The Madrid System – an Important Tool for Business

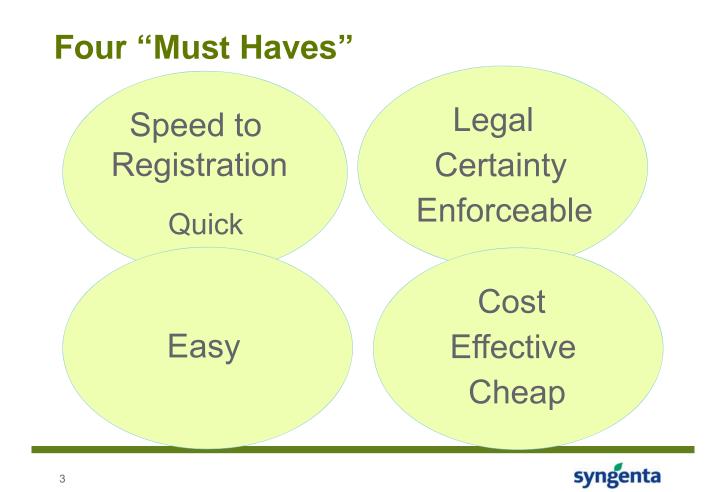
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Outline

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



Trademark Systems should:

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

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





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

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

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- Very easy to compute and give budget estimate to business
- No translation costs or powers

Costs

- 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

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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

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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

15

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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

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END