

The Madrid System – an Important Tool for Business

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Outline

- Trademark system “Must Haves”
- Syngenta and its challenges
- Substantive law
- Costs
- Administration
- Conclusion

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Four “Must Haves”



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Trademark Systems should:

- Protect business investments from counterfeiting and lookalikes
- Discourage organised crime
- Encourage investment
- Encourage innovation

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Trademark Systems should:

- Protect the public from confusion
 - Similar marks may be substandard or just different
- Indicate the origin of goods/services



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A Word about Branding

. Tea is more valuable than undifferentiated bulk tea if sold as Darjeeling tea

- More valuable still if it bears certification mark “Darjeeling – The Tea Board’s Seal of Approval”
- More valuable still if it bears a distinctive trademark and is packed in distinctive packaging



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So how does Madrid help (or hinder) this?

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Substantive Law

- Can “claim” a registration quicker than any other jurisdiction – useful e.g. for licensing
- Low cost means more countries tend to get protected
- Availability of opting back within 1st 5 years

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Substantive Law

- Some countries have joined without having proper regulations to support
- Mark is registered automatically if not refused – need to watch for this
- National filings can take longer

Costs

- Very easy to compute and give budget estimate to business
- No translation costs or powers
- Low assignment costs big + for businesses consolidating
 - Many expensive countries not in Madrid

Costs (cont'd)

- Expensive Protocol countries
- Some Protocol countries in Agreement but still charge extra for Protocol
- Local language applications
- Protocol countries can raise trifling objections necessitating use of local counsel – some countries allow applicants to respond direct

Costs (cont'd)

- Internal admin costs of paying bills hugely reduced
- One currency (CHF) gives stability of costs and eases administration

Administration

- One form – more countries joining mean more exceptions – Japan, US
 - Careful training of paralegals, one big bite instead of small chunks
- French and Spanish available
- Protocol countries had to speed up procedures – more business certainty

Administration (cont'd)

- Renewals, assignments, changes of name etc much simpler – one process, no powers, no special formalities
- Can be a problem when assigning to non-Madrid companies
- Admin staff fewer after adopting Madrid route, professional staff unchanged

The Role of National Offices

- **National offices important for SMEs and large corporations**
 - Over 100 countries not in Madrid/CTM!
 - Provide direct advice and websites in local language
 - Can be speedier to registration e.g. UK
- **Use for local marks, local languages and scripts, local support programs**

The Role of National Offices

- **Need to think about different and enhanced services to local clients in future**
- **Need to be quicker, cheaper, less red tape and have better enforcement**
- **More harmonisation of law and procedure**
- **Common search and classification tools**
- **Reduction of downstream costs needed**

Conclusion

We are in business to make money and feed a growing population safely

Countries/ systems where registration is not Quick, Enforceable, Cheap and Easy will get passed over.

Consequences:

- Jobs will be lost
- Government revenue will be lost

