

THE MADRID TRADEMARK REGISTRATION SYSTEM: NIGERIA TO JOIN OR NOT?

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Introduction:

Business operations are no longer territorial but have now become integrated on a global scale, birthing multinational companies globally. Consequently, these entities are no more only keen on expanding their businesses, but are also focused on protecting their intellectual property rights in the countries where they carry on business. Typically, there are two primary ways of registering a trademark in a foreign country: (a) the conventional method of registration adhering to national requirements, and (b) the international method of registration through the Madrid System. Conversations regarding the Madrid Trademark Registration System (“Madrid System”) are being had globally, and the question being raised is, whether Nigeria should join the Madrid Trademark Registration System or not? This article offers insights into the international registration of trademarks under the Madrid system, the pros and cons of the system, as well as the implications of Nigeria’s potential decision.

Understanding the Madrid Trademark Registration System:

The Madrid System provides a centralized system for trademark owners to protect their trademarks in multiple countries through a single international application. This system is a convenient and cost-effective solution for registering and managing trademarks worldwide. Trademark owners can file a single international trademark application and pay one set of fees to apply for protection in up to 130 countries.² The system, which is administered by the World Intellectual Property Organization (“WIPO”), is governed by two international treaties, namely: the Madrid Agreement 1891 and the Protocol relating to that

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² Madrid System – The International Trademark System - <https://www.wipo.int/madrid/en/>. Accessed on 5th January, 2024.

Agreement of 1989.³ Using the Madrid system for international registration enables trademark applicants to save cost, time, and resources as it dispenses with the need for applicants to engage a representative in the designated foreign country for trademark registration. Specifically, the Madrid system has harmonized the registration procedure, and applicants need not familiarize themselves with the diverse trademark registration processes of each designated country. However, the Madrid System can only be used by nationals of countries that have acceded to it.

Benefits of Joining the Madrid System:

If Nigeria accedes to the Madrid Trademark Registration System, it stands to gain several benefits that can positively impact the business of trademark owners, the economy, and the overall intellectual property landscape of the country. Some potential benefits of acceding to the Madrid System are captured hereunder:

1. **Cost-Effectiveness:**

Acceding to the Madrid System could offer Nigerian businesses and trademark owners a more cost-effective means of seeking international trademark protection. The centralized process eliminates the need for separate filings in each desired country, potentially saving on administrative expenses.

2. **Simplified Procedure:**

The Madrid System reduces the complexity of international trademark registration by providing a standardized procedure. Nigerian trademark owners can submit a single application to the national trademark office, which is then forwarded to WIPO and designated member countries. A single application is made in one language, designating the countries in which protection is sought, and application fees are paid in one currency.

³ Madrid Agreement Concerning the International Registration of Marks - <https://www.wipo.int/treaties/en/registration/madrid/#:~:text=The%20Madrid%20System%20for%20the,that%20Agreement%2C%20concluded%20in%201989>. Accessed on 5th January 2024.

3. **Increased Foreign Investment:**

Acceding to the Madrid system will signal Nigeria's commitment to aligning with global intellectual property standards, promote the ease of doing business in Nigeria, enhance foreign investments, and ultimately increase the country's revenue base.

4. **Encourage international registration of home-based Marks:**

Nigerian trademark owners will be encouraged to extend their reach globally, thereby increasing the volume of exports of goods and services in the country.

5. **Enhanced Ease of Management:**

For Nigerian businesses with global reach, the Madrid system offers a convenient way to manage and renew trademark registrations across different countries through a streamlined and centralized platform without going through the rigors of engaging representatives in each country.

Hala Madrid? What Nigeria Must Consider:

While there are benefits for Nigeria in joining the Madrid System, it is not without its disadvantages, and before taking the plunge, the country must weigh the potential benefits against the nuanced disadvantages of the system. The centralized nature of the system may ultimately be a central attack on the country's trademark registry, as the system breeds delayed responses and increased bureaucracy, potentially hindering the swift processing of trademark applications. Also, a cancellation or refusal of a basic registration equals a cancellation of the mark in other designated countries. One crucial aspect to ponder is Nigeria's existing capacity and infrastructure within the trademark registry. Joining the Madrid System may lead to a surge in trademark applications, necessitating a proper administrative framework to effectively implement the system and ensure efficiency.

Furthermore, a careful examination and reformation of our domestic trademark laws is imperative so as to identify any lacunae or conflicts that may impede a smooth transition to the Madrid system and to ensure coherence with international legislation. Although the Madrid System offers global access, the short and

long-term effects of the system on the local business environment and the potential influx of international competition must also be carefully considered.

Conclusion:

Quite a number of African countries such as Botswana, Ghana, Gambia, Kenya, Liberia, Malawi, Mozambique, Namibia, and Zimbabwe⁴ have acceded to and implemented the Madrid System. In considering whether to accede to the Madrid System or not, it is important that Nigeria exercises caution and resist yielding to ‘peer pressure’. The decision to accede to the Madrid Trademark Registration System demands a nuanced and holistic approach. Stakeholders within the intellectual property ecosystem should meticulously consider how the system will impact Nigeria's socio-economic and legal landscape. It is crucial to assess the specific needs of Nigeria, determine what is in the best interest of the country, and evaluate how the system will ultimately benefit Nigeria. Albeit the Madrid System offers the promise of facilitating global trademark protection and other advantages, the potential drawbacks require thorough scrutiny. By carefully weighing the pros and cons, Nigeria can make an informed decision aligned with the needs and aspirations of its people.

⁴ Madrid Trademarks in Africa - <https://www.svw.co.za/madrid-protocol/#:~:text=Algeria%20Botswana%20Egypt%20eSwatini,Central%20African%20Republic%20Chad%20Comoros>. Accessed on 5th January, 2024.