represents the State.

E. Proof of Use of Earlier Mark
• Cancellation petitioner is or may be required to submit proof of use of the mark on which the cancellation action is based. The period for which use must be shown is: only if the conditions allowing the filing for a forfeiture for lack of basis for the action are fulfilled as far as the mark used by the cancellation petitioner is concerned. The period for which use must be shown is during the past five years, only if a forfeiture for lack of use claim has been raised by the other party. It needs to be a serious use but not a continuous use during the past five years.

F. Submissions: Evidence and Responsive Evidence
• In general, the type of evidence that must be submitted to establish grounds for cancellation is the same for both national and International registrations. The following types of evidence are admissible:
  • affidavits or declarations;
  • notarized statements and/or documents;
  • simple copies of documents, such as invoices, bills of lading, internal financial listings of sales or expenditures;
  • advertisements, catalogs, video recordings;
  • samples of products;
  • certified copies of certificates;
  • other: any supporting documents suitable to establish that the loss of rights for lack of use is not incurred.
• For both national and International registrations, evidence in support of a cancellation action must be submitted:
  • when requested, according to the rules of the French Civil Procedure Code.
• Extensions for such submissions are available for national and International registrations for the following amount of time: unspecified. Extensions may be granted by the Court even if they are opposed by the party filing the cancellation action and/or the Public Prosecutor.
• The deadline for submitting responsive proof/evidence in support of a cancellation action against a national or International registration is: at the Court’s discretion.
• Extensions for such submissions are available for national and International
registrations for the following amount of time: unspecified. Extensions may be granted by the Court even if they are opposed by the party filing the cancellation action and/or the Public Prosecutor.

G. Written Submissions/Arguments

- For national and International registrations, written arguments must be submitted by both the petitioner for cancellation and the registrant.
- For national and International registrations, written arguments must be submitted by the petitioner for cancellation by the following deadline: unspecified. The deadline is fixed by the Court.
- For national and International registrations, the registrant's responsive arguments must be submitted by the following deadline: unspecified. The deadline is fixed by the Court.
- For both national and International registrations, the following extensions of time are available for the registrant's submission of responsive arguments: unspecified. The deadline is fixed by the Court.
- The consequences of the registrant failing to submit responsive arguments are: The Court will render its final decision only with the current arguments and evidence.

H. Oral Hearings

- Oral hearings are permitted for national and International registrations.
- For national and International registrations, oral hearings are scheduled at the following time: at the end of the written part of the proceedings, on a date fixed by the Court.

I. Representation

- For national and International registrations, the opponent must have local representation.
- For national and International registrations, the local representative must:
  - be licensed to practice law in this jurisdiction (Attorney at law (Avocat à la Cour)).

J. Decision and Appeal

- For national and International registrations, the usual amount of time between final submissions or oral hearings and when a decision by the National Office is rendered is: 12 to 18 months.
- For national/regional and International Registration, the following is the procedure for appeal from the initial cancellation decision: the Court of Appeal with territorial venue to hear appeals lodged against a decision by the Director of the National Institute, that is to say, the Court of Appeal of the place of residence of the person who lodges the appeal. (Article D716-12 of the French Intellectual Property Code.)

Only nine Courts of Appeal have jurisdiction.

K. Alternative to Appeal

- For national and international registrations, the following procedure is available as an alternative to an appeal: none.

VI. RENEWAL

A. Proof of Use

- Evidence of use is not required for first renewal of either national or International registrations.
Evidence of use is not required for subsequent renewal of either national or International registrations.

Under the Madrid system, renewal may be effected by the mere payment of the required fee. There is no procedure by which proof of use is required of the holder of an International Registration.

B. Review of Evidence and Appeal

- Not Applicable

VII. TRANSACTIONS

A. Recordal of Assignments, Changes of Address, Mergers

- There is a local Register in which information on assignments, changes of name, changes of address and mergers with respect to International Registrations may be found.

B. Assignment

- For both national and International registrations, assignment in respect of part of the goods or services covered is permitted.
- No restrictions are placed on such partial assignments of national registrations.
- Separate certificates are not issued to the owners of a national registration that has been partially assigned.
- No restrictions are placed on such partial assignments of International Registrations.
- Separate certificates are not issued to the owners of an International Registration that has been partially assigned.
- There are no restrictions on assignments of national registrations. A restriction can be fixed by a court decision or order.
- There are no restrictions on assignments of International Registrations. A restriction can be fixed by a court decision or order.
- The effect of a defective assignment of a national registration is as follows: the purported assignment is void. However, one decision admitted the validity of an assignment that was not registered, but damages could not be allowed for the period of non-registration of the assignment.
- The effect of a defective assignment of an International Registration is as follows: the purported assignment is void.
- If an assignment is defective:
  - the Registration remains in the ownership of the previous Registrant.

C. Recordal of Licensing

- Central recordal of licenses against extensions of International Registrations with WIPO is not recognized for all purposes under applicable national law. The purposes for which such recordal are not recognized are as follows: France requires local recordal of licenses.
- Local recordal of a license against an extension of an International Registration is required even if it has been recorded centrally with WIPO.
- The consequences of failure to record a license are: A licensee’s use of an unrecorded license will not be enforceable against third parties.
- An unrecorded licensee’s use will support the Registration against attack on the ground of non-use.
- Local fiscal authorities (e.g., the treasury, tax agency or licensing bureau) cannot deny or restrict the right to remit royalties by an unrecorded licensee.
D. Competition Laws

- The use of a mark covered by an International Registration can be regulated by the following competition laws enforced in this jurisdiction: Unfair competition laws in the Civil Code (Articles 1382 and 1383 of the French Civil Code).

E. Taxes

- Taxes are imposed by fiscal authorities on transfer of International Registration extensions. Taxes are calculated as follows: The rate of taxation depends upon the value of the consideration paid for the transfer. The mark being transferred must be exploited in the entire territory of France to be subject to this tax; otherwise only VAT must be paid. The tax rate is determined as follows:

  - For the brackets under EUR 23,000 there is no tax imposed.
  - For the brackets between EUR 23,000 and EUR 200,000, a tax of 3% of the purchase price is imposed.
  - For the brackets exceeding EUR 200,000, a tax of 5% of the purchase price is imposed.

  In either case, a stamp tax of EUR 3 per side of the transfer documentation to be recorded is imposed.

Taxes are imposed only in the case of transfers between French and foreign parties.

- The consequences of failure to pay taxes imposed by fiscal authorities in France on transfer of International Registration extensions are: Additional penalty taxes are imposed.

VIII. ENFORCEMENT: PROOF OF OWNERSHIP

- The method of proving ownership and validity of a national registration in court proceedings is as follows: by providing an official copy of the certificate of registration.
- The method of proving ownership and validity of a national registration in administrative proceedings such as oppositions is as follows: by providing an official copy of the certificate of registration.
- The method of proving ownership and validity of an International Registration in court proceedings is as follows: by providing a copy of the certificate of registration.
- The method of proving ownership and validity of an International Registration in administrative proceedings such as oppositions is as follows: by providing a copy of the certificate of registration.
- The date from which the proprietor may enforce exclusive rights in an International Registration is:
  - the date of extension to the jurisdiction in which enforcement is sought.
- The national office recognizes the validity of an International Registration in proceedings before it, without requiring the submission of separate evidence.
- The differences in proving ownership and validity of national registrations and International Registrations before the national office are as follows: not applicable.
- The courts are not likely to enforce national registrations any more readily than International Registrations.
- The national office is not likely to enforce national registrations any more readily than International Registrations.

IX. REPLACEMENT OF NATIONAL REGISTRATION BY EXTENSION OF INTERNATIONAL REGISTRATION
A national registration is not maintained if it is deemed to be replaced by a later extended International Registration under Article 4bis.
In legal and administrative proceedings, the use of a national registration that has been replaced by a subsequent International Registration is permitted.

X. STATE SUCCESSION: ADHERENCE TO AND WITHDRAWAL FROM MADRID
This jurisdiction does not consist of separate sovereign entities formed by a treaty.
This jurisdiction has not separated from a larger political entity to which International Registrations extended.

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