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The fifth session of the **Working Group for the Legal Development of the Madrid System for the International Registration of Marks** took place in Geneva from May 5 to May 9 2008. The working group **recommended** an important amendment to the **Madrid System**.

The session examined how to increase access to information on the fate of international registrations in designated contracting parties. The discussions were based on document MM/LD/WG/5/2, which was prepared by the International Bureau. The document was based on:

- discussions held at the previous meeting of the working group; and
- input from Australia, Japan, Switzerland and **MARQUES**, the association of European trademark owners.

The document contained a draft amendment to the **Common Regulations**, which proposed a rewording of Rules 16, 17, 18*bis* and 18*ter*. The working group recommended that the General Assembly adopt the amendment with a date of effect of September 1 2009.

Under the amendment, all designated offices will be required to issue a statement of grant of protection for each successful designation from January 1 2011 (at the latest). This represents a significant break from the traditional principle of 'tacit acceptance'. This principle implied that designated offices reported obstacles to a proposed designation only through notices of irregularity. In other words, if the designated offices provided no information on a designation, the right in the designation would automatically be granted to the applicant after expiry of a 12-month period.

However, under the **Madrid Protocol**, designated offices could apply to extend the examination procedure to 18 months, with the possibility to obtain further extensions to file opposition actions in many countries. The document of the International Bureau showed that 61.7% of refusals were issued within nine months, and users were thus unhappy at having to wait until the end of the examination procedure.

Following the amendment, designated offices will not be required to report all stages of the progress of a designation. However, applicants will benefit from legal certainty and third parties will be able to check the status of a designation when conducting searches.

This amendment represents a positive step towards making the Madrid System more user-

friendly.

The sixth meeting of the working group is scheduled for November 2008. It is envisaged that the following topics will be discussed:

- Norway's proposal regarding the possibility to remove the requirement for a basic registration;
- Japan's proposal to deal with the issue of linguistic diversity; and
- the improvement of electronic communications and online services within the Madrid System.

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