

DRŽAVNI ZAVOD ZA INTELEKTUALNO VLASNIŠTVO

160

Na temelju članka 32. Zakona o sklapanju i izvršavanju međunarodnih ugovora (»Narodne novine – Međunarodni ugovori« br. 28/96), Državni Zavod za intelektualno vlasništvo objavljuje u izvorniku na engleskom i u prijevodu na hrvatskom jeziku

Ovjereni primjerak

Zajednički pravilnik uz Madridski sporazum o međunarodnoj registraciji žigova i Protokol koji se odnosi na Madridski sporazum o međunarodnoj registraciji žigova – cjeloviti tekst sa svim izmjenama i dopunama kakav je na snazi od 1. 9. 2008. godine

ZAJEDNIČKI PRAVILNIK PREMA MADRIDSKOM SPORAZUMU O MEĐUNARODNOJ REGISTRACIJI ŽIGOVA I PROTOKOLU KOJI SE ODNOSI NA TAJ SPORAZUM

(koji je stupio na snagu 1. rujna 2008. godine)

Poglavlje 1. OPĆE ODREDBE

Pravilo 1. SKRAĆENI IZRAZI

U smislu ovog Pravilnika:

- i) »Sporazum« znači Madridski sporazum o međunarodnoj registraciji žigova od 14. travnja 1891. godine, kako je revidiran 14. srpnja 1967. godine te izmijenjen i dopunjen 28. rujna 1979. godine u Stockholmu;
- ii) »Protokol« znači Protokol koji se odnosi na Madridski sporazum o međunarodnoj registraciji žigova, usvojen u Madridu 27. lipnja 1989. godine;
- iii) »ugovorna stranka « znači svaku zemlju koja je stranka Sporazuma ili svaku državu ili međuvladinu organizaciju koja je stranka Protokola;
- iv) »država ugovornica« znači ugovornu stranku koja je država;
- v) »organizacija ugovornica« znači ugovornu stranku koja je međuvladina organizacija;
- vi) »međunarodna registracija« znači registraciju žiga obavljenju prema Sporazumu ili prema Protokolu ili i prema Sporazumu i prema Protokolu, ovisno o slučaju;

vii) »međunarodna prijava« znači prijavu za međunarodnu registraciju podnesenu prema Sporazumu ili prema Protokolu ili i prema Sporazumu i prema Protokolu, ovisno o slučaju;

viii) »međunarodna prijava podnesena isključivo prema Sporazumu« znači međunarodnu prijavu čiji je ured podrijetla ured

– države koju obvezuje Sporazum, ali ne i Protokol ili

– države koju obvezuju i Sporazum i Protokol, pri čemu su u međunarodnoj prijavi naznačene samo države i sve naznačene države obvezuje Sporazum, ali ne i Protokol;

ix) »međunarodna prijava podnesena isključivo prema Protokolu« znači međunarodnu prijavu čiji je ured podrijetla ured

– države koju obvezuje Protokol, ali ne i Sporazum ili

– organizacije ugovornice ili

– države koju obvezuju i Sporazum i Protokol, pri čemu međunarodna prijava ne sadržava naznaku nijedne države koju obvezuje Sporazum, ali ne i Protokol;

x) »međunarodna prijava podnesena i prema Sporazumu i prema Protokolu« znači međunarodnu prijavu čiji je ured podrijetla ured države koju obvezuju i Sporazum i Protokol, a koja se temelji na registraciji i sadržava naznaku:

– barem jedne države koju obvezuje Sporazum, ali ne i Protokol i

– barem jedne države koju obvezuje Protokol, bez obzira na to obvezuje li tu državu i Sporazum ili ne obvezuje, ili barem jedne organizacije ugovornice;

xi) »podnositelj prijave« znači fizičku ili pravnu osobu u čije je ime podnesena međunarodna prijava;

xii) »pravna osoba« znači korporaciju, društvo ili drugu grupu ili organizaciju, koja je, po zakonu koji se na nju primjenjuje, sposobna stjecati prava, preuzimati obveze i tužiti ili biti tužena na sudu;

xiii) »osnovna prijava« znači prijavu za registraciju žiga koja je podnesena uredu neke ugovorne stranke i koja je osnova za međunarodnu prijavu za registraciju toga žiga;

xiv) »osnovna registracija« znači registraciju žiga koju je obavio ured neke ugovorne stranke i koja je osnova za međunarodnu prijavu za registraciju toga žiga;

xv) »naznaka« znači zahtjev za proširenje zaštite (»teritorijalno proširenje«) prema članku 3.ter. stavku 1. ili stavku 2. Sporazuma ili prema članku 3.ter. stavku 1. ili stavku 2. Protokola, ovisno o slučaju; to također znači takvo proširenje kakvo je upisano u međunarodni registar;

xvi) »naznačena ugovorna stranka« znači ugovornu stranku za koju je zatraženo proširenje zaštite (»teritorijalno proširenje«) prema članku 3.ter. stavku 1. ili stavku 2. Sporazuma ili

članku 3.ter. stavku 1. ili stavku 2. Protokola, ovisno o slučaju ili u odnosu na koju je takvo proširenje upisano u međunarodni registar;

xvii) »ugovorna stranka naznačena prema Sporazumu« znači ugovornu stranku za koju je zatraženo proširenje zaštite (»teritorijalno proširenje«) prema članku 3.ter. stavku 1. ili stavku 2. Sporazuma;

xviii) »ugovorna stranka naznačena prema Protokolu« znači ugovornu stranku za koju je zatraženo proširenje zaštite (»teritorijalno proširenje«) prema članku 3.ter. stavku 1. ili 2. Protokola;

xix) »obavijest o privremenom odbijanju« znači izjavu ureda naznačene ugovorne stranke u skladu s člankom 5. stavkom 1. Sporazuma ili člankom 5. stavkom 1. Protokola;

xixbis.) »proglašavanje ništavosti« znači odluku nadležnoga tijela (bilo administrativnoga bilo sudskoga) naznačene ugovorne stranke kojom se, na teritoriju te ugovorne stranke, opozivaju ili poništavaju učinci međunarodne registracije u odnosu na sve ili na neke proizvode ili usluge obuhvaćene naznakom te ugovorne stranke;

xx) »Glasilo« znači periodično glasilo iz pravila 32.;

xxi) »nositelj« znači fizičku ili pravnu osobu na čije je ime međunarodna registracija upisana u međunarodni registar;

xxii) »Međunarodna klasifikacija figurativnih elemenata« znači klasifikaciju uspostavljenu Bečkim sporazumom o uspostavi međunarodne klasifikacije figurativnih elemenata žigova od 12. lipnja 1973. godine;

xxiii) »Međunarodna klasifikacija proizvoda i usluga« znači klasifikaciju uspostavljenu Nicanskim sporazumom o međunarodnoj klasifikaciji proizvoda i usluga radi registracije žigova od 15. lipnja 1957. godine, revidiranim u Stockholmu 14. srpnja 1967. godine i u Ženevi 13. svibnja 1977. godine;

xxiv) »međunarodni registar« znači službenu zbirku podataka o međunarodnim registracijama, koju vodi Međunarodni ured, upis kojih podataka se zahtijeva ili dopušta Sporazumom, Protokolom ili Pravilnikom, neovisno o mediju na kojem su ti podaci pohranjeni;

xxv) »ured« znači ured ugovorne stranke koji je nadležan za registraciju žigova ili zajednički ured iz članka 9. quater. Sporazuma ili članka 9. quater. Protokola, ili oboje, ovisno o slučaju;

xxvi) »ured podrijetla« znači ured zemlje podrijetla definirane u članku 1. stavku 3. Sporazuma ili ured podrijetla definiran u članku 2. stavku 2. Protokola, ili oboje, ovisno o slučaju;

xxvibis.) »ugovorna stranka nositelja« znači

– ugovornu stranku čiji ured je ured podrijetla ili

– kad je upisana promjena nositelja ili u slučaju države sljednice, ugovornu stranku ili jednu od ugovornih stranaka, u odnosu na koju nositelj ispunjava uvjete da bude nositelj međunarodne registracije, u skladu s člankom 1. stavkom 2. i člankom 2. Sporazuma ili u skladu s člankom 2. Protokola;

xxvii) »službeni obrazac« znači obrazac što ga je sastavio Međunarodni ured ili svaki obrazac koji ima isti sadržaj i format;

xxviii) »propisana pristojba« znači pristojbu navedenu u Popisu pristojbi;

xxvix) »glavni direktor« znači glavnog direktora Svjetske organizacije za intelektualno vlasništvo;

xxx) »Međunarodni ured« znači Međunarodni ured Svjetske organizacije za intelektualno vlasništvo;

xxxi) »Administrativne upute« znači Administrativne upute iz Pravila 41.

Pravilo 1.bis.

NAZNAKE KOJE SE OBAVLJAJU PREMA SPORAZUMU I NAZNAKE KOJE SE OBAVLJAJU PREMA PROTOKOLU

(1) [Opće načelo i iznimke] Naznaka neke ugovorne stranke obavlja se prema Sporazumu ili prema Protokolu, ovisno o tome naznačuje li se ta ugovorna stranka prema Sporazumu ili prema Protokolu. Međutim,

i) kad se, u odnosu na danu međunarodnu registraciju, Sporazum prestane primjenjivati na odnose između ugovorne stranke nositelja i ugovorne stranke čija je naznaka obavljena prema Sporazumu, naznaka potomje počinje se obavljati prema Protokolu na datum na koji se Sporazum prestane tako primjenjivati ako su na taj datum i ugovorna stranka nositelja i naznačena ugovorna stranka stranke Protokola i

ii) kad se, u odnosu na danu međunarodnu registraciju, Protokol prestane primjenjivati na odnose između ugovorne stranke nositelja i ugovorne stranke čija je naznaka obavljena prema Protokolu, naznaka potomje počinje se obavljati prema Sporazumu na datum na koji se Protokol prestane tako primjenjivati ako su na taj datum i ugovorna stranka nositelja i naznačena ugovorna stranka stranke Sporazuma.

(2) [Upis] Međunarodni ured upisuje u međunarodni registar podatak o međunarodnom ugovoru prema kojem je obavljena svaka pojedina naznaka.

Pravilo 2.

KOMUNIKACIJA S MEĐUNARODNIM UREDOM

Priopćenja Međunarodnom uredu upućuju se na način određen Administrativnim uputama.

Pravilo 3.
ZASTUPANJE PRED MEĐUNARODNIM UREDOM

(1) [Zastupnik; Broj zastupnika] a) Podnositelj prijave ili nositelj može imati zastupnika pred Međunarodnim uredom.

b) Podnositelj prijave ili nositelj može imati samo jednoga zastupnika. Kad je u imenovanju navedeno više zastupnika, zastupnikom se smatra i kao takav se upisuje u registar samo onaj koji je prvi naveden.

c) Kad je društvo ili tvrtka sastavljeno od odvjetnika ili zastupnika za patente ili žigove navedeno kao zastupnik pred Međunarodnim uredom, ono se smatra jednim zastupnikom.

(2) [Imenovanje zastupnika] a) Imenovanje zastupnika može se obaviti u međunarodnoj prijavi, ili u naknadnoj naznaci ili u zahtjevu prema pravilu 25.

b) Imenovanje zastupnika može se također obaviti posebnim priopćenjem koje se može odnositi na jednu određenu međunarodnu prijavu ili međunarodnu registraciju ili na više njih istoga podnositelja prijave ili nositelja. Spomenuto priopćenje Međunarodnome uredu podnosi:

i) podnositelj prijave, nositelj ili imenovani zastupnik ili

ii) ured ugovorne stranke nositelja.

Takvo priopćenje mora biti potpisano od strane podnositelja prijave ili nositelja ili ureda putem kojega je upućeno.

(3) [Nepravilno imenovanje] a) Kad Međunarodni ured smatra da je imenovanje zastupnika prema stavku 2. nepravilno, o tome obavješćuje podnositelja prijave ili nositelja, navedenoga zastupnika i, ako je imenovanje poslao ili proslijedio ured, taj ured.

b) Sve dok se ne ispune uvjeti propisani u stavku 2., Međunarodni ured šalje sva relevantna priopćenja podnositelju prijave ili nositelju.

c) Sve dok se ne ispune uvjeti propisani u stavku 1. podstavku b) i stavku 2., Međunarodni ured šalje sva relevantna priopćenja podnositelju prijave ili nositelju.

(4) [Upis i obavijest o imenovanju zastupnika; Datum od kojega vrijedi imenovanje zastupnika] a) Kad Međunarodni ured ustanovi da imenovanje zastupnika ispunjava propisane uvjete, upisuje u međunarodni registar činjenicu da podnositelj prijave ili nositelj ima zastupnika te ime i adresu zastupnika. U takvu slučaju datum od kojega vrijedi imenovanje zastupnika datum je kojega je Međunarodni ured primio međunarodnu prijavu, naknadnu naznaku, zahtjev ili posebno priopćenje kojim se imenuje zastupnik.

b) Međunarodni ured o upisu iz podstavka a) obavješćuje i podnositelja prijave ili nositelja i zastupnika. Kad je imenovanje obavljeno posebnim priopćenjem podnesenim putem ureda, Međunarodni ured obavješćuje o upisu i taj ured.

(5) [Učinak imenovanja zastupnika] a) Osim u slučajevima u kojima ovaj Pravilnik izričito predviđa drukčije, potpis zastupnika upisanoga u registar prema stavku 4. podstavku a) zamjenjuje potpis podnositelja prijave ili nositelja.

b) Osim u slučajevima u kojima ovaj Pravilnik izričito zahtijeva da se pozivi, obavijesti ili druga priopćenja upućuju i podnositelju prijave ili nositelju i zastupniku, Međunarodni ured upućuje zastupniku upisanom u registar prema stavku 4. podstavku a) svaki poziv, svaku obavijest ili bilo koje drugo priopćenje koje bi, da nema zastupnika, moralo biti poslano podnositelju prijave ili nositelju; svaki poziv, svaka obavijest ili bilo koje drugo priopćenje tako upućeno spomenutom zastupniku ima isti učinak kao da je upućeno podnositelju prijave ili nositelju.

c) Svako priopćenje koje Međunarodnom uredu uputi zastupnik upisan u registar prema stavku 4. podstavku a) ima isti učinak kao priopćenje upućeno mu od strane podnositelja prijave ili nositelja.

(6) [Brisanje upisa; Datum od kojega vrijedi brisanje] a) Svaki upis prema stavku 4. podstavku a) briše se iz registra kad se brisanje zahtijeva u priopćenju potpisanome od podnositelja prijave, nositelja ili zastupnika. Međunarodni ured briše upis ex officio kad je imenovan novi zastupnik ili, u slučaju upisa promjene nositelja, ako novi nositelj međunarodne registracije nije imenovao zastupnika.

b) Podložno podstavku c), brisanje vrijedi od datuma kojega je Međunarodni ured primio odgovarajuće priopćenje.

c) Kad brisanje zahtijeva zastupnik, ono vrijedi od ranijega od sljedećih datuma:

i) datuma kad Međunarodni ured primi priopćenje kojim se imenuje novi zastupnik;

ii) datuma isteka roka od dva mjeseca računajući od primitka zahtjeva zastupnika za brisanje upisa.

Do datuma od kojega brisanje vrijedi sva priopćenja iz stavka 5. podstavka b) Međunarodni ured upućuje i podnositelju prijave ili nositelju i zastupniku.

d) Međunarodni ured, po primitku zastupnikova zahtjeva za brisanje, o tome obavješćuje podnositelja prijave ili nositelja i uz obavijest prilaže primjerke svih priopćenja koje je Međunarodni ured poslao zastupniku, ili ih od njeza primio, tijekom šest mjeseci koji prethode datumu obavijesti.

e) Nakon što je datum od kojega vrijedi brisanje iz registra postao poznat, Međunarodni ured o brisanju i datumu od kojega ono vrijedi obavješćuje zastupnika čiji je upis brisan, podnositelja prijave ili nositelja i, kad je imenovanje zastupnika obavljeno putem nekog ureda, taj ured.

Pravilo 4. RAČUNANJE ROKOVA

(1) [Rokovi izraženi u godinama] Svaki rok izražen u godinama istječe u odgovarajućoj sljedećoj godini, u mjesecu istoga naziva i na dan istoga broja kakve imaju mjesec i dan

događaja od kojega rok počinje teći, osim kad se događaj dogodio 29. veljače, a u odgovarajućoj sljedećoj godini veljača završava 28. Tada rok istječe 28. veljače.

(2) [Rokovi izraženi u mjesecima] Svaki rok izražen u mjesecima istječe, u odgovarajućemu sljedećemu mjesecu, na dan istoga broja koji ima dan događaja od kojega rok počinje teći, osim kad odgovarajući sljedeći mjesec nema dan istoga broja. Tada rok istječe posljednjega dana toga mjeseca.

(3) [Rokovi izraženi u danima] Računanje svakoga roka, izraženoga u danima počinje danom koji slijedi dan kad se dogodio odgovarajući događaj i rok istječe u skladu s tim.

(4) [Istek roka na dan kad Međunarodni ured ili neki drugi ured nije otvoren za stranke] Ako rok istječe na dan kad Međunarodni ured ili odnosni ured nije otvoren za stranke, rok istječe, bez obzira na stavke od 1. do 3., prvoga sljedećega dana kad je Međunarodni ured ili odnosni ured otvoren za stranke.

(5) [Navođenje datuma isteka roka] Međunarodni ured, u svim slučajevima kad priopćava neki rok, navodi datum isteka toga roka, u skladu sa stavcima od 1. do 3.

Pravilo 5.

NEREDOVITOST U POŠTANSKIM I DOSTAVNIM USLUGAMA

(1) [Priopćenja poslana poštom] Neudovoljavanje roku za dostavu priopćenja što ga je zainteresirana stranka poštom uputila Međunarodnom uredu opravdava se ako ta stranka dostavi Međunarodnom uredu dostatan dokaz:

i) da je priopćenje poslano poštom najmanje pet dana prije isteka roka ili, kad je poštanska služba bilo kojega od deset dana koji prethode isteku roka bila prekinuta zbog rata, revolucije, građanskih nereda, štrajka, prirodne nepogode ili drugih sličnih razloga, da je priopćenje poslano poštom najkasnije pet dana nakon što je poštanska služba ponovno proradila,

ii) da je priopćenje poslano kao preporučena pošiljka ili da su pojedinosti o slanju pošiljke upisane u evidenciju poštanskog ureda u trenutku slanja i

iii) u slučajevima kad sve vrste poštanskih pošiljaka obično ne stižu u Međunarodni ured u roku od dva dana od predaje, da je priopćenje poslano poštom kao ona vrsta pošiljke koja obično stiže u Međunarodni ured u roku od dva dana od predaje ili da je poslano kao avionska pošiljka.

(2) [Priopćenja poslana dostavnom službom] Neudovoljavanje roku za dostavu priopćenja upućenog Međunarodnom uredu i otpremljenog dostavnom službom opravdava se ako zainteresirana stranka dostavi Međunarodnom uredu zadovoljavajući dokaz:

i) da je priopćenje poslano najmanje pet dana prije isteka roka ili, kad je otpremna služba bilo kojega od deset dana koji prethode isteku roka bila prekinuta zbog rata, revolucije, građanskih nereda, štrajka, prirodne nepogode ili drugih sličnih razloga, da je priopćenje poslano najkasnije pet dana nakon što je dostavna služba ponovno proradila i

ii) da su pojedinosti o slanju priopćenja upisane u evidenciju dostavne službe u trenutku slanja.

(3) [Ograničenje opravdanja] Neudovoljavanje roku opravdava se prema ovom pravilu samo ako dokaze iz stavka 1. ili 2. i priopćenje ili njegovu kopiju Međunarodni ured primi najkasnije šest mjeseci nakon isteka roka.

(4) [Međunarodna prijava i naknadna naznaka] Kad Međunarodni ured primi međunarodnu prijavu ili naknadnu naznaku nakon isteka dvomjesečnoga roka iz članka 3. stavka 4. Sporazuma, članka 3. stavka 4. Protokola i pravila 24. stavka 6. podstavka b), a odnosni ured navede da zakašnjeli primitak proizlazi iz okolnosti iz stavka 1. ili 2., primjenjuju se stavak 1. ili 2. i stavak 3.

Pravilo 6. JEZICI

(1) [Međunarodna prijava] Međunarodna prijava mora biti na engleskom, francuskom ili na španjolskom, u skladu s propisima ureda podrijetla, pri čemu se razumijeva da ured podrijetla može dopustiti podnositeljima prijave da biraju između engleskoga, francuskoga i španjolskoga.

(2) [Priopćenja koja nisu međunarodna prijava] Svako priopćenje koje se tiče međunarodne prijave ili međunarodne registracije, podložno pravilu 17. stavku 2. točki v) i stavku 3., mora biti:

i) na engleskom, francuskom ili na španjolskom kad takvo priopćenje Međunarodnom uredu upućuje podnositelj prijave ili nositelj, ili ured;

ii) na jeziku koji se primjenjuje prema pravilu 7. stavku 2. kad se priopćenje sastoji od izjave o namjeri uporabe žiga priložene međunarodnoj prijavi prema pravilu 9. stavku 5. podstavku f) ili naknadnoj naznaci prema pravilu 24. stavku 3. podstavku b) točki i);

iii) na jeziku međunarodne prijave kad je priopćenje obavijest koju je nekom uredu uputio Međunarodni ured, osim ako je taj ured obavijestio Međunarodni ured da sve takve obavijesti moraju biti na engleskom ili na francuskom ili na španjolskom; kad se obavijest koju upućuje Međunarodni ured odnosi na upis međunarodne registracije u međunarodni registar, u obavijesti se navodi jezik na kojem je Međunarodni ured primio određenu međunarodnu prijavu;

iv) na jeziku međunarodne prijave kad je priopćenje obavijest koju Međunarodni ured upućuje podnositelju prijave ili nositelju, osim ako je taj podnositelj prijave ili nositelj izrazio želju da takve obavijesti budu na engleskom ili na francuskom ili na španjolskom.

(3) [Upis i objava] a) Upis međunarodne registracije u međunarodni registar i njezina objava u Gasilu, kao i upis u registar i objava svih podataka koji se prema ovome Pravilniku moraju i upisati u registar i objaviti vezano uz tu međunarodnu registraciju, obavljaju se na engleskom, francuskom i španjolskom. Prigodom upisa međunarodne registracije u registar kao i prigodom objave međunarodne registracije navodi se jezik na kojem je Međunarodni ured primio međunarodnu prijavu.

b) Ako je prva naknadna naznaka obavljena u odnosu na međunarodnu registraciju koja je prema prethodnim verzijama ovoga pravila bila objavljena samo na francuskom ili samo na engleskom i francuskom, Međunarodni ured, zajedno s objavom te naknadne naznake u

Glasilu, ili objavljuje međunarodnu registraciju na engleskom i španjolskom i ponavlja objavu međunarodne registracije na francuskom ili objavljuje međunarodnu registraciju na španjolskom i ponavlja objavu međunarodne registracije na engleskom i francuskom, ovisno o slučaju. Ta se naknadna naznaka upisuje u međunarodni registar na engleskom, francuskom i španjolskom.

(4) [Prijevod] a) Prijevode potrebne za obavijesti iz stavka 2. točaka iii) i iv) te za upise u registar i objave iz stavka 3. obavlja Međunarodni ured. Podnositelj prijave ili nositelj, ovisno o slučaju, može međunarodnoj prijavi ili zahtjevu za upis naknadne naznake ili promjene priložiti prijedlog prijevoda svakoga teksta sadržanoga u međunarodnoj prijavi ili u zahtjevu. Ako Međunarodni ured predloženi prijevod ne smatra ispravnim, ispravlja ga nakon upućivanja poziva podnositelju prijave ili nositelju da se, u roku od mjesec dana od poziva, očituje o predloženim ispravcima.

b) Bez obzira na podstavak a), Međunarodni ured ne prevodi žig. Kad, u skladu s pravilom 9. stavkom 4. podstavkom b) točkom iii) ili pravilom 24. stavkom 3. podstavkom c), podnositelj prijave ili nositelj navede prijevod ili prijevode žiga, Međunarodni ured ne provjerava ispravnost takva prijevoda.

Pravilo 7.

Obavijest o nekim posebnim uvjetima

(1) [brisano]

(2) [Namjera uporabe žiga] Kad neka ugovorna stranka, kao ugovorna stranka naznačena prema Protokolu, zahtijeva izjavu o namjeri uporabe žiga, ona o tom zahtjevu mora obavijestiti glavnoga direktora. Kad ta ugovorna stranka zahtijeva da izjava bude potpisana od strane samoga podnositelja prijave i da bude na posebnom službenom obrascu priloženome međunarodnoj prijavi, obavijest mora sadržavati takvu izjavu i točan navod teksta tražene izjave. Kad ugovorna stranka zahtijeva da izjava bude na engleskom, francuskom ili španjolskom, u obavijesti se mora navesti traženi jezik.

(3) [Obavijest] a) Svaka obavijest iz stavka 2. može se dostaviti u trenutku kad ugovorna stranka polaže svoju ispravu o ratifikaciji, prihvatu, odobrenju ili pristupu Protokolu, a obavijest ima učinak od dana stupanja na snagu Protokola u odnosu na ugovornu stranku koja je uputila tu obavijest. Obavijest se može dostaviti i kasnije, a u tom slučaju, u odnosu na sve međunarodne registracije čiji je datum isti ili kasniji od datuma od kojega obavijest ima učinak, obavijest ima učinak istekom tri mjeseca od njezina primitka od strane glavnoga direktora ili bilo kojega kasnijeg datuma navedenog u obavijesti.

b) Svaka obavijest upućena u skladu sa stavkom 1., kakav je bio na snazi prije 4. listopada 2001. [\[1\]](#), ili u skladu sa stavkom 2. može se povući u bilo koje doba. Obavijest o povlačenju upućuje se glavnome direktoru. Povlačenje počinje proizvoditi učinak nakon što glavni direktor primi obavijest o povlačenju ili bilo kojega kasnijeg datuma navedenoga u obavijesti.

Poglavlje 2. MEĐUNARODNE PRIJAVE

Pravilo 8. VIŠE PODNOSITELJA PRIJAVE

(1) [Dva podnositelja prijave ili više njih koji podnose prijavu isključivo prema Sporazumu ili i prema Sporazumu i prema Protokolu] Dva podnositelja prijave ili više njih mogu zajednički podnijeti međunarodnu prijavu isključivo prema Sporazumu ili i prema Sporazumu i prema Protokolu ako su zajednički nositelji osnovne registracije i ako im je zemlja podrijetla, kako je definirana u članku 1. stavku 3. Sporazuma, ista.

(2) [Dva podnositelja prijave ili više njih koji podnose prijavu isključivo prema Protokolu] Dva podnositelja prijave ili više njih mogu zajednički podnijeti međunarodnu prijavu isključivo prema Protokolu ako su zajednički podnijeli osnovnu prijavu, ili ako su zajednički nositelji osnovne registracije i ako svaki od njih, u odnosu na ugovornu stranku čiji ured je ured podrijetla, ispunjava uvjete za podnošenje međunarodne prijave prema članku 2. stavku 1. Protokola.

Pravilo 9. UVJETI ZA MEĐUNARODNU PRIJAVU

(1) [Podnošenje] Međunarodnu prijavu Međunarodnom uredu podnosi ured podrijetla.

(2) [Obrazac i potpis] a) Međunarodna prijava podnosi se na službenom obrascu u jednom primjerku.

b) Međunarodnu prijavu potpisuje ured podrijetla i, ako to ured podrijetla zahtijeva, podnositelj prijave. Kad ured podrijetla ne zahtijeva da podnositelj prijave potpiše međunarodnu prijavu, ali dopušta da ju potpiše i podnositelj, podnositelj prijave to može učiniti.

(3) [Pristojbe] Propisane pristojbe za međunarodnu prijavu plaćaju se kako je propisano pravilima 10., 34. i 35.

(4) [Sadržaj međunarodne prijave] a) Međunarodna prijava mora sadržavati ili navoditi:

i) ime podnositelja prijave, navedeno u skladu s Administrativnim uputama,

ii) adresu podnositelja prijave, navedenu u skladu s Administrativnim uputama,

iii) ime i adresu zastupnika, ako on postoji, navedene u skladu s Administrativnim uputama,

iv) kad se podnositelj prijave želi, prema Pariškoj konvenciji za zaštitu industrijskoga vlasništva, koristiti pravom prvenstva iz neke ranije prijave, izjavu o zahtijevanju priznavanja prava prvenstva iz te ranije prijave, zajedno s podatkom o nazivu ureda kojemu je ta prijava podnesena, datumom i brojem te prijave, kad on postoji i, kad se ranija prijava ne odnosi na sve proizvode i usluge navedene u međunarodnoj prijavi, naznakom proizvoda i usluga na koje se ranija prijava odnosi,

v) reprodukciju žiga koja mora stati u za nju predviđen okvir na službenom obrascu; ta reprodukcija mora biti jasna i, ovisno o tome je li reprodukcija u osnovnoj prijavi ili osnovnoj registraciji crno-bijela ili u boji, mora biti crno-bijela ili u boji,

vi) kad podnositelj prijave želi da se žig smatra žigom napisanim standardnim znakovima, izjavu o tome,

vii) kad je u osnovnoj prijavi ili osnovnoj registraciji zahtijevana zaštita boje kao razlikovnog elementa žiga ili kad podnositelj prijave želi zahtijevati zaštitu boje kao razlikovnog elementa žiga, a žig iz osnovne prijave ili osnovne registracije je u boji, naznaku da se zahtijeva zaštita boje i navođenje riječima boje ili kombinacije boja koja se želi zaštititi i, kad je priložena reprodukcija iz točke v) crno-bijela, jednu reprodukciju žiga u boji,

viiibis.) kad se žig koji je predmet osnovne prijave ili osnovne registracije sastoji od boje ili kombinacije boja kao takvih, podatak o tome,

viii) kad se osnovna prijava ili osnovna registracija odnose na trodimenzijski žig, naznaku »trodimenzijski žig«,

ix) kad se osnovna prijava ili osnovna registracija odnosi na zvučni žig, naznaku »zvučni žig«,

x) kad se osnovna prijava ili osnovna registracija odnose na zajednički, certifikacijski ili jamstveni žig, podatak o tome,

xi) kad osnovna prijava ili osnovna registracija sadržava opis žiga riječima, a podnositelj prijave želi uključiti taj opis ili ured podrijetla zahtijeva uključivanje tog opisa, taj opis; kad je spomenuti opis na jeziku koji nije jezik međunarodne prijave, mora ga se napisati na jeziku međunarodne prijave,

xii) kad žig sadržava slova koja nisu latinična ili brojke koje nisu arapske ili rimske ili kad se od njih sastoji, transliteraciju tih slova u latinična ili tih brojki u arapske; transliteracija u latinična slova mora slijediti fonetiku jezika međunarodne prijave,

xiii) nazive proizvoda i usluga za koje se traži međunarodna registracija žiga, razvrstane u odgovarajuće razrede Međunarodne klasifikacije proizvoda i usluga, s brojem razreda ispred svake skupine, navedene prema redosljedu razreda te klasifikacije; proizvodi i usluge moraju biti navedeni preciznim izrazima, a poželjno je rabiti riječi iz abecednoga popisa spomenute klasifikacije; međunarodna prijava može sadržavati ograničenja popisa proizvoda i usluga u odnosu na jednu ili u odnosu na više naznačenih ugovornih stranaka; ograničenje u odnosu na svaku ugovornu stranku može biti različito,

xiv) iznos pristojbi koje se plaćaju i način plaćanja ili nalog da se traženim iznosom pristojbi tereti račun otvoren pri Međunarodnom uredu kao i identifikaciju stranke koja obavlja uplatu ili daje nalog i

xv) naznačene ugovorne stranke.

b) Međunarodna prijava može sadržavati i:

i) kad je podnositelj prijave fizička osoba, naznaku države čiji je podnositelj prijave državljanin;

ii) kad je podnositelj prijave pravna osoba, podatak o pravnoj naravi te pravne osobe i državi te, prema potrebi, podatak o teritorijalnoj jedinici unutar te države prema čijem je zakonu ta pravna osoba ustrojena;

iii) kad žig sadržava jednu ili više riječi koje se mogu prevesti ili kad se od njih sastoji, prijevod te riječi ili tih riječi na engleski, francuski i španjolski ili na bilo koji od tih jezika ili na dva takva jezika;

iv) kad podnositelj prijave zahtijeva zaštitu boje kao razlikovnog elementa žiga, navođenje riječima svake boje glavnih dijelova žiga koji su u toj boji;

v) kad se podnositelj prijave želi odreći zaštite nekoga elementa žiga, naznaku o tome i elementu ili elementima čije se zaštite odriče.

(5) [Dodatni sadržaj međunarodne prijave] a) Međunarodna prijava podnesena isključivo prema Sporazumu ili i prema Sporazumu i prema Protokolu mora sadržavati broj i datum osnovne registracije i podatak o jednoj od sljedećih činjenica:

i) da podnositelj prijave ima stvarno i djelatno industrijsko ili trgovačko poduzeće na teritoriju države ugovornice čiji ured je ured podrijetla ili

ii) kad podnositelj prijave nema takvo poduzeće u nekoj državi ugovornici Sporazuma, da ima prebivalište na teritoriju države čiji ured je ured podrijetla ili

iii) kad podnositelj prijave nema takvo poduzeće ili prebivalište na teritoriju neke države ugovornice Sporazuma, da je državljanin države čiji ured je ured podrijetla.

b) Međunarodna prijava podnesena isključivo prema Protokolu mora sadržavati broj i datum osnovne prijave ili osnovne registracije i podatak o jednoj od sljedećih činjenica ili o više njih:

i) kad je država ugovorna stranka, čiji ured je ured podrijetla, da je podnositelj prijave državljanin te države;

ii) kad je organizacija ugovorna stranka, čiji ured je ured podrijetla, naziv države članice te organizacije čiji je podnositelj prijave državljanin;

iii) da podnositelj prijave ima prebivalište na teritoriju ugovorne stranke čiji ured je ured podrijetla.

iv) da podnositelj prijave ima stvarno i djelatno industrijsko ili trgovačko poduzeće na teritoriju ugovorne stranke čiji ured je ured podrijetla.

c) Kad adresa podnositelja prijave navedena u skladu sa stavkom 4. podstavkom a) točkom ii) nije na teritoriju ugovorne stranke čiji ured je ured podrijetla, a u podstavku a) točki i) ili točki ii) ili podstavku b) točki iii) ili točki iv) navedeno je da podnositelj prijave ima prebivalište ili

poduzeće na teritoriju te ugovorne stranke, u međunarodnoj prijavi navodi se to prebivalište ili adresa toga poduzeća.

d) Međunarodna prijava mora sadržavati izjavu ureda podrijetla kojom se potvrđuje:

i) datum kojega je ured podrijetla primio ili se, kako je predviđeno pravilom 11. stavkom 1., smatra da je primio zahtjev podnositelja prijave da se međunarodna prijava podnese Međunarodnom uredu,

ii) da su podnositelj prijave koji je naveden u međunarodnoj prijavi i podnositelj prijave koji je naveden u osnovnoj prijavi ili nositelj osnovne registracije, ovisno o slučaju, ista osoba,

iii) da je svaki podatak iz stavka 4. podstavka a) točaka od vii) do xi) koji je naveden u međunarodnoj prijavi naveden i u osnovnoj prijavi ili osnovnoj registraciji, ovisno o slučaju,

iv) da je žig koji je predmet međunarodne prijave, isti kao i u osnovnoj prijavi ili osnovnoj registraciji, ovisno o slučaju,

v) da je, ako je zaštita boje kao razlikovnog elementa žiga zahtijevana u osnovnoj prijavi ili osnovnoj registraciji, isti zahtjev uključen u međunarodnu prijavu ili ako je zaštita boje kao razlikovnog elementa žiga zahtijevana u međunarodnoj prijavi, a da nije zahtijevana u osnovnoj prijavi ili osnovnoj registraciji, da je žig u osnovnoj prijavi ili osnovnoj registraciji zaista u zahtijevanoj boji ili kombinaciji boja koja se traži i

vi) da su proizvodi i usluge koji su navedeni u međunarodnoj prijavi, obuhvaćeni popisom proizvoda i usluga koji je naveden u osnovnoj prijavi ili osnovnoj registraciji, ovisno o slučaju.

e) Kad se međunarodna prijava zasniva na dvije osnovne prijave ili osnovne registracije ili više njih, smatra se da se izjava iz podstavka d) odnosi na sve te osnovne prijave ili osnovne registracije.

f) Kad međunarodna prijava sadržava naznaku ugovorne stranke koja je dostavila obavijest u skladu s pravilom 7. stavkom 2., mora sadržavati i izjavu o namjeri uporabe žiga na teritoriju te ugovorne stranke; ta se izjava smatra dijelom naznake ugovorne stranke koja ju zahtijeva i, u skladu s onim što ta ugovorna stranka zahtijeva, mora biti:

i) potpisana od strane podnositelja prijave i podnesena na posebnom službenom obrascu priloženome međunarodnoj prijavi ili

ii) uključena u međunarodnu prijavu.

g) Kad međunarodna prijava sadržava naznaku organizacije ugovornice može sadržavati i sljedeće podatke:

i) kad podnositelj prijave želi, u skladu sa zakonodavstvom te organizacije ugovornice, zahtijevati priznavanje starijeg prava iz jednog ranijeg žiga ili više njih, registriranih u državi članici te organizacije ili za tu državu, izjavu o tomu, u kojoj se navodi država članica ili države članice u kojima je ili za koje je raniji žig registriran, datum od kojega odnosna registracija vrijedi, broj odnosne registracije te proizvodi i usluge za koje je raniji žig

registriran. Takvi se podaci navode na službenom obrascu koji se prilaže uz međunarodnu prijavu;

ii) kad se, u skladu sa zakonodavstvom te organizacije ugovornice, od podnositelja prijave zahtijeva da uz jezik međunarodne prijave navede drugi službeni jezik pred uredom te organizacije ugovornice, podatak o tom drugom jeziku.

Pravilo 10.

PRISTOJBE KOJE SE ODNOSI NA MEĐUNARODNU PRIJAVU

(1) [Međunarodne prijave podnesene isključivo prema Sporazumu] Međunarodna prijava podnesena isključivo prema Sporazumu podliježe plaćanju osnovne pristojbe, dopunske pristojbe i, prema potrebi, dodatne pristojbe, određene u točki 1. Popisa pristojbi. Te se pristojbe plaćaju u dva obroka svaki za razdoblje od deset godina. Na plaćanje drugog obroka primjenjuje se pravilo 30.

(2) [Međunarodne prijave podnesene isključivo prema Protokolu] Međunarodna prijava podnesena isključivo prema Protokolu podliježe plaćanju osnovne pristojbe, dopunske pristojbe i/ili individualne pristojbe te, prema potrebi, dodatne pristojbe, određene ili navedene u točki 2. Popisa pristojbi. Te se pristojbe plaćaju za razdoblje od deset godina.

(3) [Međunarodne prijave podnesene i prema Sporazumu i prema Protokolu] Međunarodna prijava podnesena i prema Sporazumu i prema Protokolu podliježe plaćanju osnovne pristojbe, dopunske pristojbe i, prema potrebi, individualne pristojbe i dodatne pristojbe, određene ili navedene u točki 3 Popisa pristojbi. Kad je riječ o ugovornim strankama naznačenima prema Sporazumu, primjenjuje se stavak 1. Kad je riječ o ugovornim strankama naznačenima prema Protokolu, primjenjuje se stavak 2.

Pravilo 11.

NEPRAVILNOSTI KOJE SE NE TIČU KLASIFIKACIJE PROIZVODA I USLUGA ILI NJIHOVA NAVOĐENJA

(1) [Prijevremeni zahtjev uredu podrijetla] a) Kad je ured podrijetla primio zahtjev za podnošenje Međunarodnom uredu međunarodne prijave isključivo prema Sporazumu prije nego što je žig na koji se taj zahtjev odnosi upisan u registar spomenutog ureda, smatra se da je taj zahtjev primljen od strane ureda podrijetla, za potrebe članka 3. stavka 4. Sporazuma, na dan upisa žiga u registar spomenutog ureda.

b) Podložno podstavku c), kad ured podrijetla primi zahtjev za podnošenje Međunarodnom uredu međunarodne prijave i prema Sporazumu i prema Protokolu prije nego što je žig na koji se taj zahtjev odnosi upisan u registar spomenutog ureda, s međunarodnom prijavom postupa se kao s međunarodnom prijavom podnesenom isključivo prema Protokolu i ured podrijetla briše naznake svih ugovornih stranaka koje obvezuje Sporazum, ali ne i naznake ugovornih stranaka koje obvezuje Protokol.

c) Kad je zahtjev iz podstavka b) popraćen izričitim zahtjevom da se s međunarodnom prijavom postupa kao s međunarodnom prijavom podnesenom i prema Sporazumu i prema Protokolu nakon što žig bude upisan u registar ureda podrijetla, taj ured ne briše naznake ugovornih stranaka koje obvezuje Sporazum, ali ne i Protokol i smatra se da je zahtjev za podnošenje međunarodne prijave primljen od strane spomenutog ureda, za potrebe članka 3.

stavka 4. Sporazuma i članka 3. stavka 4. Protokola, na dan upisa žiga u registar spomenutog ureda.

(2) [Nepravilnosti koje mora ukloniti podnositelj prijave] a) Ako Međunarodni ured smatra da međunarodna prijava sadržava nepravilnosti, osim onih iz stavaka 3., 4. i 6. i pravila 12. i 13., o njima istodobno obavješćuje podnositelja prijave i ured podrijetla.

b) Takve nepravilnosti podnositelj prijave može ispraviti u roku od tri mjeseca od datuma obavijesti o nepravilnosti upućene od strane Međunarodnog ureda. Ako se nepravilnost ne ukloni u roku od tri mjeseca od datuma obavijesti o toj nepravilnosti upućene od strane Međunarodnog ureda, smatra se da se od međunarodne prijave odustalo i Međunarodni ured o tome istodobno obavješćuje podnositelja prijave i ured podrijetla.

(3) [Nepravilnost koju mora ukloniti podnositelj prijave ili ured podrijetla] a) Bez obzira na stavak 2., kad su pristojbe koje se plaćaju prema pravilu 10. plaćene Međunarodnom uredu od strane ureda podrijetla, a Međunarodni ured smatra da je primljeni iznos pristojbi manji od zahtijevanog iznosa, o tome istodobno obavješćuje ured podrijetla i podnositelja prijave. U obavijesti se mora navesti iznos koji nedostaje.

b) Iznos koji nedostaje može platiti ured podrijetla ili podnositelj prijave u roku od tri mjeseca od datuma obavijesti upućene od strane Međunarodnog ureda. Ako iznos koji nedostaje nije uplaćen u roku od tri mjeseca od datuma obavijesti o nepravilnosti upućene od strane Međunarodnog ureda, smatra se da se od međunarodne prijave odustalo i Međunarodni ured o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

(4) [Nepravilnosti koje mora ukloniti ured podrijetla] a) Ako Međunarodni ured:

i) ustanovi da međunarodna prijava ne udovoljava uvjetima iz pravila 2. ili da nije podnesena na službenom obrascu propisanom pravilom 9. stavkom 2. točkom a),

ii) ustanovi da međunarodna prijava sadržava neku od nepravilnosti iz pravila 15. stavka 1.,

iii) smatra da međunarodna prijava sadržava nepravilnosti koje se odnose na pravo podnositelja prijave da podnese međunarodnu prijavu,

iv) smatra da međunarodna prijava sadržava nepravilnosti koje se odnose na izjavu ureda podrijetla iz pravila 9. stavka 5. točke d),

v) [brisan]

vi) ustanovi da međunarodna prijava nije potpisana od strane ureda podrijetla ili

vii) ustanovi da međunarodna prijava ne sadržava datum i broj osnovne prijave ili osnovne registracije, ovisno o slučaju, o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

b) Takve nepravilnosti ured podrijetla može ukloniti u roku od tri mjeseca od datuma obavijesti o nepravilnosti upućene od strane Međunarodnog ureda. Ako nepravilnost nije uklonjena u roku od tri mjeseca od datuma obavijesti o toj nepravilnosti upućene od strane

Međunarodnog ureda, smatra se da se od međunarodne prijave odustalo i Međunarodni ured o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

(5) [Povrat pristojbi] Kad se, u skladu sa stavkom 2. podstavkom b), stavkom 3. ili stavkom 4. podstavkom b), smatra da se od međunarodne prijave odustalo, Međunarodni ured vraća pristojbe plaćene za tu prijavu stranci koja ih je platila, nakon oduzimanja iznosa koji odgovara polovici osnovne pristojbe iz točki 1.1.1, 2.1.1 ili 3.1.1 Popisa pristojbi.

(6) [Druge nepravilnosti u vezi s naznakom ugovorne stranke prema Protokolu] a) Kad je, u skladu s člankom 3. stavkom 4. Protokola, Međunarodni ured primio međunarodnu prijavu u roku od dva mjeseca od datuma primitka te međunarodne prijave od strane ureda podrijetla, a Međunarodni ured smatra da je izjava o namjeri uporabe žiga prema pravilu 9. stavku 5. podstavku f) potrebna, ali nedostaje ili nije u skladu s propisanim uvjetima, Međunarodni ured o tome odmah i istodobno obavješćuje podnositelja prijave i ured podrijetla.

b) Smatra se da je izjava o namjeri uporabe žiga primljena od strane Međunarodnoga ureda zajedno s međunarodnom prijavom ako Međunarodni ured primi nedostavljenu ili ispravljenu izjavu u roku od dva mjeseca iz podstavka a).

c) Smatra se da međunarodna prijava ne sadržava naznaku ugovorne stranke za koju je potrebna izjava o namjeri uporabe žiga ako je nedostavljena ili ispravljena izjava primljena nakon roka od dva mjeseca iz podstavka b). Međunarodni ured o tome istodobno obavješćuje podnositelja prijave i ured podrijetla, vraća pristojbe za naznaku već plaćene u odnosu na tu ugovornu stranku i navodi da se naznaka spomenute ugovorne stranke može obaviti kao naknadna naznaka prema pravilu 24., uz uvjet da je ta naznaka popraćena potrebnom izjavom.

(7) [Međunarodna prijava koja se ne smatra takvom] Ako je međunarodna prijava podnesena izravno Međunarodnom uredu od strane podnositelja prijave ili ako ne udovoljava uvjetima iz pravila 6. stavka 1., ta se prijava ne smatra međunarodnom prijavom i vraća se pošiljatelju.

Pravilo 12.

NEPRAVILNOSTI U VEZI S KLASIFIKACIJOM PROIZVODA I USLUGA

(1) [Prijedlog klasifikacije] a) Ako Međunarodni ured smatra da uvjeti iz pravila 9. stavka 4. podstavka a) točke xiii) nisu ispunjeni, on daje vlastiti prijedlog klasifikacije i svrstavanja i obavijest o svojem prijedlogu istodobno šalje uredu podrijetla i podnositelju prijave.

b) Obavijest o prijedlogu mora sadržavati i iznos pristojbi, ako postoje, koje je potrebno platiti za predloženu klasifikaciju i svrstavanje.

(2) [Mišljenje koje se razlikuje od prijedloga] Ured podrijetla može Međunarodnom uredu priopćiti mišljenje o predloženoj klasifikaciji i svrstavanju u roku od tri mjeseca od datuma obavijesti o prijedlogu.

(3) [Podsjećanje na prijedlog] Ako u roku od dva mjeseca od datuma obavijesti iz stavka 1. podstavka a) ured podrijetla nije priopćio mišljenje o predloženoj klasifikaciji i svrstavanju, Međunarodni ured šalje uredu podrijetla i podnositelju prijave priopćenje kojim ponavlja prijedlog. Slanje toga priopćenja ne utječe na rok od tri mjeseca iz stavka 2.

(4) [Povlačenje prijedloga] Ako Međunarodni ured, zbog mišljenja priopćenoga na temelju stavka 2., povuče svoj prijedlog, o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

(5) [Izmjena prijedloga] Ako Međunarodni ured, zbog mišljenja priopćenoga na temelju stavka 2., izmijeni svoj prijedlog, o toj izmjeni, kao i o svakoj promjeni iznosa iz stavka 1. podstavka b) koja proizlazi iz izmjene prijedloga istodobno obavješćuje ured podrijetla i podnositelja prijave.

(6) [Potvrđivanje prijedloga] Ako Međunarodni ured, bez obzira na mišljenje iz stavka 2., potvrdi svoj prijedlog, o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

(7) [Pristojbe] a) Ako Međunarodnom uredu nije priopćeno mišljenje iz stavka 2., iznos iz stavka 1. podstavka b) mora se platiti u roku od četiri mjeseca od datuma obavijesti iz stavka 1. podstavka a), a ako se to ne učini, smatra se da se od međunarodne prijave odustalo i Međunarodni ured o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

b) Ako je Međunarodnom uredu priopćeno mišljenje iz stavka 2., iznos iz stavka 1. podstavka b) ili, prema potrebi, iz stavka 5., mora se platiti u roku od tri mjeseca od datuma obavijesti Međunarodnog ureda o izmjeni ili potvrđivanju njegova prijedloga prema stavku 5. ili stavku 6., ovisno o slučaju, a ako se to ne učini, smatra se da se od međunarodne prijave odustalo i Međunarodni ured o tome istodobno obavješćuje ured podrijetla i podnositelja prijave.

c) Ako je Međunarodnom uredu priopćeno mišljenje na temelju stavka 2., i ako zbog toga mišljenja Međunarodni ured povuče svoj prijedlog u skladu sa stavkom 4., iznos iz stavka 1. podstavka b) ne mora se platiti.

(8) [Povrat pristojbi] Kad se, u skladu sa stavkom 7., smatra da se od međunarodne prijave odustalo, Međunarodni ured vraća pristojbe plaćene za tu prijavu stranci koja ih je platila, nakon oduzimanja iznosa koji odgovara polovici osnovne pristojbe iz točaka 1.1.1, 2.1.1 ili 3.1.1 Popisa pristojbi.

(9) [Klasifikacija u registraciji] Podložno usklađenosti međunarodne prijave s drugim propisanim uvjetima, žig se registrira prema klasifikaciji i svrstavanju koje Međunarodni ured smatra ispravnim.

Pravilo 13.

NEPRAVILNOSTI U SVEZI S NAVOĐENJEM PROIZVODA I USLUGA

(1) [Priopćavanje nepravilnosti uredu podrijetla od strane Međunarodnog ureda] Ako Međunarodni ured smatra da je neki od proizvoda i usluga u međunarodnoj prijavi naveden izrazom koji je previše neodređen za potrebe klasifikacije ili je nerazumljiv ili je jezično nepravilan, o tome istodobno obavješćuje ured podrijetla i podnositelja prijave. U istoj obavijesti Međunarodni ured može predložiti zamjenski izraz ili brisanje tog izraza.

(2) [Rok za uklanjanje nepravilnosti] a) Ured podrijetla može dati prijedlog za uklanjanje nepravilnosti u roku od tri mjeseca od datuma obavijesti iz stavka 1.

b) Ako nikakav prijedlog za uklanjanje nepravilnosti, prihvatljiv Međunarodnome uredu, nije podnesen u roku iz podstavka a), Međunarodni ured u međunarodnoj registraciji navodi izraz

kakav je naveden u međunarodnoj prijavi, pod uvjetom da je ured podrijetla odredio razred u koji bi se taj pojam trebao svrstati; međunarodna registracija sadržava napomenu da je, po mišljenju Međunarodnog ureda, određeni izraz previše neodređen za potrebe klasifikacije ili da je nerazumljiv ili jezično nepravilan, ovisno o slučaju. Kad ured podrijetla nije odredio razred, Međunarodni ured ex officio briše spomenuti izraz i o tome istodobno obavještuje ured podrijetla i podnositelja prijave.

Poglavlje 3. MEĐUNARODNE REGISTRACIJE

Pravilo 14. UPIS ŽIGA U MEĐUNARODNI REGISTAR

(1) [Upis žiga u međunarodni registar] Kad Međunarodni ured ustanovi da međunarodna prijava udovoljava propisanim uvjetima, upisuje žig u međunarodni registar, obavještuje o međunarodnoj registraciji urede naznačenih ugovornih stranaka, o tome obavještuje ured podrijetla i nositelju šalje potvrdu. Kad ured podrijetla to želi i o tome je obavijestio Međunarodni ured, potvrda se šalje nositelju preko ureda podrijetla.

(2) [Sadržaj registracije] Međunarodna registracija sadržava:

i) sve podatke sadržane u međunarodnoj prijavi, osim zahtjeva za priznavanje prvenstva iz pravila 9. stavka 4. podstavka a) točke iv) kad je od datuma ranije prijave do datuma međunarodne registracije proteklo više od šest mjeseci,

ii) datum međunarodne registracije,

iii) broj međunarodne registracije,

iv) kad se žig može klasificirati prema Međunarodnoj klasifikaciji figurativnih elemenata i osim ako međunarodna prijava sadržava izjavu da podnositelj prijave želi da se žig smatra žigom napisanim standardnim znakovima, odgovarajuće klasifikacijske oznake spomenute klasifikacije, kako ih je odredio Međunarodni ured,

v) napomenu o svakoj naznačenoj ugovornoj stranci, o tome je li riječ o ugovornoj stranci naznačenoj prema Sporazumu ili o ugovornoj stranci naznačenoj prema Protokolu.

(vi) podatke priložene uz međunarodnu prijavu u skladu s pravilom 9. stavkom 5. podstavkom g) točkom i) o državi ugovornici ili državama ugovornicama u kojima je ili u odnosu na koje je raniji žig, iz kojega se zahtijeva priznavanje starijeg prava, registriran, datum od kojega vrijedi registracija toga ranijeg žiga i broj odnosne registracije.

Pravilo 15. DATUM MEĐUNARODNE REGISTRACIJE

(1) [Nepravilnosti koje utječu na datum međunarodne registracije] Kad međunarodna prijava koju primi Međunarodni ured ne sadržava sve sljedeće elemente:

i) podatke koji omogućuju utvrđivanje identiteta podnositelja prijave i kontaktiranje s podnositeljem prijave ili s njegovim zastupnikom, ako ga ima,

ii) ugovorne stranke koje su naznačene,

iii) reprodukciju žiga,

iv) naznaku proizvoda i usluga za koje se traži registracija žiga, međunarodna registracija nosi datum kojega je posljednji od elemenata koji nedostaju dostavljen Međunarodnome uredu. Kad je posljednji od elemenata koji nedostaju dostavljen Međunarodnome uredu u roku od dva mjeseca iz članka 3. stavka 4. Sporazuma i članka 3. stavka 4. Protokola, međunarodna registracija nosi datum kojega je nepotpunu međunarodnu prijavu primio ili se, kako je predviđeno pravilom 11. stavkom 1., smatra da je primio ured podrijetla.

(2) [Datum međunarodne registracije u drugim slučajevima] U svim drugim slučajevima međunarodna registracija nosi datum određen u skladu s člankom 3. stavkom 4. Sporazuma i s člankom 3. stavkom 4. Protokola.

Poglavlje 4.

OKOLNOSTI U UGOVORNIM STRANKAMA KOJE UTJEČU NA MEĐUNARODNE REGISTRACIJE

Pravilo 16.

ROK ZA DOSTAVU OBAVIJESTI O PRIVREMENOM ODBIJANJU NA TEMELJU PRIGOVORA

(1) [Obavijesti koje se odnose na moguće prigovore] a) Podložno članku 9. sexies. stavku 1. podstavku b) Protokola, kad bilo koja ugovorna stranka da izjavu u skladu s člankom 5. stavkom 2. podstavkom b) i prvom rečenicom podstavka c) Protokola i kad, u odnosu na određenu međunarodnu registraciju kojom je naznačena ta ugovorna stranka, postane očito da će rok za prigovor isteći nakon isteka roka od 18 mjeseci iz članka 5. stavka 2. podstavka b), u kojemu se Međunarodnom uredu može dostaviti obavijest o privremenom odbijanju na temelju prigovora, ured te ugovorne stranke obavješćuje Međunarodni ured o broju i imenu nositelja te međunarodne registracije.

b) Kad su u trenutku slanja obavijesti iz podstavka a) poznati datumi kad počinje teći ili istječe rok za prigovor, ti se datumi moraju navesti u obavijesti. Ako ti datumi u tom trenutku još nisu poznati, mora ih se Međunarodnom uredu priopćiti najkasnije u trenutku dostave obavijesti o privremenom odbijanju na temelju prigovora.

c) Kad se primjenjuje podstavak a), a ured iz toga podstavka je, prije isteka roka od 18 mjeseci iz istoga podstavka, obavijestio Međunarodni ured o tome da će rok za podnošenje prigovora isteći u roku od 30 dana koji prethode isteku roka od 18 mjeseci, te o mogućnosti podnošenja prigovora tijekom tih 30 dana, privremeno odbijanje na temelju prigovora podnesenoga tijekom tih 30 dana može se priopćiti Međunarodnom uredu u roku od jednoga mjeseca od datuma podnošenja prigovora.

(2) [Upis i prosljeđivanje obavijesti] Međunarodni ured upisuje u međunarodni registar obavijesti primljene prema stavku 1. i te obavijesti prosljeđuje nositelju.

Pravilo 17.

PRIVREMENO ODBIJANJE I IZJAVA O PRIZNAVANJU ZAŠTITE

(1) [Obavijest o privremenom odbijanju] a) Obavijest o privremenom odbijanju može sadržavati izjavu o razlozima zbog kojih ured koji tu obavijest daje smatra da zaštita ne može biti priznata u toj ugovornoj stranci (»privremeno odbijanje ex officio«) ili izjavu da zaštita ne može biti priznata u toj ugovornoj stranci jer je podnesen prigovor (»privremeno odbijanje na temelju prigovora«) ili obje te izjave.

b) Obavijest o privremenom odbijanju mora se odnositi na jednu međunarodnu registraciju, mora nositi datum i mora biti potpisana od strane ureda koji ju daje.

(2) [Sadržaj obavijesti] Obavijest o privremenom odbijanju mora sadržavati ili navoditi:

i) ured koji daje tu obavijest,

ii) broj međunarodne registracije, koji je poželjno popratiti drugim podacima koji omogućavaju identificiranje međunarodne registracije, kao što su verbalni elementi žiga ili broj osnovne prijave ili broj osnovne registracije,

iii) [brisan],

iv) sve razloge na kojima se temelji privremeno odbijanje, uz navođenje odgovarajućih bitnih odredbi zakona,

v) kad se razlozi na kojima se temelji privremeno odbijanje odnose na žig koji je predmet prijave ili registracije, a s kojim se čini da je žig koji je predmet međunarodne registracije u sukobu, datum i broj prijave, datum prvenstva (ako postoji), datum i broj registracije (ako su dostupni), ime i adresu nositelja i reprodukciju ranijega žiga, zajedno s popisom svih relevantnih proizvoda i usluga u prijavi ili registraciji ranijega žiga, pri čemu se razumijeva da taj popis može biti na jeziku spomenute prijave ili spomenute registracije,

vi) ili da se razlozi na kojima se temelji privremeno odbijanje odnose na sve proizvode i usluge ili na naznaku proizvoda i usluga na koje se privremeno odbijanje odnosi ili onih na koje se ne odnosi,

vii) rok, koji je pod danim uvjetima razuman, za podnošenje zahtjeva za preispitivanje ili za žalbu protiv, ex officio privremenog odbijanja ili privremenog odbijanja na temelju prigovora i, ovisno o slučaju, za podnošenje očitovanja na prigovor, pri čemu je poželjno navesti datum kojega istječe spomenuti rok te tijelo kojem bi se takav zahtjev za preispitivanje, žalba ili očitovanje trebali podnijeti, s naznakom, prema potrebi, da se zahtjev za preispitivanje, žalba ili očitovanje podnosi posredstvom zastupnika čija je adresa na teritoriju ugovorne stranke čiji je ured izrekao odbijanje.

(3) [Dodatni uvjeti vezani uz obavijest o privremenom odbijanju temeljenom na prigovoru] Kad se privremeno odbijanje zaštite temelji na prigovoru ili na prigovoru i drugim razlozima, obavijest, uz to što mora udovoljavati uvjetima iz stavka 2., mora sadržavati podatak o toj činjenici te ime i adresu podnositelja prigovora; međutim, bez obzira na stavak 2. podstavak v), ured koji dostavlja obavijest mora, kad se prigovor temelji na žigu koji je predmet prijave ili registracije, dostaviti popis proizvoda i usluga na kojima se temelji prigovor, a uz to može

dostaviti cijeli popis proizvoda i usluga te ranije prijave ili ranije registracije, pri čemu se razumijeva da ti popisi mogu biti na jeziku ranije prijave ili ranije registracije.

(4) [Upis; Prosljeđivanje primjeraka obavijesti] Međunarodni ured upisuje privremeno odbijanje u međunarodni registar zajedno s podacima sadržanim u obavijesti, s naznakom datuma kojega je obavijest poslana ili se prema pravilu 18. stavku 1. podstavku d) smatra da je poslana Međunarodnom uredu i istodobno prosljeđuje jedan primjerak te obavijesti nositelju i jedan primjerak uredu podrijetla, ako je taj ured obavijestio Međunarodni ured da želi primati takve primjerke.

(5) [Potvrda ili povlačenje privremenog odbijanja] a) Kad su pred uredom koji je Međunarodnom uredu dostavio obavijest o privremenom odbijanju završeni svi postupci koji se odnose na zaštitu žiga, taj ured mora Međunarodnom uredu poslati izjavu u kojoj navodi ili:

i) da je zaštita žiga odbijena u odnosnoj ugovornoj stranci za sve proizvode i usluge

ii) da je žig zaštićen u odnosnoj ugovornoj stranci za sve zatražene proizvode i usluge ili

iii) proizvode i usluge za koje je žig zaštićen u odnosnoj ugovornoj stranci.

b) Kad, nakon slanja izjave u skladu s podstavkom a), neka kasnija odluka utječe na zaštitu žiga, ured, u okvirima u kojima mu je poznata ta odluka, šalje Međunarodnom uredu drugu izjavu navodeći proizvode i usluge za koje je žig zaštićen u odnosnoj ugovornoj stranci.[\[2\]](#)

c) Međunarodni ured upisuje svaku primljenu izjavu prema podstavku a) ili podstavku b) u međunarodni registar i prosljeđuje primjerak te izjave nositelju.

d) ured ugovorne stranke može izjavom obavijestiti glavnoga direktora, u skladu sa zakonom te ugovorne stranke:

i) da je svako privremeno odbijanje o kojem je obaviješten Međunarodni ured predmet preispitivanja od strane tog ureda, bez obzira na to je li nositelj zatražio to preispitivanje ili nije i

ii) da odluka donesena nakon toga preispitivanja može biti predmet daljnjega preispitivanja ili žalbe pred tim uredom.

Kad vrijedi takva izjava, a ured nije u mogućnosti spomenutu odluku izravno dostaviti nositelju odnosno međunarodne registracije, bez obzira na činjenicu da pred uredom možda nisu završeni svi postupci koji se odnose na zaštitu žiga, ured šalje izjavu iz podstavka a) Međunarodnom uredu odmah nakon donošenja te odluke. Svaka kasnija odluka koja utječe na zaštitu žiga šalje se Međunarodnom uredu u skladu s podstavkom b).

e) Ured ugovorne stranke može izjavom obavijestiti glavnoga direktora da, u skladu sa zakonom te ugovorne stranke, svako privremeno odbijanje ex officio koje je dostavljeno Međunarodnom uredu nije podložno preispitivanju pred tim uredom. Kad vrijedi takva izjava, smatra se da svaka obavijest o privremenom odbijanju ex officio od strane tog ureda uključuje izjavu u skladu s podstavkom a) točkom i) ili iii).

(6) [Izjava o priznavanju zaštite] a) Ured koji nije dostavio obavijest o privremenom odbijanju može, u roku propisanome člankom 5. stavkom 2. Sporazuma ili člankom 5. stavkom 2. podstavkom a) ili podstavkom b) Protokola, poslati Međunarodnom uredu jednu od sljedećih izjava:

i) izjavu o tome da su završeni svi postupci pred uredom i da je ured odlučio priznati zaštitu žiga koji je predmet međunarodne registracije;

ii) izjavu o tome da je ispitivanje ex officio završeno i da ured nije našao razloge za odbijanje, ali da zaštita žiga još može biti predmet prigovora ili očitovanja trećih strana, s naznakom datuma do kojega se ti prigovori mogu podnijeti;

iii) kad je poslana izjava u skladu s točkom ii), drugu izjavu o tome da je istekao rok za podnošenje prigovora, a da nijedan prigovor ili očitovanje nije podneseno, te da je ured stoga odlučio priznati zaštitu žiga koji je predmet međunarodne registracije.[\[3\]](#)

b) Međunarodni ured upisuje svaku izjavu prema podstavku a) u međunarodni registar i jedan primjerak prosljeđuje nositelju.

Pravilo 18.

NEDOSTACI U OBAVIJESTIMA O PRIVREMENOM ODBIJANJU

(1) [Ugovorna stranka naznačena prema Sporazumu] a) Obavijest o privremenom odbijanju, dostavljena od strane ureda ugovorne stranke naznačene prema Sporazumu, Međunarodni ured ne smatra takvom obaviješću:

i) ako ona ne sadržava nijedan broj međunarodne registracije, osim ako se međunarodna registracija na koju se odnosi privremeno odbijanje može identificirati pomoću drugih podataka sadržanih u obavijesti,

ii) ako u njoj nisu navedeni nikakvi razlozi za odbijanje,

iii) ako je prekasno poslana Međunarodnom uredu, odnosno, ako je poslana nakon isteka jedne godine od datuma kad je obavljen upis međunarodne registracije ili upis naznake obavljene nakon međunarodne registracije, pri čemu se razumijeva da je spomenuti datum isti kao datum slanja obavijesti o međunarodnoj registraciji ili o naknadno obavljenoj naznaci.

b) Kad se primjenjuje podstavak a), Međunarodni ured ipak prosljeđuje primjerak obavijesti nositelju, istodobno obavješćuje nositelja i ured koji je poslao obavijest da Međunarodni ured obavijest o privremenom odbijanju ne smatra takvom obaviješću te navodi razloge za to.

c) Ako obavijest

i) nije potpisana od strane ureda koji ju je dostavio ili na neki

drugi način ne udovoljava uvjetima iz pravila 2. ili uvjetu propisanom pravilom 6. stavkom 2.,

ii) ne sadržava, prema potrebi, pojedinosti o žigu s kojim se čini da

je u sukobu žig koji je predmet međunarodne registracije (pravilo 17. stavak 2. točka v) i stavak 3.),

iii) ne udovoljava uvjetima iz pravila 17. stavka 2. točke vi),

iv) ne udovoljava uvjetima iz pravila 17. stavka 2. točke vii) ili

v) [brisan]

ne sadržava, prema potrebi, ime i adresu podnositelja prigovora i podatke o tome na kojim se proizvodima ili uslugama temelji prigovor (pravilo 17. stavak 3.), Međunarodni ured, osim kad se primjenjuje podstavak d), ipak upisuje privremeno odbijanje u međunarodni registar. Međunarodni ured poziva ured koji je dostavio privremeno odbijanje da pošalje ispravljenu obavijest u roku od dva mjeseca od poziva i nositelju prosljeđuje primjerke nepravilne obavijesti i poziva poslanoga odnosnom uredu.

d) Kad obavijest ne udovoljava uvjetima iz pravila 17. stavka 2. točke vii), privremeno odbijanje ne upisuje se u međunarodni registar. Međutim, ako je ispravljena obavijest poslana u roku iz podstavka c), smatra se, za potrebe članka 5. Sporazuma, da je poslana Međunarodnom uredu onoga dana kad je poslana neispravna obavijest. Ako obavijest nije ispravljena, ne smatra se obaviješću o privremenom odbijanju. Tada Međunarodni ured istodobno obavješćuje nositelja i ured koji je poslao obavijest da Međunarodni ured obavijest o privremenom odbijanju ne smatra takvom obaviješću te navodi razloge za to.

e) Svaka ispravljena obavijest, kad to dopušta zakon koji se primjenjuje, navodi novi rok, koji je pod danim uvjetima razuman, za podnošenje zahtjeva za preispitivanje ili žalbe protiv, privremenog odbijanja ex officio ili privremenog odbijanja na temelju prigovora i, ovisno o slučaju, za podnošenje očitovanja na prigovor, pri čemu je poželjno navesti datum kojega istječe spomenuti rok.

f) Međunarodni ured prosljeđuje primjerak svake ispravljene obavijesti nositelju.

(2) [Ugovorna stranka naznačena prema Protokolu] a) Stavak 1. primjenjuje se i u slučaju obavijesti o privremenom odbijanju dostavljene od strane ureda ugovorne stranke naznačene prema Protokolu, pri čemu se razumijeva da je rok iz stavka 1. podstavka a) točke iii) rok propisan u članku 5. stavku 2. podstavku a) ili, podložno članku 9. sexies. stavku 1. podstavku b) Protokola, u članku 5. stavku 2. podstavku b) ili podstavku c) točki ii) Protokola.

b) Stavak 1. podstavak a) primjenjuje se da bi se utvrdilo je li udovoljeno roku prije čijeg isteka ured određene ugovorne stranke mora Međunarodnom uredu dostaviti obavijest iz članka 5. stavka 2. podstavka c) točke i) Protokola. Ako je takva obavijest dostavljena nakon isteka toga roka, smatra se da nije ni dostavljena i Međunarodni ured o tome obavješćuje odnosni ured.

c) Kad se obavijest o privremenom odbijanju na temelju prigovora dostavlja prema članku 5. stavku 2. podstavku c) točki ii) Protokola, a da nije udovoljeno uvjetima iz članka 5. stavka 2. podstavka c) točke i) Protokola, ona se ne smatra obaviješću o privremenom odbijanju. U tom slučaju, Međunarodni ured ipak prosljeđuje primjerak obavijesti nositelju, i istodobno obavješćuje nositelja i ured koji je poslao obavijest da Međunarodni ured ne smatra obavijest o privremenom odbijanju takvom obaviješću te navodi razloge za to.

Pravilo 19.

PROGLAŠENJE NIŠTAVOSTI U NAZNAČENIM UGOVORNIM STRANKAMA

(1) [Sadržaj obavijesti o proglašenju ništavosti] Kad su učinci međunarodne registracije proglašeni ništavim u naznačenoj ugovornoj stranci prema članku 5. stavku 6. Sporazuma ili članku 5. stavku 6. Protokola, a odluka o proglašenju ništavosti više ne može biti predmet žalbe, ured ugovorne stranke čije je nadležno tijelo donijelo odluku o proglašenju ništavosti o tome obavješćuje Međunarodni ured. Obavijest mora sadržavati ili navoditi:

i) tijelo koje je donijelo odluku o proglašenju ništavosti,

ii) činjenicu da odluka o proglašenju ništavosti više ne može biti predmet žalbe,

iii) broj međunarodne registracije,

iv) ime nositelja,

v) ako se proglašenje ništavosti ne odnosi na sve proizvode i usluge, one u odnosu na koje je odluka o prestanku vrijednosti donesena ili one u odnosu na koje odluka o prestanku vrijednosti nije donesena i

vi) datum kojega je odluka o prestanku vrijednosti donesena i, kad je moguće, datum od kojega ta obavijest vrijedi.

(2) [Upis podatka o proglašenju ništavosti i obavješćivanje nositelja i ureda na koje se to odnosi] a) Međunarodni ured upisuje podatak o proglašenju ništavosti u međunarodni registar, zajedno s podacima sadržanima u obavijesti o proglašenju ništavosti, i o tome obavješćuje nositelja. Međunarodni ured o datumu kad je podatak o proglašenju ništavosti upisan u međunarodni registar obavješćuje i ured koji je dostavio obavijest o proglašenju ništavosti, ako je taj ured zatražio dostavu takve obavijesti.

b) Podatak o proglašenju ništavosti upisuje se u registar na datum na koji Međunarodni ured primi obavijest koja je u skladu s propisanim uvjetima.

Pravilo 20.

OGRANIČENJE NOSITELJEVA PRAVA RASPOLAGANJA

(1) [Dostava obavijesti] a) Nositelj međunarodne registracije ili ured ugovorne stranke nositelja može obavijestiti Međunarodni ured da je nositeljevo pravo raspolaganja međunarodnom registracijom ograničeno i, ako je potrebno, navodi ugovorne stranke na koje se to odnosi.

b) Ured svake naznačene ugovorne stranke može obavijestiti Međunarodni ured da je nositeljevo pravo raspolaganja ograničeno u odnosu na međunarodnu registraciju na teritoriju te ugovorne stranke.

c) Obavijest dana u skladu s podstavkom a) ili podstavkom b) mora sadržavati kratku izjavu o glavnim činjenicama koje se tiču ograničenja.

(2) [Djelomično ili potpuno ukidanje ograničenja] Kad je Međunarodni ured obaviješten o ograničenju nositeljeva prava raspolaganja u skladu sa stavkom 1., stranka koja je dostavila tu obavijest mora obavijestiti Međunarodni ured i o svakom djelomičnom ili potpunom ukidanju takva ograničenja.

(3) [Upis] a) Međunarodni ured upisuje u međunarodni registar obavijesti dostavljene prema stavcima 1. i 2. i o tome obavješćuje nositelja, ured ugovorne stranke nositelja i urede odnosnih naznačenih ugovornih stranaka.

b) Obavijest dostavljena prema stavcima 1. i 2. upisuje se u registar na datum na koji Međunarodni ured primi tu obavijest, pod uvjetom da je ta obavijest u skladu s propisanim uvjetima.

Pravilo 20.bis. LICENCIJE

(1) [Zahtjev za upis licencije] a) Zahtjev za upis licencije podnosi se Međunarodnom uredu na odgovarajućem službenom obrascu od strane nositelja ili, ako određeni ured dopušta takvo podnošenje, od strane ureda ugovorne stranke nositelja ili ureda ugovorne stranke u odnosu na koju je licencija izdana.

b) U zahtjevu se mora navesti:

i) broj odnosne međunarodne registracije,

ii) ime nositelja,

iii) ime i adresa stjecatelja licencije, navedeni u skladu s Administrativnim uputama,

iv) naznačene ugovorne stranke u odnosu na koje je licencija izdana,

v) da je licencija izdana za sve proizvode i usluge obuhvaćene međunarodnom registracijom ili proizvodi i usluge za koje je licencija izdana, razvrstani u odgovarajuće razrede Međunarodne klasifikacije proizvoda i usluga.

c) U zahtjevu se može navesti i sljedeće:

i) kad je stjecatelj licencije fizička osoba, država čiji je državljanin stjecatelj licencije,

ii) kad je stjecatelj licencije pravna osoba, pravnu narav te osobe i državu i, prema potrebi, teritorijalnu jedinicu te države, po čijem je zakonu ta pravna osoba ustrojena,

iii) da se licencija odnosi samo na jedan dio teritorija naznačene ugovorne stranke,

iv) kad stjecatelj licencije ima zastupnika, ime i adresa zastupnika, navedeni u skladu s Administrativnim uputama,

v) kad je licencija isključiva ili solo licencija, podatak o tome,[\[4\]](#)

vi) prema potrebi, trajanje licencije.

d) Zahtjev mora biti potpisan od strane nositelja ili ureda putem kojega je podnesen.

(2) [Nedostaci u zahtjevu] (a) Ako zahtjev za upis licencije ne udovoljava uvjetima iz stavka 1. podstavaka a), b) i d), Međunarodni ured o tome obavješćuje nositelja i, ako je zahtjev podnesen od strane ureda, taj ured.

(b) Ako nedostaci nisu uklonjeni u roku od tri mjeseca od datuma obavijesti Međunarodnog ureda o toj nepravilnosti, smatra se da se od zahtjeva odustalo i Međunarodni ured o tome odmah i istodobno obavješćuje nositelja i, ako je zahtjev podnesen od strane ureda, taj ured te vraća plaćene pristojbe stranci koja ih je platila, nakon što oduzme iznos koji odgovara polovici odgovarajućih pristojbi iz točke 7. Popisa pristojbi.

(3) [Upis i obavijest] a) Kad zahtjev udovoljava uvjetima iz stavka 1. podstavaka a), b) i d), Međunarodni ured upisuje licenciju u međunarodni registar, zajedno s podacima navedenima u zahtjevu, o tome istodobno obavješćuje urede naznačenih ugovornih stranaka u odnosu na koje je licencija dana, nositelja i, ako je zahtjev podnesen od strane ureda, taj ured.

b) Licencija se upisuje u registar na datum na koji Međunarodni ured primi zahtjev koji je u skladu s propisanim uvjetima.

(4) [Izmjena ili brisanje upisa licencije] Stavci od 1. do 3. primjenjuju se mutatis mutandis na zahtjev za izmjenu upisa licencije ili na zahtjev za brisanje upisa licencije.

(5) [Izjava da upis određene licencije nema učinak] a) Ured naznačene ugovorne stranke koji je od strane Međunarodnog ureda obaviješten o upisu licencije u odnosu na tu ugovornu stranku može dati izjavu da taj upis nema učinak u toj ugovornoj stranci.

b) U izjavi iz podstavka a) mora se navesti

i) razloge zbog kojih upis licencije nema učinak,

ii) kad se izjava ne odnosi na sve proizvode i usluge na koje se licencija odnosi, one na koje se izjava odnosi ili one na koje se izjava ne odnosi,

iii) odgovarajuće bitne odredbe zakona i

iv) može li ta odluka biti predmetom preispitivanja ili žalbe.

c) Izjava iz podstavka a) mora biti poslana Međunarodnom uredu prije isteka 18 mjeseci od datuma kad je obavijest iz stavka 3. poslana odnosnom uredu.

d) Međunarodni ured upisuje u međunarodni registar svaku izjavu danu u skladu s podstavkom c) i o tome obavješćuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis licencije. Izjava se upisuje u registar na datum na koji Međunarodni ured primi priopćenje koje je u skladu s propisanim uvjetima.

e) Svaka konačna odluka koja se odnosi na izjavu danu u skladu s podstavkom c) mora se priopćiti Međunarodnom uredu koji ju upisuje u međunarodni registar i o njoj obavješćuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis licencije.

(6) [Izjava da upis licencije u međunarodni registar nema učinak u ugovornoj stranci] a) Ured ugovorne stranke čiji zakon ne predviđa upis licencija na žig može obavijestiti glavnoga direktora da upis licencija u međunarodni registar nema učinak u toj ugovornoj stranci.

b) Ured ugovorne stranke čiji zakon predviđa upis licencija na žig može, prije datuma kad ovo pravilo stupa na snagu ili datuma kad određenu ugovornu stranku počinje obvezivati Sporazum ili Protokol, obavijestiti glavnoga direktora da upis licencija u međunarodni registar nema učinak u toj ugovornoj stranci. Ta se obavijest uvijek^[5] može povući.

Pravilo 21.

ZAMJENA NACIONALNE ILI REGIONALNE REGISTRACIJE MEĐUNARODNOM REGISTRACIJOM

(1) [Obavijest] Kad je, u skladu s člankom 4.bis. stavkom 2. Sporazuma ili s člankom 4.bis. stavkom 2. Protokola, ured naznačene ugovorne stranke, slijedom zahtjeva nositelja podnesenoga izravno tom uredu, u svoj registar upisao da je nacionalna ili regionalna registracija zamijenjena međunarodnom registracijom, taj ured o tome mora obavijestiti Međunarodni ured. U takvoj se obavijesti navodi:

i) broj odnosne međunarodne registracije,

ii) kad se zamjena odnosi samo na jedan proizvod i jednu uslugu ili na neke proizvode i usluge obuhvaćene međunarodnom registracijom, te proizvode i usluge i

iii) datum i broj prijave, datum i broj registracije te, ako postoji, datum prvenstva nacionalne ili regionalne registracije koja je zamijenjena međunarodnom registracijom.

Ta obavijest može sadržavati i podatke o bilo kojim drugim pravima stečenim na temelju te nacionalne ili te regionalne registracije, u obliku dogovorenom između Međunarodnog ureda i odnosnog ureda.

(2) [Upis] a) Međunarodni ured upisuje u međunarodni registar podatke dostavljene prema stavku 1. i o tome obavješćuje nositelja.

b) Podaci dostavljeni prema stavku 1. upisuju se u registar na datum na koji Međunarodni ured primi obavijest koja je u skladu s propisanim uvjetima.

Pravilo 21.bis.

DRUGI PODACI KOJI SE ODOSE NA ZAHTJEV ZA PRIZNAVANJE STARIJEG PRAVA IZ RANIJEG ŽIGA

(1) [Konačno odbijanje zahtjeva za priznavanje starijeg prava iz ranijeg žiga] Kad je zahtjev za priznavanje starijeg prava iz ranijeg žiga upisan u Međunarodni registar u odnosu na naznaku organizacije ugovornice, ured te organizacije obavješćuje Međunarodni ured o svakoj konačnoj odluci o odbijanju, u cijelosti ili djelomično, utemeljenosti takva zahtjeva.

(2) [Zahtjev za priznavanje starijeg prava iz ranijeg žiga nakon međunarodne registracije] Kad je nositelj međunarodne registracije u kojoj je naznačena organizacija ugovornica prema zakonu takve organizacije ugovornice podnio izravno uredu te organizacije zahtjev za priznavanje starijeg prava iz jednog ranijeg žiga ili više njih registriranih u državi članici te

organizacije ili za tu državu i kad je odnosni ured prihvatio takav zahtjev, taj ured mora o tome obavijestiti Međunarodni ured. U takvoj se obavijesti navodi:

i) broj odnosne međunarodne registracije i

ii) država članica ili države članice u kojima je ili za koje je raniji žig registriran, datum od kojega je registracija tog ranijeg žiga vrijedila i broj relevantne registracije.

(3) [Druge odluke koje utječu na zahtjev za priznavanje starijeg prava iz ranijeg žiga] Ured organizacije ugovornice obavješćuje Međunarodni ured o svakoj daljnjoj konačnoj odluci, uključujući povlačenje i brisanje koji utječu na pozivanje na starije pravo iz ranijeg žiga, upisanog u međunarodni registar.

(4) [Upis u međunarodni registar] Međunarodni ured upisuje u međunarodni registar podatke dostavljene prema stavcima od 1. do 3.

Pravilo 22.

PRESTANAK VRIJEDNOSTI OSNOVNE PRIJAVE, REGISTRACIJE KOJA JE IZ NJE PROIZAŠLA ILI OSNOVNE REGISTRACIJE

(1) [Obavijest o prestanku vrijednosti osnovne prijave, registracije koja je iz nje proizašla ili osnovne registracije] a) Kad se primjenjuje članak 6. stavci 3. i 4. Sporazuma ili članak 6. stavci 3. i 4. Protokola, ili oba, ured podrijetla o tome obavješćuje Međunarodni ured i navodi:

i) broj međunarodne registracije,

ii) ime nositelja,

iii) činjenice i odluke koje utječu na osnovnu registraciju ili, kad se međunarodna registracija o kojoj je riječ temelji na osnovnoj prijavi koja nije rezultirala registracijom, činjenice i odluke koje se tiču osnovne prijave ili, kad se međunarodna registracija temelji na osnovnoj prijavi koja je rezultirala registracijom, činjenice i odluke koje utječu na tu registraciju, te datum od kojega te činjenice i odluke proizvode učinak i

iv) kad spomenute činjenice i odluke utječu na međunarodnu registraciju samo u odnosu na neke proizvode i usluge, one proizvode i usluge na koje te činjenice i odluke utječu ili one na koje te činjenice i odluke ne utječu.

b) Kad je sudski spor iz članka 6. stavka 4. Sporazuma ili postupak iz točke i), ii) ili iii) članka 6. stavka 3. Protokola, počeo prije isteka petogodišnjega razdoblja, ali prije isteka toga razdoblja nije rezultirao konačnom odlukom u smislu članka 6. stavka 4. Sporazuma, ili konačnom odlukom u smislu druge rečenice članka 6. stavka 3. Protokola ili povlačenjem ili odricanjem iz treće rečenice članka 6. stavka 3. Protokola, ured podrijetla, kad mu je to poznato, mora o tome obavijestiti Međunarodni ured što je prije moguće nakon isteka spomenutoga razdoblja.

c) Kad sudski spor ili postupak iz podstavka b) rezultira konačnom odlukom u smislu članka 6. stavka 4. Sporazuma, konačnom odlukom u smislu druge rečenice članka 6. stavka 3. Protokola ili povlačenjem ili odricanjem u smislu treće rečenice članka 6. stavka 3. Protokola,

ured podrijetla, kad mu je to poznato, mora odmah o tome obavijestiti Međunarodni ured i navesti podatke iz podstavka a) točaka od i) do iv).

(2) [Upis i prosljeđivanje obavijesti; Brisanje međunarodne registracije] a) Međunarodni ured upisuje u međunarodni registar svaku obavijest iz stavka 1. i šalje jedan primjerak obavijesti uredima naznačenih ugovornih stranaka i jedan primjerak nositelju.

b) Kad se nekom obaviješću iz stavka 1. podstavka a) ili c) traži brisanje međunarodne registracije, a obavijest udovoljava uvjetima iz toga stavka, Međunarodni ured u odgovarajućem opsegu briše međunarodnu registraciju iz međunarodnoga registra.

c) Kad je međunarodna registracija brisana iz međunarodnoga registra u skladu s podstavkom b), Međunarodni ured obavješćuje urede naznačenih ugovornih stranaka i nositelja o sljedećem:

i) o datumu kojega je međunarodna registracija brisana iz međunarodnoga registra,

ii) kad se brisanje odnosi na sve proizvode i usluge, o toj činjenici,

iii) kad se brisanje odnosi samo na neke proizvode i usluge, o proizvodima i uslugama navedenima prema stavku 1. podstavku a) točki iv).

Pravilo 23.

RAZDVAJANJE ILI SPAJANJE OSNOVNIH PRIJAVA, REGISTRACIJA KOJE SU IZ NJIH PROIZAŠLE ILI OSNOVNIH REGISTRACIJA

(1) [Obavijest o razdvajanju osnovne prijave ili spajanju osnovnih prijava] Kad se tijekom petogodišnjega razdoblja iz članka 6. stavka 3. Protokola osnovna prijava razdvoji na dvije ili više prijave ili se nekoliko osnovnih prijava spoji u jednu prijavu, ured podrijetla o tome mora obavijestiti Međunarodni ured i navesti:

i) broj međunarodne registracije ili, ako međunarodna registracija još nije obavljena, broj osnovne prijave,

ii) ime nositelja ili podnositelja prijave,

iii) broj svake prijave koja je proizašla iz razdvajanja ili broj prijave koja je proizašla iz spajanja.

(2) [Upis i obavijest od strane Međunarodnog ureda] Međunarodni ured upisuje obavijest iz stavka 1. u međunarodni registar i o tome istodobno obavješćuje urede naznačenih ugovornih stranaka i nositelja.

(3) [Razdvajanje ili spajanje registracija koje su proizašle iz osnovnih prijava ili razdvajanje ili spajanje osnovnih registracija] Stavci 1. i 2. primjenjuju se, mutatis mutandis, na razdvajanje svake registracije ili na spajanje registracija koje su proizašle iz osnovne prijave ili osnovnih prijava tijekom petogodišnjega razdoblja iz članka 6. stavka 3. Protokola i na razdvajanje osnovne registracije ili spajanje osnovnih registracija tijekom petogodišnjega razdoblja iz članka 6. stavka 3. Sporazuma i članka 6. stavka 3. Protokola.

Poglavlje 5. NAKNADNE NAZNAKE; PROMJENE

Pravilo 24. NAZNAKA NAKON MEĐUNARODNE REGISTRACIJE

(1) [Pravna sposobnost] a) Ugovorna stranka može biti predmet naznake obavljene nakon međunarodne registracije (u daljnjem tekstu »naknadna naznaka«) kad u trenutku podnošenja te naznake nositelj ispunjava uvjete za nositelja međunarodne registracije navedene u članku 1. stavku 2. i članku 2. Sporazuma ili članku 2. Protokola.

b) Kad ugovornu stranku nositelja obvezuje Sporazum, nositelj može prema Sporazumu naznačiti svaku ugovornu stranku koju obvezuje taj Sporazum, pod uvjetom da obje navedene ugovorne stranke ne obvezuje i Protokol.

c) Kad ugovornu stranku nositelja obvezuje Protokol, nositelj može prema Protokolu naznačiti svaku ugovornu stranku koju obvezuje Protokol, bez obzira na to obvezuje li navedene ugovorne stranke i Sporazum ili ne obvezuje.

(2) [Podnošenje; Obrazac i potpis] a) Naknadnu naznaku podnosi Međunarodnom uredu nositelj ili ured ugovorne stranke nositelja; međutim,

i) kad se primjenjuje pravilo 7. stavak 1., kakvo je bilo na snazi prije 4. listopada 2001., mora ju podnijeti ured podrijetla;

ii) kad je neka od ugovornih stranaka naznačena prema Sporazumu, naknadnu naznaku mora podnijeti ured ugovorne stranke nositelja;

iii) kad se primjenjuje stavak 7., naknadnu naznaku koja proizlazi iz pretvorbe, mora podnijeti ured organizacije ugovornice.

b) Naknadna naznaka podnosi se na službenome obrascu u jednome primjerku. Kad ju podnosi nositelj, mora ju potpisati nositelj. Kad ju podnosi ured, mora ju potpisati taj ured i, kad ured to zahtijeva, i nositelj. Kad ju podnosi ured, a taj ured ne zahtijeva da ju potpiše i nositelj, ali dopušta da ju potpiše i nositelj, nositelj to može učiniti.

(3) [Sadržaj] a) Podložno stavku 7. podstavku b), naknadna naznaka mora sadržavati ili navesti:

i) broj odnosne međunarodne registracije,

ii) ime i adresu nositelja,

iii) ugovornu stranku koja je naznačena,

iv) kad se naknadna naznaka odnosi na sve proizvode i usluge navedene u odnosnoj međunarodnoj registraciji, tu činjenicu ili, kad se naknadna naznaka odnosi samo na dio proizvoda i usluga navedenih u odnosnoj međunarodnoj registraciji, te proizvode i usluge,

v) iznos pristojbi koje se plaćaju i način plaćanja ili nalog da se traženim iznosom pristojbi tereti račun otvoren kod Međunarodnog ureda te identifikaciju stranke koja obavlja uplatu ili daje nalog i

vi) kad naknadnu naznaku podnosi ured, datum kojega je ured primio taj zahtjev.

b) Kad se naknadna naznaka odnosi na ugovornu stranku koja je dostavila obavijest prema pravilu 7. stavku 2., ta naknadna naznaka mora sadržavati i izjavu o namjeri uporabe žiga na teritoriju te ugovorne stranke; izjava mora biti, u skladu sa zahtjevima spomenute ugovorne stranke:

i) potpisana od strane nositelja i dostavljena na posebnom službenom obrascu priloženom naknadnoj naznaci ili

ii) uključena u naknadnu naznaku.

c) Naknadna naznaka može sadržavati i:

i) podatke i prijevod ili prijevode, ovisno o slučaju, iz pravila 9. stavka 4. podstavka b),

ii) zahtjev da naknadna naznaka počne vrijediti nakon upisa promjene ili brisanja vezanoga uz odnosnu međunarodnu registraciju ili nakon produženja vrijednosti međunarodne registracije.

d) Kad se međunarodna registracija temelji na osnovnoj prijavi, naknadna naznaka prema Sporazumu mora biti popraćena izjavom, potpisanom od stranke ureda podrijetla, koja potvrđuje da je ta prijava rezultirala registracijom i u kojoj se navode datum i broj te registracije, osim ako je Međunarodni ured već primio takvu izjavu.

(4) [Pristojbe] Naknadna naznaka podliježe plaćanju pristojbi određenih ili navedenih u točki 5. Popisa pristojbi.

(5) [Nepravilnosti] a) Ako naknadna naznaka ne udovoljava propisanim uvjetima, i podložno stavku 9., Međunarodni ured o tome obavješćuje nositelja i, ako je naknadnu naznaku podnio ured, taj ured.

b) Ako nepravilnost nije ispravljena u roku od tri mjeseca od datuma obavijesti Međunarodnog ureda o toj nepravilnosti, smatra se da se od naknadne naznake odustalo i Međunarodni ured o tome istodobno obavješćuje nositelja i, ako je naknadna naznaka podnesena putem ureda, taj ured te vraća plaćene pristojbe stranci koja ih je platila, nakon što oduzme iznos koji odgovara polovici osnovne pristojbe iz točke 5.1 Popisa pristojbi.

c) Bez obzira na podstavke a) i b), kad nije udovoljeno uvjetima iz stavka 1. podstavka b) ili c) u odnosu na jednu ili na više naznačenih ugovornih stranaka, smatra se da naknadna naznaka ne sadržava naznaku tih ugovornih stranaka i sve dopunske ili individualne pristojbe, već plaćene u odnosu na te ugovorne stranke, vraćaju se. Kad uvjetima iz stavka 1. podstavka b) ili c) nije udovoljeno u odnosu ni na jednu naznačenu ugovornu stranku, primjenjuje se podstavak b).

(6) [Datum naknadne naznake] a) Naknadna naznaka podnesena od strane nositelja izravno Međunarodnom uredu, podložno podstavku c) točki i), nosi datum kojega ju je primio Međunarodni ured.

b) Naknadna naznaka podnesena Međunarodnom uredu putem ureda nosi, podložno podstavku c) točki i) te podstavcima d) i e) datum kojega ju je primio taj ured, pod uvjetom da je Međunarodni ured primio tu naknadnu naznaku u roku od dva mjeseca od toga datuma. Ako Međunarodni ured nije primio naknadnu naznaku u tom roku, ona, podložno podstavku c) točki i) te podstavcima d) i e), nosi datum kojega ju je primio Međunarodni ured.

c) Kad naknadna naznaka ne udovoljava propisanim uvjetima, a nepravilnost je ispravljena u roku od tri mjeseca od datuma obavijesti iz stavka 5. podstavka a),

i) naknadna naznaka, kad se nepravilnost tiče bilo kojega uvjeta iz stavka 3. podstavka a) točaka i), iii) i iv) i podstavka b) točke i), nosi datum kojega je ta naknadna naznaka ispravljena, osim ako je ta naknadna naznaka podnesena Međunarodnom uredu od strane ureda, a nepravilnost je ispravljena u roku od dva mjeseca iz podstavka b); u potonjem slučaju naknadna naznaka nosi datum kojega ju je primio spomenuti ured;

ii) na datum određen podstavkom a) ili b), ovisno o slučaju, ne utječe nepravilnost koja se odnosi na uvjete koji nisu oni iz stavka 3. podstavka a) točaka i), iii) i iv) i podstavka b) točke i).

d) Bez obzira na podstavke a), b) i c), kad naknadna naznaka sadržava zahtjev u skladu sa stavkom 3) podstavkom c) točkom ii), može nositi datum kasniji od onoga koji proizlazi iz podstavka a), b) ili c).

e) Kad naknadna naznaka proizlazi iz pretvorbe u skladu sa stavkom 7., ta naknadna naznaka nosi datum kojega je naznaka organizacije ugovornice upisana u međunarodni registar.

(7) [Naknadna naznaka koja proizlazi iz pretvorbe] a) Kad je naznaka organizacije ugovornice upisana u međunarodni registar i ukoliko je takva naznaka povučena, odbijena ili je prestala vrijediti prema zakonu te organizacije, nositelj odnosne međunarodne registracije može zatražiti pretvorbu naznake navedene organizacije ugovornice u naznaku bilo koje države članice te organizacije koja je stranka Sporazuma i/ili Protokola.

b) Zahtjev za pretvorbu prema podstavku a) mora navoditi elemente iz stavka 3. podstavka a) točaka od i) do iii) i točke v) kao i:

i) organizaciju ugovornicu čija se naznaka pretvara i

ii) kad se naknadna naznaka države ugovornice koja proizlazi iz pretvorbe odnosi na sve proizvode i usluge navedene u odnosu na naznaku organizacije ugovornice, ta činjenica, ili, kad se naznaka te države ugovornice odnosi samo na dio proizvoda i usluga navedenih u naznaci te organizacije ugovornice, te proizvode i usluge.

(8) [Upis i obavijest] Kad Međunarodni ured ustanovi da naknadna naznaka udovoljava propisanim uvjetima, upisuje ju u međunarodni registar i o tome istodobno obavještuje ured ugovorne stranke koja je naznačena naknadnom naznakom, nositelja i, ako je naknadna naznaka podnesena putem ureda, taj ured.

(9) [Odbijanje] Pravila od 16. do 18. primjenjuju se mutatis mutandis.

(10) [Naknadna naznaka koja se ne smatra takvom] Ako nije udovoljeno uvjetima iz stavka 2. podstavka a), naknadna naznaka ne smatra se takvom naznakom i Međunarodni ured o tome obavješćuje pošiljatelja.

Pravilo 25.
ZAHTJEV ZA UPIS PROMJENE;
ZAHTJEV ZA BRISANJE

(1) [Podnošenje zahtjeva] a) Zahtjev za upis podnosi se Međunarodnom uredu na odgovarajućem službenom obrascu, u jednom primjerku, kad se zahtjev odnosi na nešto od sljedećega:

i) promjenu nositelja međunarodne registracije u odnosu na sve ili na neke proizvode i usluge i na sve ili na neke naznačene ugovorne stranke;

ii) ograničenje popisa proizvoda i usluga u odnosu na sve ili na neke naznačene ugovorne stranke;

iii) odricanje u odnosu na neke naznačene ugovorne stranke za sve proizvode i usluge;

iv) promjenu imena ili adrese nositelja;

v) brisanje međunarodne registracije u odnosu na sve naznačene ugovorne stranke za sve ili za neke proizvode i usluge.

b) Podložno podstavku c), zahtjev podnosi nositelj ili ured ugovorne stranke nositelja; međutim, zahtjev za upis promjene nositelja može se podnijeti putem ureda ugovorne stranke ili jedne od ugovornih stranaka navedenih u spomenutom zahtjevu u skladu sa stavkom 2. podstavkom a) točkom iv).

c) Zahtjev za upis odricanja ili brisanja ne može podnijeti izravno nositelj kad se odricanje ili brisanje odnosi na ugovornu stranku čija se naznaka, na datum primitka zahtjeva od strane Međunarodnog ureda, obavlja prema Sporazumu.

d) Kad zahtjev podnosi nositelj, zahtjev mora biti potpisan od strane nositelja. Kad ga podnosi ured, on mora biti potpisan od strane tog ureda i, kad ured to zahtijeva, i od strane nositelja. Kad ga podnosi ured, a taj ured ne zahtijeva da ga potpiše i nositelj, ali to dopušta, nositelj to može učiniti.

(2) [Sadržaj zahtjeva] a) Zahtjev za upis promjene ili zahtjev za upis brisanja, uz zatraženu promjenu ili brisanje, mora sadržavati ili navesti sljedeće:

i) broj odnosne međunarodne registracije,

ii) ime nositelja, osim ako se promjena odnosi na ime ili adresu zastupnika,

iii) u slučaju promjene nositelja međunarodne registracije, ime i adresu, navedene u skladu s Administrativnim uputama, fizičke ili pravne osobe koja je u zahtjevu navedena kao novi nositelj međunarodne registracije (u daljnjem tekstu »novi nositelj«),

iv) u slučaju promjene nositelja međunarodne registracije, ugovornu stranku ili stranke u odnosu na koje novi nositelj udovoljava uvjetima prema članku 1. stavku 2. i članku 2. Sporazuma ili prema članku 2. Protokola, da bude nositelj međunarodne registracije,

v) u slučaju promjene nositelja međunarodne registracije, kad adresa novoga nositelja, navedena u skladu s točkom iii), nije na teritoriju ugovorne stranke, ili jedne od ugovornih stranaka, navedenih u skladu s točkom iv) i, osim ako je novi nositelj naveo da je državljanin države ugovornice ili države članice organizacije ugovornice, adresu poduzeća ili prebivališta novoga nositelja u ugovornoj stranci, ili u jednoj od ugovornih stranaka, u odnosu na koju novi nositelj udovoljava uvjetima da bude nositelj međunarodne registracije,

vi) u slučaju promjene nositelja međunarodne registracije koja se ne odnosi na sve proizvode i usluge te na sve naznačene ugovorne stranke, proizvode i usluge i naznačene ugovorne stranke na koje se promjena nositelja odnosi i

vii) iznos pristojbi koje se plaćaju i način plaćanja, ili nalog da se traženim iznosom pristojbi tereti račun otvoren kod Međunarodnog ureda te identifikaciju stranke koja obavlja uplatu ili daje nalog.

b) Zahtjev za upis promjene nositelja međunarodne registracije može sadržavati i:

i) kad je novi nositelj fizička osoba, podatak o državi čiji je novi nositelj državljanin;

ii) kad je novi nositelj pravna osoba, podatke o pravnoj naravi te pravne osobe i državu i, prema potrebi, teritorijalnu jedinicu te države prema čijem je zakonu ta pravna osoba ustrojena.

c) Zahtjev za upis promjene ili brisanja može također sadržavati molbu da taj upis bude obavljen prije ili poslije upisa neke druge promjene ili brisanja ili naknadne naznake u odnosu na određenu međunarodnu registraciju ili poslije produženja vrijednosti međunarodne registracije.

(3) [Nedopušten zahtjev] Promjena nositelja međunarodne registracije ne može se upisati u odnosu na navedenu naznačenu ugovornu stranku ako tu ugovornu stranku

i) obvezuje Sporazum, ali ne i Protokol, a ugovornu stranku navedenu prema stavku 2. podstavku a) točki iv) ne obvezuje Sporazum, ili nijednu od ugovornih stranaka navedenih prema tom stavku ne obvezuje Sporazum;

ii) obvezuje Protokol, ali ne i Sporazum, a ugovornu stranku navedenu prema stavku 2. podstavku a) točki iv) ne obvezuje Protokol, ili nijednu od ugovornih stranaka navedenih prema tom stavku ne obvezuje Protokol.

(4) [Više novih nositelja] Kad je u zahtjevu za upis promjene nositelja međunarodne registracije navedeno više novih nositelja, ta se promjena ne može upisati u odnosu na

navedenu naznačenu ugovornu stranku ako bilo koji od novih nositelja ne udovoljava uvjetima da bude nositelj međunarodne registracije u odnosu na tu ugovornu stranku.

Pravilo 26.

NEPRAVILNOSTI U ZAHTJEVIMA ZA UPIS PROMJENE I UPIS BRISANJA

(1) [Nepravilnost u zahtjevu] Kad zahtjev za upis promjene ili zahtjev za brisanje iz pravila 25. stavka 1. podstavka a) ne udovoljava propisanim uvjetima i kad podliježe stavku 3., Međunarodni ured o tome obavješćuje nositelja i, ako je zahtjev podnesen od strane ureda, taj ured.

(2) [Rok za ispravljanje nepravilnosti] Nepravilnost se može ispraviti u roku od tri mjeseca od datuma obavijesti Međunarodnog ureda o toj nepravilnosti. Ako nepravilnost nije ispravljena u roku od tri mjeseca od datuma obavijesti Međunarodnog ureda o nepravilnosti, smatra se da se od zahtjeva odustalo i Međunarodni ured o tome istodobno obavješćuje nositelja i, ako je zahtjev za upis promjene ili zahtjev za upis brisanja podnesen od strane ureda, taj ured te vraća plaćene pristojbe stranci koja ih je platila, nakon oduzimanja iznosa koji odgovara polovici odgovarajućih pristojbi iz točke 7. Popisa pristojbi.

(3) [Zahtjevi koji se ne smatraju takvima] Ako nije udovoljeno uvjetima iz pravila 25. stavka 1. podstavka b) ili podstavka c), zahtjev se ne smatra takvim i Međunarodni ured o tome obavješćuje pošiljatelja.

Pravilo 27.

UPIS PROMJENE ILI BRISANJA I OBAVIJEST O TOME; SPAJANJE MEĐUNARODNIH REGISTRACIJA; IZJAVA DA PROMJENA NOSITELJA ILI OGRANIČENJE NEMA UČINAK

(1) [Upis promjene ili brisanja i obavijest o promjeni ili brisanju] a) Međunarodni ured, pod uvjetom da je zahtjev iz pravila 25. stavka 1. podstavka a) uredan, odmah upisuje promjenu u međunarodni registar ili iz registra briše odgovarajuće podatke, o tome obavješćuje urede naznačenih ugovornih stranaka u kojima promjena proizvodi učinak ili, u slučaju brisanja, urede svih ugovornih stranaka te istodobno obavješćuje nositelja i, ako je zahtjev podnesen od strane nekog ureda, taj ured. Kad se upis odnosi na promjenu nositelja, Međunarodni ured, u slučaju potpune promjene nositelja, obavješćuje i bivšega nositelja, a u slučaju djelomične promjene nositelja, nositelja dijela međunarodne registracije koji mu je ustupljen ili na neki drugi način prenesen. Kad je zahtjev za brisanje podnesen od strane nositelja ili od strane ureda koji nije ured podrijetla tijekom petogodišnjega razdoblja iz članka 6. stavka 3. Sporazuma i članka 6. stavka 3. Protokola, Međunarodni ured obavješćuje i ured podrijetla.

b) Promjena ili brisanje upisuje se datuma kojega je Međunarodni ured primio zahtjev koji udovoljava propisanim uvjetima, a kad je zahtjev podnesen u skladu s pravilom 25. stavkom 2. podstavkom c), može se upisati kasnijega datuma.

(2) [brisano]

(3) [Upis spajanja međunarodnih registracija] Kad je ista fizička ili pravna osoba upisana kao nositelj dviju ili više međunarodnih registracija koje proizlaze iz djelomične promjene nositelja, registracije se spajaju na zahtjev te fizičke ili te pravne osobe, podnesen izravno ili putem ureda ugovorne stranke nositelja. Međunarodni ured o tome istodobno obavješćuje

urede naznačenih ugovornih stranaka na koje se promjena odnosi, nositelja i, ako je zahtjev podnesen od strane ureda, taj ured.

(4) [Izjava da promjena nositelja nema učinak] a) Ured naznačene ugovorne stranke kojega Međunarodni ured obavijesti o promjeni nositelja koja se odnosi na tu ugovornu stranku može izjaviti da promjena nositelja nema učinak u toj ugovornoj stranci. Učinak takve izjave je da odnosna međunarodna registracija u odnosu na tu ugovornu stranku ostaje na ime prethodnoga nositelja.

b) Izjava iz podstavka a) mora navesti sljedeće:

i) razloge zbog kojih promjena nositelja nema učinak,

ii) odgovarajuće bitne odredbe zakona i

iii) može li ta odluka biti predmetom preispitivanja ili žalbe.

c) Izjava iz podstavka a) upućuje se Međunarodnom uredu prije isteka 18 mjeseci od datuma kojega je obavijest iz podstavka a) poslana odnosnom uredu.

d) Međunarodni ured upisuje u međunarodni registar svaku izjavu danu u skladu s podstavkom c) i, ovisno o slučaju, dio međunarodne registracije koji je predmet spomenute izjave upisuje kao posebnu međunarodnu registraciju te o tome obavješćuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis promjene nositelja i novoga nositelja.

e) O svakoj konačnoj odluci u vezi s izjavom danom u skladu s podstavkom c) obavješćuje se Međunarodni ured, koji ju upisuje u međunarodni registar i, ovisno o slučaju, obavlja odgovarajuće izmjene u međunarodnom registru te o tome obavješćuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis promjene nositelja i novoga nositelja.

(5) [Izjava da ograničenje nema učinak] a) Ured naznačene ugovorne stranke kojega Međunarodni ured obavijesti o ograničenju popisa proizvoda i usluga koje se odnosi na tu ugovornu stranku može izjaviti da ograničenje nema učinak u toj ugovornoj stranci. Učinak takve izjave je da se, u odnosu na tu ugovornu stranku, ograničenje ne primjenjuje na proizvode i usluge na koje utječe izjava.

b) Izjava iz podstavka a) mora navesti:

i) razloge zbog kojih ograničenje nema učinak,

ii) kad izjava ne utječe na sve proizvode i usluge na koje se ograničenje odnosi, one na koje izjava utječe ili one na koje izjava ne utječe,

iii) odgovarajuće bitne odredbe zakona i

iv) može li ta odluka biti predmetom preispitivanja ili žalbe.

c) Izjava iz podstavka a) upućuje se Međunarodnom uredu prije isteka 18 mjeseci od datuma kojega je obavijest iz podstavka a) poslana odnosnom uredu.

d) Međunarodni ured upisuje u međunarodni registar svaku izjavu danu u skladu s podstavkom c) i o tome obavještuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis ograničenja.

e) O svakoj konačnoj odluci u vezi s izjavom danom u skladu s podstavkom c) obavještuje se Međunarodni ured, koji ju upisuje u međunarodni registar i o tome obavještuje stranku (nositelja ili ured) koja je podnijela zahtjev za upis ograničenja.

Pravilo 28.

ISPRAVCI U MEĐUNARODNOM REGISTRU

(1) [Ispravak] Kad Međunarodni ured, postupajući ex officio ili na zahtjev nositelja ili nekoga ureda, smatra da postoji pogreška u pogledu međunarodne registracije u međunarodnom registru, on upisuje u registar odgovarajuću promjenu.

(2) [Obavijest] Međunarodni ured o tome istodobno obavještuje nositelja i urede naznačenih ugovornih stranaka u kojima ispravak ima učinak. Osim toga, kad ured koji je zatražio ispravak nije ured naznačene ugovorne stranke u kojoj ispravak ima učinak, Međunarodni ured obavještuje i taj ured.

(3) [Odbijanje slijedom ispravka] Svaki ured iz stavka 2. ima pravo u obavijesti o privremenom odbijanju upućenoj Međunarodnom uredu izjaviti da smatra da zaštita ne može, ili više ne može, biti priznata tako ispravljenoj međunarodnoj registraciji. Članak 5. Sporazuma ili članak 5. Protokola i pravila od 16. do 18. primjenjuju se mutatis mutandis, pri čemu se razumijeva da se rok za slanje spomenute obavijesti računa od datuma kad je obavijest o ispravku poslana odnosnom uredu.

(4) [Rok za ispravak] Bez obzira na stavak 1., pogreška ureda, ispravak koje bi utjecao na prava koja proizlaze iz međunarodne registracije, može se ispraviti samo ako Međunarodni ured primi zahtjev za ispravak u roku od devet mjeseci od datuma objave upisa, koji je predmet ispravka, u međunarodni registar.

Poglavlje 6.

PRODUŽENJA VRIJEDNOSTI

Pravilo 29.

NESLUŽBENA OBAVIJEST O ISTEKU VRIJEDNOSTI

Činjenica da neslužbena obavijest iz članka 7. stavka 4. Sporazuma i članka 7. stavka 3. Protokola nije primljena ne opravdava neudovoljavanje rokovima iz pravila 30.

Pravilo 30.

POJEDINOSTI U VEZI S PRODUŽENJEM VRIJEDNOSTI

(1) [Pristojbe] a) Produljenje vrijednosti međunarodne registracije obavlja se uplatom, najkasnije na datum kojega se mora produžiti vrijednost međunarodne registracije:

i) osnovne pristojbe,

ii) prema potrebi, dodatne pristojbe i

iii) dopunske pristojbe ili individualne pristojbe, ovisno o slučaju, za svaku naznačenu ugovornu stranku za koju u međunarodni registar nije upisano odbijanje ili prestanak vrijednosti za sve odnosne proizvode i usluge, kako je predviđeno ili navedeno u točki 6. Popisa pristojbi. Međutim, takva se uplata može obaviti u roku od šest mjeseci od datuma kojega se mora produžiti vrijednost međunarodne registracije, pod uvjetom da se istodobno plati pristojba u uvećanom iznosu predviđena u točki 6.5. Popisa pristojbi.

b) Ako Međunarodni ured primi neku uplatu obavljenju u svrhu produženja vrijednosti međunarodne registracije više od tri mjeseca prije datuma kojega se ta vrijednost mora produžiti, smatra se da je uplata primljena tri mjeseca prije datuma kojega se mora produžiti vrijednost međunarodne registracije.

(2) [Dodatne pojedinosti] a) Kad nositelj ne želi produžiti vrijednost međunarodne registracije u odnosu na neku naznačenu ugovornu stranku za koju u međunarodnom registru nije upisano odbijanje za sve odnosne proizvode i usluge, uplata potrebnih pristojbi mora biti popraćena izjavom da se produženje vrijednosti međunarodne registracije ne mora upisati u međunarodni registar u odnosu na tu ugovornu stranku.

b) Kad nositelj želi produžiti vrijednost međunarodne registracije u odnosu na neku naznačenu ugovornu stranku bez obzira na činjenicu da je u međunarodni registar za tu ugovornu stranku upisano odbijanje za sve odnosne proizvode i usluge, uplata potrebnih pristojbi za tu ugovornu stranku, uključujući dopunsku pristojbu ili individualnu pristojbu, ovisno o slučaju, mora biti popraćena izjavom da se produženje vrijednosti međunarodne registracije mora upisati u međunarodni registar u odnosu na tu ugovornu stranku.

c) Vrijednost međunarodne registracije ne može se produžiti u odnosu na bilo koju naznačenu ugovornu stranku za koju je upisan prestanak vrijednosti za sve proizvode i usluge prema pravilu 19. stavku 2. ili za koju je upisano odricanje prema pravilu 27. stavku 1. podstavku a). Vrijednost međunarodne registracije ne može se produžiti u odnosu na bilo koju naznačenu ugovornu stranku za one proizvode i usluge u odnosu na koje je prema pravilu 19. stavku 2. upisan prestanak vrijednosti međunarodne registracije u toj ugovornoj stranci ili u odnosu na koje je upisano ograničenje prema pravilu 27. stavku 1. podstavku a).

d) Činjenica da vrijednost međunarodne registracije nije produžena u odnosu na sve naznačene ugovorne stranke ne smatra se promjenom u smislu članka 7. stavka 2. Sporazuma ili članka 7. stavka 2. Protokola.

(3) [Nedostatne pristojbe] a) Ako je iznos primljenih pristojbi manji od iznosa pristojbi koji je potreban za produženje vrijednosti, Međunarodni ured odmah i istodobno obavješćuje i nositelja i zastupnika, ako on postoji. U obavijesti se mora navesti iznos koji nedostaje.

b) Ako je nakon isteka razdoblja od šest mjeseci iz stavka 1. podstavka a) iznos primljenih pristojbi manji od iznosa koji se zahtijeva prema stavku 1., Međunarodni ured, podložno podstavku c), ne upisuje produženje vrijednosti i vraća primljeni iznos stranci koja ga je platila te o tome obavješćuje nositelja i zastupnika, ako on postoji.

c) Ako je obavijest iz podstavka a) poslana tijekom tri mjeseca koji prethode isteku razdoblja od šest mjeseci iz stavka 1. podstavka a) i ako je iznos primljenih pristojbi, nakon isteka toga

razdoblja, manji od iznosa koji se zahtijeva prema stavku 1., ali iznosi barem 70% od tog iznosa, Međunarodni ured postupa u skladu s pravilom 31. stavcima 1. i 3. Ako traženi iznos nije u potpunosti plaćen u roku od tri mjeseca od spomenute obavijesti, Međunarodni ured prekida postupak produženja vrijednosti, o tome obavješćuje nositelja, zastupnika, ako on postoji, i urede koji su bili obaviješteni o produženju vrijednosti te vraća primljeni iznos stranci koja ga je platila.

(4) [Razdoblje za koje se plaćaju pristojbe za produženje vrijednosti] Propisane pristojbe za svako produženje vrijednosti plaćaju se za razdoblje od deset godina, bez obzira na činjenicu da međunarodna registracija na popisu naznačenih ugovornih stranaka sadržava samo ugovorne stranke naznačene prema Sporazumu, samo ugovorne stranke naznačene prema Protokolu ili i ugovorne stranke naznačene prema Sporazumu i ugovorne stranke naznačene prema Protokolu. Što se tiče uplata prema Sporazumu, uplata za deset godina smatra se obrokom uplate za razdoblje od deset godina.

Pravilo 31. UPIS PRODUŽENJA VRIJEDNOSTI; OBAVIJEST I POTVRDA

(1) [Upis i datum od kojega vrijedi produženje vrijednosti] Produženje vrijednosti upisuje se u međunarodni registar s datumom kojega se mora produžiti vrijednost, čak i ako su pristojbe propisane za produženje vrijednosti uplaćene u dodatnom roku iz članka 7. stavka 5. Sporazuma i članka 7. stavka 4. Protokola.

(2) [Datum produženja vrijednosti u slučaju naknadnih naznaka] Datum od kojega produženje vrijednosti vrijedi isti je za sve naznake sadržane u međunarodnoj registraciji, bez obzira na datum kojega su te naznake upisane u međunarodni registar.

(3) [Obavijest i potvrda] Međunarodni ured obavješćuje urede odnosnih naznačenih ugovornih stranaka o produženju vrijednosti, te nositelju šalje potvrdu.

(4) [Obavijest u slučaju da nije obavljeno produženje vrijednosti] a) Kad vrijednost međunarodne registracije nije produžena, Međunarodni ured o tome obavješćuje urede svih ugovornih stranaka naznačenih u toj međunarodnoj registraciji.

b) Kad se međunarodnoj registraciji ne produži vrijednost u odnosu na neku naznačenu ugovornu stranku, Međunarodni ured o tome obavješćuje ured te ugovorne stranke.

Poglavlje 7. GLASILO I BAZA PODATAKA

Pravilo 32. GLASILO

(1) [Informacije u svezi s međunarodnim registracijama] a) Međunarodni ured objavljuje u Glasilu relevantne podatke u vezi s:

i) međunarodnim registracijama obavljenim prema pravilu 14.;

- ii) obavijestima dostavljenim prema pravilu 16. stavku 1.;
- iii) privremenim odbijanjima upisanim prema pravilu 17. stavku 4., s napomenom odnosi li se odbijanje na sve proizvode i usluge ili samo na neke od njih, ali bez navođenja proizvoda i usluga o kojima je riječ, bez razloga za odbijanje, te izjava i obavijesti upisanih prema pravilu 17. stavku 5. podstavku c) i stavku 6. podstavku b);
- iv) produženjima vrijednosti upisanim prema pravilu 31. stavku 1.;
- v) naknadnim naznakama upisanim prema pravilu 24. stavku 8.;
- vi) nastavkom vrijednosti međunarodnih registracija prema pravilu 39.;
- vii) promjenama nositelja, ograničenjima, odricanjima i promjenama imena ili adrese nositelja, upisanima prema pravilu 27.;
- viii) brisanjima obavljenim prema pravilu 22. stavku 2. ili upisanim prema pravilu 27. stavku 1. ili pravilu 34. stavku 3. podstavku d);
- ix) ispravicima obavljenim prema pravilu 28.;
- x) prestancima vrijednosti upisanim prema pravilu 19. stavku 2.;
- xi) obavijestima upisanim prema pravilu 20., pravilu 20.bis., pravilu 21., pravilu 21.bis., pravilu 22. stavku 2. podstavku a), pravilu 23., pravilu 27. stavcima 3. i 4. i pravilu 40. stavku 3.;
- xii) međunarodnim registracijama kojima nije produžena vrijednost.

b) Objavljuje se onakva reprodukcija žiga kakva je u međunarodnoj prijavi. Kad je podnositelj prijave dao izjavu iz pravila 9. stavka 4. podstavka a) točke vi), ta se činjenica navodi u objavi.

c) Kad je reprodukcija žiga u boji dostavljena prema pravilu 9. stavku 4. podstavku a) točki v) ili točki vii), u Glasilu se objavljuje i crno-bijela reprodukcija žiga i reprodukcija u boji.

(2) [Informacije u vezi s posebnim uvjetima i određenim izjavama ugovornih stranaka]
Međunarodni ured u Glasilu objavljuje:

- i) svaku obavijest danu prema pravilu 7. ili pravilu 20.bis. stavku 6. i svaku izjavu danu prema pravilu 17. stavku 5. podstavku d) ili podstavku e);
- ii) svaku izjavu danu prema članku 5. stavku 2. podstavku (b) ili članku 5. stavku 2. podstavku b) i prvoj rečenici podstavka c) Protokola;
- iii) svaku izjavu danu prema članku 8. stavku 7. Protokola;
- iv) svaku obavijest danu prema pravilu 34. stavku 2. podstavku b) ili stavku 3. podstavku (a);

v) popis dana na koje Međunarodni ured nije otvoren za javnost u tekućoj i sljedećoj kalendarskoj godini.

(3) [Broj primjeraka za urede ugovornih stranaka] a) Međunarodni ured šalje primjerke Glasila uredu svake ugovorne stranke. Svaki ured ima pravo na dva besplatna primjerka, a kad tijekom određene kalendarske godine broj naznaka upisanih u odnosu na određenu ugovornu stranku prijeđe 2000, sljedeće godine, taj ured ima pravo na jedan dodatni primjerak te na daljnje dodatne primjerke za svakih 1000 naznaka iznad 2000. Svaka ugovorna stranka može svake godine za pola pretplatničke cijene kupiti isti broj primjeraka koji ima pravo dobivati besplatno.

b) Ako je Glasilo dostupno u više oblika, svaki ured može izabrati oblik u kojem želi primati primjerke na koje ima pravo.

Pravilo 33. ELEKTRONIČKA BAZA PODATAKA

(1) [Sadržaj baze podataka] Podaci koji se upisuju u međunarodni registar i objavljuju u Glasilu prema pravilu 32. upisuju se u elektroničku bazu podataka.

(2) [Podaci o neriješenim međunarodnim prijavama i naknadnim naznakama] Ako se međunarodna prijava ili naznaka prema pravilu 24. ne upiše u međunarodni registar u roku od tri radna dana od primitka međunarodne prijave ili naznake od strane Međunarodnog ureda, Međunarodni ured unosi u elektroničku bazu podataka sve podatke sadržane u međunarodnoj prijavi ili u naznaci, bez obzira na nepravilnosti kojih može biti u primljenoj međunarodnoj prijavi ili u naznaci.

(3) [Pristup elektroničkoj bazi podataka] Elektronička baza podataka dostupna je uredima ugovornih stranaka i, uz uplatu propisane pristojbe, ako ona postoji, javnosti, i to on-line pristupom i putem drugih odgovarajućih sredstava određenih od strane Međunarodnog ureda. Trošak pristupa snosi korisnik. Podaci uneseni prema stavku 2. popraćeni su upozorenjem da Međunarodni ured još nije donio odluku o međunarodnoj prijavi ili o naznaci prema pravilu 24.

Poglavlje 8. PRISTOJBE

Pravilo 34. IZNOSI I PLAĆANJE PRISTOJBI

(1) [Iznosi pristojbi] Iznosi pristojbi koje se moraju uplatiti prema Sporazumu, Protokolu i ovom Pravilniku, osim individualnih pristojbi, navedeni su u Popisu pristojbi koji je priložen ovom Pravilniku i čini njegov sastavni dio.

(2) [Plaćanje] a) Pristojbe navedene u Popisu pristojbi može Međunarodnom uredu platiti podnositelj prijave ili nositelj ili, ako ured ugovorne stranke nositelja pristane primati i prosljeđivati takve pristojbe, a podnositelj prijave ili nositelj tako želi, taj ured.

b) Svaka ugovorna stranka čiji ured pristane primati i prosljeđivati pristojbe o tome mora obavijestiti glavnoga direktora.

(3) [Individualna pristojba koja se može platiti u dva dijela] a) Ugovorna stranka koja daje ili je dala izjavu prema članku 8. stavku 7. Protokola može obavijestiti glavnoga direktora da se individualna pristojba koja se plaća u odnosu na naznaku te ugovorne stranke sastoji od dva dijela, od kojih se prvi dio mora platiti u trenutku podnošenja međunarodne prijave ili naknadne naznake te ugovorne stranke, a drugi dio kasnijega datuma, koji je određen u skladu sa zakonom te ugovorne stranke.

b) Kad se primjenjuje podstavak a), napomene o individualnim pristojbama u točkama 2., 3., i 5. Popisa pristojbi tumače se kao napomene o prvom dijelu individualne pristojbe.

c) Kad se primjenjuje podstavak a), ured odnosne ugovorne stranke obavješćuje Međunarodni ured kad se mora uplatiti drugi dio individualne pristojbe. U obavijesti mora navesti:

i) broj odnosne međunarodne registracije

ii) ime nositelja,

iii) datum do kojega mora biti plaćen drugi dio individualne pristojbe,

iv) kad iznos drugoga dijela individualne pristojbe ovisi o broju razreda proizvoda i usluga za koje je žig zaštićen u naznačenoj ugovornoj stranci, broj tih razreda.

d) Međunarodni ured prosljeđuje tu obavijest nositelju. Kad je drugi dio individualne pristojbe plaćen u određenom roku, Međunarodni ured upisuje uplatu u međunarodni registar i o tome obavješćuje ured odnosne ugovorne stranke. Kad drugi dio individualne pristojbe nije plaćen u određenom roku, Međunarodni ured o tome obavješćuje ured odnosne ugovorne stranke, briše iz međunarodnoga registra međunarodnu registraciju za tu ugovornu stranku i o tome obavješćuje nositelja.

(4) [Načini plaćanja pristojbi Međunarodnom uredu] Pristojbe se Međunarodnom uredu plaćaju onako kako je određeno u Administrativnim uputama.

(5) [Podaci koje se moraju navesti uz plaćanje] U trenutku plaćanja bilo koje pristojbe Međunarodnom uredu, moraju se navesti sljedeći podaci:

i) prije međunarodne registracije, ime podnositelja prijave, odnosni žig i svrha uplate;

ii) nakon međunarodne registracije, ime nositelja, broj odnosne međunarodne registracije i svrha uplate.

(6) [Datum uplate] a) Podložno pravilu 30. stavku 1. podstavku b) i podstavku (b) ovoga stavka, smatra se da je pristojba plaćena Međunarodnom uredu na dan kad Međunarodni ured primi traženi iznos.

b) Kad traženi iznos postoji na računu otvorenom kod Međunarodnog ureda, a ured je od vlasnika računa primio nalog da ga tereti, smatra se da je pristojba plaćena Međunarodnom uredu na dan kad Međunarodni ured primi međunarodnu registraciju, naknadnu naznaku,

nalog da se račun tereti za iznos drugoga dijela individualne pristojbe, zahtjev za upis promjene ili zahtjev za produženje vrijednosti međunarodne registracije.

(7) [Promjena u iznosu pristojbi] a) Kad se iznos pristojbi koji se plaća za podnošenje međunarodne prijave, promijeni između, s jedne strane, datuma kojega je ured podrijetla primio, ili se prema pravilu 11. stavku 1. podstavku a) ili c) smatra da je primio, zahtjev za podnošenje međunarodne prijave Međunarodnom uredu i, s druge strane, datuma primitka međunarodne prijave od strane Međunarodnog ureda, primjenjuje se pristojba koja je vrijedila ranijega datuma.

b) Kad naznaku prema pravilu 24. podnosi ured ugovorne stranke nositelja i kad se iznos pristojbi koji se plaća za tu naznaku promijeni između, s jedne strane, datuma kojega je ured primio zahtjev nositelja za podnošenje spomenute naznake i, s druge strane, datuma primitka naznake od strane Međunarodnog ureda, primjenjuje se pristojba koja je vrijedila ranijega datuma.

c) Kad se primjenjuje stavak 3. podstavak a), primjenjuje se iznos drugoga dijela individualne pristojbe koja vrijedi kasnijega datuma iz toga stavka.

d) Kad se iznos pristojbi koji se plaća za produženje vrijednosti međunarodne registracije promijeni između datuma uplate i datuma kojega se mora produžiti vrijednost međunarodne registracije, primjenjuje se pristojba koja je vrijedila na datum uplate ili na datum koji se prema pravilu 30. stavku 1. podstavku b) smatra datumom uplate. Kad se uplata obavlja nakon datuma kojega se registraciji mora produžiti vrijednost, primjenjuje se pristojba koja je vrijedila na datum kojega se morala produžiti vrijednost registracije.

e) Kad se promijeni iznos bilo koje pristojbe koja nije jedna od pristojbi navedenih u podstavcima a), b), c) i d), primjenjuje se iznos koji vrijedi na datum kojega je pristojba primljena od strane Međunarodnog ureda.

Pravilo 35. VALUTA PLAĆANJA

(1) [Obveza da se koristi švicarska valuta] Sve uplate iz ovoga Pravilnika plaćaju se Međunarodnom uredu u švicarskoj valuti, bez obzira na činjenicu da je, kad pristojbe uplaćuje ured, taj ured mogao te pristojbe naplatiti u nekoj drugoj valuti.

(2) [Utvrđivanje iznosa individualnih pristojbi u švicarskoj valuti] a) Kad ugovorna stranka daje izjavu prema članku 8. stavku 7. podstavku a) Protokola da želi primati individualnu pristojbu, iznos individualne pristojbe priopćene Međunarodnom uredu izražava se u valuti kojom se koristi ured te ugovorne stranke.

b) Kad je pristojba u izjavi iz podstavka a) navedena u valuti koja nije švicarska, glavni direktor, nakon savjetovanja s uredom odnosno ugovorne stranke, utvrđuje iznos individualne pristojbe u švicarskoj valuti na temelju službenoga tečaja Ujedinjenih naroda.

c) Kad je, tijekom više od tri uzastopna mjeseca, službeni tečaj Ujedinjenih naroda između švicarske valute i druge valute u kojoj je ugovorna stranka priopćila iznos individualne pristojbe barem za 5% viši ili niži od posljednjega tečaja koji je primijenjen za utvrđivanje iznosa individualne pristojbe u švicarskoj valuti, ured te ugovorne stranke može zatražiti od

glavnoga direktora da utvrdi novi iznos individualne pristojbe u švicarskoj valuti prema službenom tečaju Ujedinjenih naroda koji je vrijedio na dan prije dana kad je to zatraženo. Glavni direktor postupa u skladu s tim. Novi iznos primjenjuje se od datuma koji utvrđuje glavni direktor, pod uvjetom da je taj datum jedan do dva mjeseca kasniji od datuma objavljivanja tog iznosa u Glasilu.

d) Kad je, tijekom više od tri uzastopna mjeseca, službeni tečaj Ujedinjenih naroda između švicarske valute i druge valute u kojoj je ugovorna stranka priopćila iznos individualne pristojbe za najmanje 10% niži od posljednjega tečaja koji je primijenjen za utvrđivanje iznosa individualne pristojbe u švicarskoj valuti, glavni direktor utvrđuje novi iznos individualne pristojbe u švicarskoj valuti prema trenutnom službenom tečaju Ujedinjenih naroda. Novi iznos primjenjuje se od datuma koji utvrđuje glavni direktor, pod uvjetom da je taj datum od jedan do dva mjeseca kasniji od datuma objavljivanja tog iznosa u Glasilu.

Pravilo 36. IZUZEĆE OD PRISTOJBI

Upis sljedećega izuzima se od pristojbi:

- i) imenovanje zastupnika, svaka promjena koja se tiče zastupnika i brisanje upisa zastupnika,
- ii) svaka promjena telefonskoga broja i broja telefaksa nositelja,
- iii) brisanje međunarodne registracije,
- iv) svako odricanje prema pravilu 25. stavku 1. podstavku a) točki iii),
- v) svako ograničenje provedeno u samoj međunarodnoj prijavi prema pravilu 9. stavku 4. podstavku a) točki xiii) ili u naknadnoj naznaci prema pravilu 24. stavku 3. podstavku a) točki iv),
- vi) svaki zahtjev ureda prema prvoj rečenici članka 6. stavka 4) Sporazuma ili prvoj rečenici članka 6. stavka 4. Protokola,
- vii) postojanje sudskoga postupka ili konačne odluke koja utječe na osnovnu prijavu, ili registracije koja iz nje proizlazi ili osnovne registracije,
- viii) svako odbijanje prema pravilu 17., pravilu 24. stavku 9. ili pravilu 28. stavku 3., svaka izjava prema pravilu 17. stavku 5. ili 6. ili svaka izjava prema pravilu 20.bis. stavku 5. ili pravilu 27. stavku 4. ili 5.,
- ix) prestanak vrijednosti međunarodne registracije,
- x) obavijest dostavljena prema pravilu 20.,
- xi) svaka obavijest prema pravilu 21. ili pravilu 23.,
- xii) svaki ispravak u međunarodnom registru.

Pravilo 37.

RASPODJELA DODATNIH PRISTOJBI I DOPUNSKIH PRISTOJBI

(1) Koeficijent iz članka 8. stavaka 5. i 6. Sporazuma i članka 8. stavaka 5. i 6. Protokola je sljedeći:

za ugovorne stranke koje ispituju

samo po apsolutnim razlozima za odbijanje dva

za ugovorne stranke koje ispituju i ranija prava:

a) slijedom prigovora trećih strana tri

b) ex officio četiri

(2) Koeficijent četiri primjenjuje se i na ugovorne stranke koje ex officio pretražuju ranija prava s navođenjem najznačajnijih ranijih prava.

Pravilo 38.

DOZNAČAVANJE INDIVIDUALNIH PRISTOJBI NA RAČUNE ODNOSNIH UGOVORNIH STRANAKA

Svaka individualna pristojba plaćena Međunarodnom uredu u odnosu na ugovornu stranku koja je dala izjavu prema članku 8. stavku 7) podstavku a) Protokola doznačuje se na račun te ugovorne stranke kod Međunarodnog ureda u mjesecu koji slijedi mjesec tijekom kojega su obavljene upis međunarodne registracije, naknadne naznake ili produženja vrijednosti za koje je plaćena ta pristojba ili upis uplate drugoga dijela individualne pristojbe.

Poglavlje 9.

RAZNO

Pravilo 39.

NASTAVAK VRIJEDNOSTI MEĐUNARODNIH REGISTRACIJA U ODREĐENIM DRŽAVAMA SLJEDNICAMA

(1) Kad je neka država (»država sljednica«) čiji je teritorij, prije neovisnosti te države, bio dio teritorija ugovorne stranke (»ugovorne stranke prednice«) položila kod glavnoga direktora izjavu o sukcesiji, čiji je učinak da država sljednica primjenjuje Sporazum, Protokol ili i Sporazum i Protokol, vrijednost u državi sljednici svake međunarodne registracije s teritorijalnim proširenjem na zemlju prednicu, koja vrijedi od datuma ranijega od datuma utvrđenoga stavkom 2., podložna je:

i) podnošenju zahtjeva Međunarodnom uredu, u roku od šest mjeseci od datuma obavijesti koju je u tu svrhu Međunarodni ured uputio nositelju odnosne međunarodne registracije, da takva međunarodna registracija nastavi vrijediti u državi sljednici i

ii) plaćanju Međunarodnom uredu, u istom roku, pristojbe od 23 švicarska franka, koju Međunarodni ured prosljeđuje uredu države sljednice, kao i pristojbe od 41 švicarskoga franka u korist Međunarodnog ureda.

(2) Datum iz stavka 1. jest datum koji je država sljednica priopćila Međunarodnom uredu za potrebe ovoga pravila, pod uvjetom da taj datum ne smije biti raniji od datuma neovisnosti te države sljednice.

(3) Međunarodni ured, nakon primitka zahtjeva i pristojbi iz stavka 1., obavješćuje ured države sljednice i obavlja odgovarajući upis u međunarodni registar.

(4) U odnosu na svaku međunarodnu registraciju u vezi s kojom je ured države sljednice primio obavijest prema stavku 3., taj ured može odbiti zaštitu samo onda ako rok iz članka 5. stavka 2. Sporazuma ili članka 5. stavka 2. podstavaka a), b) ili c) nije istekao u odnosu na teritorijalno proširenje na ugovornu stranku prednicu i ako je Međunarodni ured primio obavijest o odbijanju u tom roku.

(5) Ovo se pravilo ne primjenjuje na Rusku Federaciju ni na bilo koju državu koja je kod glavnoga direktora položila izjavu prema kojoj ta država zadržava pravnu osobnost ugovorne stranke.

Pravilo 40.

STUPANJE NA SNAGU; PRIJELAZNE ODREDBE

(1) [Stupanje na snagu] Ovaj Pravilnik stupa na snagu 1. travnja 1996. godine i od toga datuma zamjenjuje Pravilnik prema Sporazumu koji je bio na snazi 31. ožujka 1996. godine (u daljnjem tekstu »Pravilnik prema Sporazumu«).

(2) [Opće prijelazne odredbe] a) Bez obzira na stavak 1.,

i) smatra se da međunarodna prijava, za koju je ured podrijetla prije 1. travnja 1996. godine primio, ili se prema pravilu 11. stavku 1. podstavku a) ili podstavku c) smatra da je primio, zahtjev za podnošenje Međunarodnom uredu, udovoljava propisanim uvjetima za potrebe pravila 14. u opsegu u kojem udovoljava uvjetima iz Pravilnika prema Sporazumu;

ii) smatra se da zahtjev za upis promjene prema pravilu 20. Pravilnika prema Sporazumu koji je ured podrijetla ili neki drugi zainteresirani ured poslao Međunarodnom uredu prije 1. travnja 1996. godine ili, kad se takav datum može utvrditi, čiji je datum primitka u uredu podrijetla ili nekom drugom zainteresiranom uredu radi podnošenja Međunarodnom uredu raniji od 1. travnja 1996. godine, udovoljava propisanim uvjetima za potrebe pravila 24. stavka 7. ili da je uredan u smislu pravila 27., u mjeri u kojoj udovoljava uvjetima iz Pravilnika prema Sporazumu;

iii) međunarodnu prijavu ili zahtjev za upis promjene prema pravilu 20. Pravilnika prema Sporazumu, koja je prije 1. travnja 1996. godine bila predmet bilo kojeg postupka Međunarodnog ureda prema pravilima 11., 12., 13. ili 21. Pravilnika prema Sporazumu, Međunarodni ured nastavlja obrađivati prema spomenutim pravilima; datum međunarodne registracije ili upisa u međunarodni registar, koji slijede, uređen je pravilom 15. ili pravilom 22. Pravilnika prema Sporazumu;

iv) smatra se da obavijest o odbijanju ili obavijest o prestanku vrijednosti koju je ured naznačene ugovorne stranke poslao prije 1. travnja 1996. godine, udovoljava propisanim uvjetima za potrebe pravila 17. stavaka 4. i 5. ili pravila 19. stavka 2., u mjeri u kojoj udovoljava uvjetima iz Pravilnika prema Sporazumu.

b) Za potrebe pravila 34. stavka 7., pristojbe koje vrijede na bilo koji datum prije 1. travnja 1996. godine, jesu pristojbe koje propisuje pravilo 32. Pravilnika prema Sporazumu.

c) Bez obzira na pravilo 10. stavak 1., kad su, u skladu s pravilom 34. stavkom 7. podstavkom a), pristojbe koje su plaćene za podnošenje međunarodne prijave pristojbe koje su propisane pravilom 32. Pravilnika prema Sporazumu za 20 godina, drugi se obrok ne mora platiti.

d) Kad su, u skladu s pravilom 34. stavkom 7. podstavkom b), pristojbe koje su plaćene za naknadnu naznaku pristojbe koje su propisane pravilom 32. Pravilnika prema Sporazumu, stavak 3. ne primjenjuje se.

(3) [Prijelazne odredbe koje se primjenjuju na međunarodne registracije za koje su pristojbe plaćene za 20 godina] a) Kad je međunarodna registracija za koju su potrebne pristojbe plaćene za 20 godina predmet naknadne naznake prema pravilu 24. i kad tekuće razdoblje zaštite te međunarodne registracije istječe više od deset godina nakon datuma početka vrijednosti naknadne naznake, utvrđenoga u skladu s pravilom 24. stavkom 6., primjenjuju se odredbe podstavaka b) i c).

b) Šest mjeseci prije isteka prvoga razdoblja od deset godina tekućega razdoblja zaštite međunarodne registracije, Međunarodni ured nositelju i njegovu zastupniku, ako on postoji, šalje obavijest u kojoj navodi točan datum isteka prvoga razdoblja od deset godina i ugovorne stranke koje su bile predmet naknadnih naznaka iz podstavka a). Pravilo 29. primjenjuje se mutatis mutandis.

c) Plaćanje dopunskih i individualnih pristojbi koje odgovaraju pristojbama iz pravila 30. stavka 1. točke iii) traži se za drugo razdoblje od deset godina za naknadne naznake iz podstavka (a). Pravilo 30. stavci 1. i 3. primjenjuje se mutatis mutandis.

d) Međunarodni ured upisuje u međunarodni registar činjenicu da je Međunarodnom uredu plaćeno za drugo razdoblje od deset godina. Datum upisa jest datum isteka prvoga razdoblja od deset godina, čak i ako su potrebne pristojbe plaćene u dodatnom roku iz članka 7. stavka 5. Sporazuma i članka 7. stavka 4. Protokola.

e) Međunarodni ured obavješćuje urede odnosnih naznačenih ugovornih stranaka o činjenici da je obavljena ili da nije obavljena uplata za drugo razdoblje od deset godina te istodobno obavješćuje i nositelja.

(4) [Prijelazne odredbe o jezicima] a) Pravilo 6., kakvo je bilo na snazi prije 1. travnja 2004. godine, nastavlja se primjenjivati na sve međunarodne prijave podnesene prije toga datuma i sve međunarodne prijave podnesene isključivo prema Sporazumu između toga datuma i uključivo 31. kolovoza 2008. godine, na sva priopćenja koja se na njih odnose te sva priopćenja, upise u međunarodni registar ili objave u Glasilu što se odnose na međunarodnu registraciju koja iz njih proizlazi, osim ako je

i) međunarodna registracija predmet naknadne naznake obavljene prema Protokolu između 1. travnja 2004. godine i 31. kolovoza 2008. godine ili je

ii) međunarodna registracija predmet naknadne naznake obavljene 1. listopada 2008. godine ili nakon toga datuma i

iii) naknadna naznaka upisana u međunarodni registar.

b) U smislu ovoga stavka, međunarodna prijava smatra se podnesenom na datum na koji je zahtjev za podnošenje međunarodne prijave Međunarodnom uredu primljen ili se smatra primljenim prema pravilu 11. stavku 1. podstavku a) ili podstavku c) od strane ureda podrijetla, a međunarodna registracija smatra se predmetom naknadne naznake obavljene na datum na koji je naknadna naznaka podnesena Međunarodnom uredu, ako je podnesena neposredno od strane nositelja, ili na datum na koji je zahtjev za podnošenje naknadne naznake podnesen uredu ugovorne stranke nositelja, ako je podnesena posredstvom toga ureda.

Pravilo 41.

ADMINISTRATIVNE UPUTE

(1) [Donošenje Administrativnih uputa; Pitanja koja one uređuju] a) Glavni direktor donosi Administrativne upute. Glavni direktor ih može izmijeniti. Prije donošenja ili izmjene Administrativnih uputa, glavni direktor savjetuje se s uredima koji su izravno zainteresirani za predložene Administrativne upute ili za njihove predložene izmjene.

b) Administrativne upute uređuju pitanja u pogledu kojih ovaj Pravilnik izričito upućuje na te Upute i pojedivosti vezane uz primjenu ovoga Pravilnika.

(2) [Nadzor Skupštine] Skupština može pozvati glavnoga direktora da izmijeni bilo koju odredbu Administrativnih uputa, a glavni direktor postupa u skladu s tim.

(3) [Objava i datum stupanja na snagu] a) Administrativne upute i svaka njihova izmjena objavljuju se u Glasilu.

b) Svaka objava određuje datum kad objavljene odredbe stupaju na snagu. Datumi mogu biti različiti za različite odredbe, pod uvjetom da nijedna odredba ne smije stupiti na snagu prije njezine objave u Glasilu.

(4) [Nesuglasje sa Sporazumom, Protokolom ili s ovim Pravilnikom] U slučaju nesuglasja između, s jedne strane, bilo koje odredbe Administrativnih uputa i, s druge strane, bilo koje odredbe Sporazuma, Protokola ili ovoga Pravilnika, primjenjuju se odredbe ovih potonjih.

[1]1 Stavak 1. pravila 7. glasi: »Ako ugovorna stranka, kad je ured podrijetla njezin ured, a nositeljeva adresa na teritoriju te ugovorne stranke, zahtijeva da se naznake obavljene nakon međunarodne registracije podnose Međunarodnom uredu posredstvom tog ureda, mora o tom zahtjevu obavijestiti glavnoga direktora.«

[2]2 Izjava o tumačenju potvrđena od strane Skupštine Madridske unije: »Upućivanje u pravilu 17. stavku 5. podstavku b) na kasniju odluku koja utječe na zaštitu žiga odnosi se i na

slučaj u kojem tu kasniju odluku donosi ured, na primjer, u slučaju povrata u prijašnje stanje, bez obzira na činjenicu da je ured već izjavio da su postupci pred tim uredom završeni.

[3]3 Izjava o tumačenju potvrđena od strane Skupštine Madridske unije: »Upućivanja u pravilu 17. stavku 6. podstavku a) točki ii) i točki iii) na očitovanje trećih strana odnosi se samo na one ugovorne stranke čiji pravni propisi predviđaju takva očitovanja.«

[4]4 Izjava o tumačenju potvrđena od strane Skupštine Madridske unije: »Kad zahtjev za upis licencije u registar ne sadržava podatak, predviđen u pravilu 20.bis. stavku 1. podstavku c) točki v), da je licencija isključiva ili solo licencija, može se smatrati da je ta licencija neisključiva«

[5]5 Izjava o tumačenju potvrđena od strane Skupštine Madridske unije: »Podstavak a) pravila 20.bis. stavka 6. predviđa slučaj obavijesti koju daje ugovorna stranka čiji zakon ne predviđa upis licencije na žig; takva se obavijest može dati u svakom trenutku; s druge strane, podstavak b) predviđa slučaj obavijesti koju daje ugovorna stranka čiji zakon predviđa upis licencija na žig, ali koja u ovom trenutku nije u mogućnosti provesti upis licencije u međunarodni registar; ta potonja obavijest, koja se može povući u svakom trenutku, može se dati samo prije stupanja na snagu ovoga pravila ili prije no što tu ugovornu stranku počne obvezivati Sporazum ili Protokol.«

DRŽAVNI ZAVOD ZA INTELEKTUALNO VLASNIŠTVO

COMMON REGULATIONS UNDER THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND THE PROTOCOL RELATING TO THAT AGREEMENT

(as in force on September 1, 2008)

Chapter 1 GENERAL PROVISIONS

Rule 1 ABBREVIATED EXPRESSIONS

For the purposes of these Regulations,

(i) «Agreement» means the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979;

(ii) «Protocol» means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989;

(iii) «Contracting Party» means any country party to the Agreement or any State or intergovernmental organization party to the Protocol;

(iv) «Contracting State» means a Contracting Party that is a State;

(v) «Contracting Organization» means a Contracting Party that is an intergovernmental organization;

(vi) «international registration» means the registration of a mark effected under the Agreement or the Protocol or both, as the case may be;

(vii) «international application» means an application for international registration filed under the Agreement or the Protocol or both, as the case may be;

(viii) «international application governed exclusively by the Agreement» means an international application whose Office of origin is the Office

– of a State bound by the Agreement but not by the Protocol, or

– of a State bound by both the Agreement and the Protocol, where only States are designated in the international application and all the designated States are bound by the Agreement but not by the Protocol;

(ix) «international application governed exclusively by the Protocol» means an international application whose Office of origin is the Office

– of a State bound by the Protocol but not by the Agreement, or

– of a Contracting Organization, or

– of a State bound by both the Agreement and the Protocol, where the international application does not contain the designation of any State bound by the Agreement but not by the Protocol;

(x) «international application governed by both the Agreement and the Protocol» means an international application whose Office of origin is the Office of a State bound by both the Agreement and the Protocol and which is based on a registration and contains the designations

– of at least one State bound by the Agreement but not by the Protocol, and

– of at least one State bound by the Protocol, whether or not that State is also bound

by the Agreement or of at least one Contracting Organization;

(xi) «applicant» means the natural person or legal entity in whose name the international application is filed;

(xii) «legal entity» means a corporation, association or other group or organization which, under the law applicable to it, is capable of acquiring rights, assuming obligations and suing or being sued in a court of law;

(xiii) «basic application» means the application for the registration of a mark that has been filed with the Office of a Contracting Party and that constitutes the basis for the international application for the registration of that mark;

(xiv) «basic registration» means the registration of a mark that has been effected by the Office of a Contracting Party and that constitutes the basis for the international application for the registration of that mark;

(xv) «designation» means the request for extension of protection («territorial extension») under Article 3ter(1) or (2) of the Agreement or under Article 3ter(1) or (2) of the Protocol, as the case may be; it also means such extension as recorded in the International Register;

(xvi) «designated Contracting Party» means a Contracting Party for which the extension of protection («territorial extension») has been requested under Article 3ter(1) or (2) of the Agreement or under Article 3ter(1) or (2) of the Protocol, as the case may be, or in respect of which such extension has been recorded in the International Register;

(xvii) «Contracting Party designated under the Agreement» means a Contracting Party for which the extension of protection («territorial extension») has been requested under Article 3ter(1) or (2) of the Agreement;

(xviii) «Contracting Party designated under the Protocol» means a Contracting Party for which the extension of protection («territorial extension») has been requested under Article 3ter(1) or (2) of the Protocol;

(xix) «notification of provisional refusal» means a declaration by the Office of a designated Contracting Party, in accordance with Article 5(1) of the Agreement or Article 5(1) of the Protocol;

(xixbis) «invalidation» means a decision by the competent authority (whether administrative or judicial) of a designated Contracting Party revoking or cancelling the effects, in the territory of that Contracting Party, of an international registration with regard to all or some of the goods or services covered by the designation of the said Contracting Party;

(xx) «Gazette» means the periodical gazette referred to in Rule 32;

(xxi) «holder» means the natural person or legal entity in whose name the international registration is recorded in the International Register;

(xxii) «International Classification of Figurative Elements» means the Classification established by the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks of June 12, 1973;

(xxiii) «International Classification of Goods and Services» means the Classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957, as revised at Stockholm on July 14, 1967, and at Geneva on May 13, 1977;

(xxiv) «International Register» means the official collection of data concerning international registrations maintained by the International Bureau, which data the Agreement, the Protocol

or the Regulations require or permit to be recorded, irrespective of the medium in which such data are stored;

(xxv) «Office» means the Office of a Contracting Party in charge of the registration of marks, or the common Office referred to in Article 9quater of the Agreement or Article 9quater of the Protocol, or both, as the case may be;

(xxvi) «Office of origin» means the Office of the country of origin defined in Article 1(3) of the Agreement or the Office of origin defined in Article 2(2) of the Protocol, or both, as the case may be;

(xxvibis) «Contracting Party of the holder» means

– the Contracting Party whose Office is the Office of origin, or

– where a change of ownership has been recorded or in the case of State succession, the Contracting Party, or one of the Contracting Parties, in respect of which the holder fulfills the conditions, under Articles 1(2) and 2 of the Agreement or under Article 2 of the Protocol, to be the holder of an international registration;

(xxvii) «official form» means a form established by the International Bureau or any form having the same contents and format;

(xxviii) «prescribed fee» means the applicable fee set out in the Schedule of Fees;

(xxix) «Director General» means the Director General of the World Intellectual Property Organization;

(xxx) «International Bureau» means the International Bureau of the World Intellectual Property Organization.

(xxxi) «Administrative Instructions» means the Administrative Instructions referred to in Rule 41.

Rule 1bis

DESIGNATIONS GOVERNED BY THE AGREEMENT AND DESIGNATIONS GOVERNED BY THE PROTOCOL

(1) [General Principle and Exceptions] The designation of a Contracting Party shall be governed by the Agreement or by the Protocol depending on whether the Contracting Party has been designated under the Agreement or under the Protocol. However,

(i) where, with regard to a given international registration, the Agreement ceases to be applicable in the relations between the Contracting Party of the holder and a Contracting Party whose designation is governed by the Agreement, the designation of the latter shall become governed by the Protocol as of the date on which the Agreement so ceases to be applicable, insofar as, on that date, both the Contracting Party of the holder and the designated Contracting Party are parties to the Protocol, and

(ii) where, with regard to a given international registration, the Protocol ceases to be applicable in the relations between the Contracting Party of the holder and a Contracting Party whose designation is governed by the Protocol, the designation of the latter shall become governed by the Agreement as of the date on which the Protocol so ceases to be applicable, insofar as, on that date, both the Contracting Party of the holder and the designated Contracting Party are parties to the Agreement.

(2) [Recording] The international Bureau shall record in the International Register an indication of the treaty governing each designation.

Rule 2

COMMUNICATION WITH THE INTERNATIONAL BUREAU

Communications addressed to the International Bureau shall be effected as specified in the Administrative Instructions.

Rule 3

REPRESENTATION BEFORE THE INTERNATIONAL BUREAU

(1) [Representative; Number of Representatives] (a) The applicant or the holder may have a representative before the International Bureau.

(b) The applicant or the holder may have one representative only. Where the appointment indicates several representatives, only the one indicated first shall be considered to be a representative and be recorded as such.

(c) Where a partnership or firm composed of attorneys or patent or trademark agents has been indicated as representative to the International Bureau, it shall be regarded as one representative.

(2) [Appointment of the Representative] (a) The appointment of a representative may be made in the international application, or in a subsequent designation or a request under Rule 25.

(b) The appointment of a representative may also be made in a separate communication which may relate to one or more specified international applications or international registrations of the same applicant or holder. The said communication shall be presented to the International Bureau

(i) by the applicant, the holder or the appointed representative, or

(ii) by the Office of the Contracting Party of the holder.

The communication shall be signed by the applicant or the holder, or by the Office through which it was presented.

(3) [Irregular Appointment] (a) Where the International Bureau considers that the appointment of a representative under paragraph (2) is irregular, it shall notify accordingly the applicant or holder, the purported representative and, if the sender or transmitter is an Office, that Office.

(b) As long as the relevant requirements under paragraph (2) are not complied with, the International Bureau shall send all relevant communications to the applicant or holder himself.

(c) As long as the relevant requirements under paragraphs (1)(b) and (2) are not complied with, the International Bureau shall send all relevant communications to the applicant or holder himself.

(4) [Recording and Notification of Appointment of a Representative; Effective Date of Appointment] (a) Where the International Bureau finds that the appointment of a representative complies with the applicable requirements, it shall record the fact that the applicant or holder has a representative, as well as the name and address of the representative, in the International Register. In such a case, the effective date of the appointment shall be the date on which the International Bureau received the international application, subsequent designation, request or separate communication in which the representative is appointed.

(b) The International Bureau shall notify the recording referred to in subparagraph (a) to both the applicant or holder and the representative. Where the appointment was made in a separate communication presented through an Office, the International Bureau shall also notify the recording to that Office.

(5) [Effect of Appointment of a Representative] (a) Except where these Regulations expressly provide otherwise, the signature of a representative recorded under paragraph (4)(a) shall replace the signature of the applicant or holder.

(b) Except where these Regulations expressly require that an invitation, notification or other communication be addressed to both the applicant or holder and the representative, the International Bureau shall address to the representative recorded under paragraph (4)(a) any invitation, notification or other communication which, in the absence of a representative, would have to be sent to the applicant or holder; any invitation, notification or other communication so addressed to the said representative shall have the same effect as if it had been addressed to the applicant or holder.

(c) Any communication addressed to the International Bureau by the representative recorded under paragraph (4)(a) shall have the same effect as if it had been addressed to the said Bureau by the applicant or holder.

(6) [Cancellation of Recording; Effective Date of Cancellation] (a) Any recording under paragraph (4)(a) shall be cancelled where cancellation is requested in a communication signed by the applicant, holder or representative. The recording shall be cancelled ex officio by the International Bureau where a new representative is appointed or, in case a change in ownership has been recorded, where no representative is appointed by the new holder of the international registration.

(b) Subject to subparagraph (c), the cancellation shall be effective from the date on which the International Bureau receives the corresponding communication.

(c) Where the cancellation is requested by the representative, it shall be effective from the earlier of the following:

(i) the date on which the International Bureau receives a communication appointing a new representative;

(ii) the date of the expiry of a period of two months counted from the receipt of the request of the representative that the recording be cancelled.

Until the effective date of the cancellation, all communications referred to in paragraph (5)(b) shall be addressed by the International Bureau to both the applicant or holder and the representative.

(d) The International Bureau shall, upon receipt of a request for cancellation made by the representative, notify accordingly the applicant or holder, and add to the notification copies of all communications sent to the representative, or received by the International Bureau from the representative, during the six months preceding the date of the notification.

(e) The International Bureau shall, once the effective date of the cancellation is known, notify the cancellation and its effective date to the representative whose recording has been cancelled, to the applicant or holder and, where the appointment of the representative had been presented through an Office, to that Office.

Rule 4 CALCULATION OF TIME LIMITS

(1) [Periods Expressed in Years] Any period expressed in years shall expire, in the relevant subsequent year, in the month having the same name and on the day having the same number as the month and the day of the event from which the period starts to run, except that, where the event occurred on February 29 and in the relevant subsequent year February ends on the 28th, the period shall expire on February 28.

(2) [Periods Expressed in Months] Any period expressed in months shall expire, in the relevant subsequent month, on the day which has the same number as the day of the event from which the period starts to run, except that, where the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month.

(3) [Periods Expressed in Days] The calculation of any period expressed in days shall start with the day following the day on which the relevant event occurred and shall expire accordingly.

(4) [Expiry on a Day on Which the International Bureau or an Office Is Not Open to the Public] If a period expires on a day on which the International Bureau or the Office concerned is not open to the public, the period shall, notwithstanding paragraphs (1) to (3), expire on the first subsequent day on which the International Bureau or the Office concerned is open to the public.

(5) [Indication of the Date of Expiry] The International Bureau shall, in all cases in which it communicates a time limit, indicate the date of the expiry, according to paragraphs (1) to (3), of the said time limit.

Rule 5
IRREGULARITIES IN POSTAL AND DELIVERY SERVICES

(1) [Communications Sent Through a Postal Service] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and mailed through a postal service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,

(i) that the communication was mailed at least five days prior to the expiry of the time limit, or, where the postal service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, that the communication was mailed not later than five days after postal service was resumed,

(ii) that the mailing of the communication was registered, or details of the mailing were recorded, by the postal service at the time of mailing, and

(iii) in cases where all classes of mail do not normally reach the International Bureau within two days of mailing, that the communication was mailed by a class of mail which normally reaches the International Bureau within two days of mailing or by airmail.

(2) [Communications Sent Through a Delivery Service] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and sent through a delivery service shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau,

(i) that the communication was sent at least five days prior to the expiry of the time limit, or, where the delivery service was, on any of the ten days preceding the day of expiry of the time limit, interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, that the communication was sent not later than five days after the delivery service was resumed, and

(ii) that details of the sending of the communication were recorded by the delivery service at the time of sending.

(3) [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence referred to in paragraph (1) or (2) and the communication or a duplicate thereof are received by the International Bureau not later than six months after the expiry of the time limit.

(4) [International Application and Subsequent Designation] Where the International Bureau receives an international application or a subsequent designation beyond the two-month period referred to in Article 3(4) of the Agreement, in Article 3(4) of the Protocol and in Rule 24(6)(b), and the Office concerned indicates that the late receipt resulted from circumstances referred to in paragraph (1) or (2), paragraph (1) or (2) and paragraph (3) shall apply.

Rule 6 LANGUAGES

(1) [International Application] The international application shall be in English, French or Spanish according to what is prescribed by the Office of origin, it being understood that the Office of origin may allow applicants to choose between English, French and Spanish.

(2) [Communications Other Than the International Application] Any communication concerning an international application or an international registration shall, subject to Rule 17(2)(v) and (3), be

(i) in English, French or Spanish where such communication is addressed to the International Bureau by the applicant or holder, or by an Office;

(ii) in the language applicable under Rule 7(2) where the communication consists of the declaration of intention to use the mark annexed to the international application under Rule 9(5)(f) or to the subsequent designation under Rule 24(3)(b)(i);

(iii) in the language of the international application where the communication is a notification addressed by the International Bureau to an Office, unless that Office has notified the International Bureau that all such notifications are to be in English, or are to be in French or are to be in Spanish; where the notification addressed by the International Bureau concerns the recording in the International Register of an international registration, the notification shall indicate the language in which the relevant international application was received by the International Bureau;

(iv) in the language of the international application where the communication is a notification addressed by the International Bureau to the applicant or holder, unless that applicant or holder has expressed the wish that all such notifications be in English, or be in French or be in Spanish.

(3) [Recording and Publication] (a) The recording in the International Register and the publication in the Gazette of the international registration and of any data to be both recorded and published under these Regulations in respect of the international registration shall be in English, French and Spanish. The recording and publication of the international registration shall indicate the language in which the international application was received by the International Bureau.

(b) Where a first subsequent designation is made in respect of an international registration that, under previous versions of this Rule, has been published only in French, or only in English and French, the International Bureau shall, together with the publication in the Gazette of that subsequent designation, either publish the international registration in English and Spanish and republish the international registration in French, or publish the international registration in Spanish and republish it in English and French, as the case may be. That subsequent designation shall be recorded in the International Register in English, French and Spanish.

(4) [Translation] (a) The translations needed for the notifications under paragraph (2)(iii) and (iv), and recordings and publications under paragraph (3), shall be made by the International Bureau. The applicant or the holder, as the case may be, may annex to the international

application, or to a request for the recording of a subsequent designation or of a change, a proposed translation of any text matter contained in the international application or the request. If the proposed translation is not considered by the International Bureau to be correct, it shall be corrected by the International Bureau after having invited the applicant or the holder to make, within one month from the invitation, observations on the proposed corrections.

(b) Notwithstanding subparagraph (a), the International Bureau shall not translate the mark. Where, in accordance with Rule 9(4)(b)(iii) or Rule 24(3)(c), the applicant or the holder gives a translation or translations of the mark, the International Bureau shall not check the correctness of any such translations.

Rule 7 NOTIFICATION OF CERTAIN SPECIAL REQUIREMENTS

(1) [Deleted]

(2) [Intention to Use the Mark] Where a Contracting Party requires, as a Contracting Party designated under the Protocol, a declaration of intention to use the mark, it shall notify that requirement to the Director General. Where that Contracting Party requires the declaration to be signed by the applicant himself and to be made on a separate official form annexed to the international application, the notification shall contain a statement to that effect and shall specify the exact wording of the required declaration. Where the Contracting Party further requires the declaration to be in English, French or Spanish, the notification shall specify the required language.

(3) [Notification] (a) Any notification referred to in paragraph (2) may be made at the time of the deposit by the Contracting Party of its instrument of ratification, acceptance or approval of, or accession to, the Protocol, and the effective date of the notification shall be the same as the date of entry into force of the Protocol with respect to the Contracting Party having made the notification. The notification may also be made later, in which case the notification shall have effect three months after its receipt by the Director General, or at any later date indicated in the notification, in respect of any international registration whose date is the same as or is later than the effective date of the notification.

(b) Any notification made under paragraph (1), as in force before October 4, 2001^[1], or paragraph (2) may be withdrawn at any time. The notice of withdrawal shall be addressed to the Director General. The withdrawal shall have effect upon receipt of the notice of withdrawal by the Director General or at any later date indicated in the notice.

Chapter 2 INTERNATIONAL APPLICATIONS

Rule 8 Several Applicants

(1) [Two or More Applicants Applying Exclusively Under the Agreement or Applying Under Both the Agreement and the Protocol] Two or more applicants may jointly file an international application governed exclusively by the Agreement or governed by both the

Agreement and the Protocol if the basic registration is jointly owned by them and if the country of origin, as defined in Article 1(3) of the Agreement, is the same for each of them.

(2) [Two or More Applicants Applying Exclusively Under the Protocol] Two or more applicants may jointly file an international application governed exclusively by the Protocol if the basic application was jointly filed by them or the basic registration is jointly owned by them, and if each of them qualifies, in relation to the Contracting Party whose Office is the Office of origin, for filing an international application under Article 2(1) of the Protocol.

Rule 9

Requirements Concerning the International Application

(1) [Presentation] The international application shall be presented to the International Bureau by the Office of origin.

(2) [Form and Signature] (a) The international application shall be presented on the official form in one copy.

(b) The international application shall be signed by the Office of origin and, where the Office of origin so requires, also by the applicant. Where the Office of origin does not require the applicant to sign the international application but allows that the applicant also sign it, the applicant may do so.

(3) [Fees] The prescribed fees applicable to the international application shall be paid as provided for in Rules 10, 34 and 35.

(4) [Contents of the International Application] (a) The international application shall contain or indicate

(i) the name of the applicant, given in accordance with the Administrative Instructions,

(ii) the address of the applicant, given in accordance with the Administrative Instructions,

(iii) the name and address of the representative, if any, given in accordance with the Administrative Instructions,

(iv) where the applicant wishes, under the Paris Convention for the Protection of Industrial Property, to take advantage of the priority of an earlier filing, a declaration claiming the priority of that earlier filing, together with an indication of the name of the Office where such filing was made and of the date and, where available, the number of that filing, and, where the earlier filing relates to less than all the goods and services listed in the international application, the indication of those goods and services to which the earlier filing relates,

(v) a reproduction of the mark that shall fit in the box provided on the official form; that reproduction shall be clear and shall, depending on whether the reproduction in the basic application or the basic registration is in black and white or in color, be in black and white or in color,

(vi) where the applicant wishes that the mark be considered as a mark in standard characters, a declaration to that effect,

(vii) where color is claimed as a distinctive feature of the mark in the basic application or basic registration, or where the applicant wishes to claim color as a distinctive feature of the mark and the mark contained in the basic application or basic registration is in color, an indication that color is claimed and an indication by words of the color or combination of colors claimed and, where the reproduction furnished under item (v) is in black and white, one reproduction of the mark in color,

(viibis) where the mark that is the subject of the basic application or the basic registration consists of a color or a combination of colors as such, an indication to that effect,

(viii) where the basic application or the basic registration relates to a three-dimensional mark, the indication «three-dimensional mark,»

(ix) where the basic application or the basic registration relates to a sound mark, the indication «sound mark,»

(x) where the basic application or the basic registration relates to a collective mark or a certification mark or a guarantee mark, an indication to that effect,

(xi) where the basic application or the basic registration contains a description of the mark by words and the applicant wishes to include the description or the Office of origin requires the inclusion of the description, that same description; where the said description is in a language other than the language of the international application, it shall be given in the language of the international application,

(xii) where the mark consists of or contains matter in characters other than Latin characters or numbers expressed in numerals other than Arabic or Roman numerals, a transliteration of that matter in Latin characters and Arabic numerals; the transliteration into Latin characters shall follow the phonetics of the language of the international application,

(xiii) the names of the goods and services for which the international registration of the mark is sought, grouped in the appropriate classes of the International Classification of Goods and Services, each group preceded by the number of the class and presented in the order of the classes of that Classification; the goods and services shall be indicated in precise terms, preferably using the words appearing in the Alphabetical List of the said Classification; the international application may contain limitations of the list of goods and services in respect of one or more designated Contracting Parties; the limitation in respect of each Contracting Party may be different,

(xiv) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions, and

(xv) the designated Contracting Parties.

(b) The international application may also contain,

(i) where the applicant is a natural person, an indication of the State of which the applicant is a national;

(ii) where the applicant is a legal entity, indications concerning the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(iii) where the mark consists of or contains a word or words that can be translated, a translation of that word or those words into English, French and Spanish, or in any one or two of those languages;

(iv) where the applicant claims color as a distinctive feature of the mark, an indication by words, in respect of each color, of the principal parts of the mark which are in that color;

(v) where the applicant wishes to disclaim protection for any element of the mark, an indication of that fact and of the element or elements for which protection is disclaimed.

(5) [Additional Contents of an International Application] (a) An international application governed exclusively by the Agreement or by both the Agreement and the Protocol shall contain the number and date of the basic registration and shall indicate one of the following:

(i) that the applicant has a real and effective industrial or commercial establishment in the territory of the Contracting State whose Office is the Office of origin, or

(ii) where the applicant has no such establishment in any Contracting State of the Agreement, that he has a domicile in the territory of the State whose Office is the Office of origin, or

(iii) where the applicant has no such establishment or domicile in the territory of any Contracting State of the Agreement, that he is a national of the State whose Office is the Office of origin.

(b) An international application governed exclusively by the Protocol shall contain the number and date of the basic application or basic registration and shall indicate one or more of the following:

(i) where the Contracting Party whose Office is the Office of origin is a State, that the applicant is a national of that State;

(ii) where the Contracting Party whose Office is the Office of origin is an organization, the name of the Member State of that organization of which the applicant is a national;

(iii) that the applicant has a domicile in the territory of the Contracting Party whose Office is the Office of origin;

(iv) that the applicant has a real and effective industrial or commercial establishment in the territory of the Contracting Party whose Office is the Office of origin.

(c) Where the address of the applicant given in accordance with paragraph (4)(a)(ii) is not in the territory of the Contracting Party whose Office is the Office of origin and it has been indicated under subparagraph (a)(i) or (ii) or subparagraph (b)(iii) or (iv) that the applicant has a domicile or an establishment in the territory of that Contracting Party, that domicile or the address of that establishment shall be given in the international application.

(d) The international application shall contain a declaration by the Office of origin certifying

(i) the date on which the Office of origin received or, as provided for in Rule 11(1), is deemed to have received the request by the applicant to present the international application to the International Bureau,

(ii) that the applicant named in the international application is the same as the applicant named in the basic application or the holder named in the basic registration, as the case may be,

(iii) that any indication referred to in paragraph (4)(a)(vii) to (xi) and appearing in the international application appears also in the basic application or the basic registration, as the case may be,

(iv) that the mark that is the subject matter of the international application is the same as in the basic application or the basic registration, as the case may be,

(v) that, if color is claimed as a distinctive feature of the mark in the basic application or the basic registration, the same claim is included in the international application or that, if color is claimed as a distinctive feature of the mark in the international application without having been claimed in the basic application or basic registration, the mark in the basic application or basic registration is in fact in the color or combination of colors claimed, and

(vi) that the goods and services indicated in the international application are covered by the list of goods and services appearing in the basic application or basic registration, as the case may be.

(e) Where the international application is based on two or more basic applications or basic registrations, the declaration referred to in subparagraph (d) shall be deemed to apply to all those basic applications or basic registrations.

(f) Where the international application contains the designation of a Contracting Party that has made a notification under Rule 7(2), the international application shall also contain a declaration of intention to use the mark in the territory of that Contracting Party; the declaration shall be considered part of the designation of the Contracting Party requiring it and shall, as required by that Contracting Party,

(i) be signed by the applicant himself and be made on a separate official form annexed to the international application, or

(ii) be included in the international application.

(g) Where an international application contains the designation of a Contracting Organization, it may also contain the following indications:

(i) where the applicant wishes to claim, under the law of that Contracting Organization, the seniority of one or more earlier marks registered in, or for, a Member State of that Organization, a declaration to that effect, stating the Member State or Member States in or for which the earlier mark is registered, the date from which the relevant registration was effective, the number of the relevant registration and the goods and services for which the

earlier mark is registered. Such indications shall be on an official form to be annexed to the international application;

(ii) where, under the law of that Contracting Organization, the applicant is required to indicate a second working language before the Office of that Contracting Organization, in addition to the language of the international application, an indication of that second language.

Rule 10

FEES CONCERNING THE INTERNATIONAL APPLICATION

(1) [International Applications Governed Exclusively by the Agreement] An international application governed exclusively by the Agreement shall be subject to the payment of the basic fee, the complementary fee and, where applicable, the supplementary fee, specified in item 1 of the Schedule of Fees. Those fees shall be paid in two instalments of ten years each. For the payment of the second instalment, Rule 30 shall apply.

(2) [International Applications Governed Exclusively by the Protocol] An international application governed exclusively by the Protocol shall be subject to the payment of the basic fee, the complementary fee and/or the individual fee and, where applicable, the supplementary fee, specified or referred to in item 2 of the Schedule of Fees. Those fees shall be paid for ten years.

(3) [International Applications Governed by Both the Agreement and the Protocol] An international application governed by both the Agreement and the Protocol shall be subject to the payment of the basic fee, the complementary fee and, where applicable, the individual fee and the supplementary fee, specified or referred to in item 3 of the Schedule of Fees. As far as the Contracting Parties designated under the Agreement are concerned, paragraph (1) shall apply. As far as the Contracting Parties designated under the Protocol are concerned, paragraph (2) shall apply.

Rule 11

IRREGULARITIES OTHER THAN THOSE CONCERNING THE CLASSIFICATION OF GOODS AND SERVICES OR THEIR INDICATION

(1) [Premature Request to the Office of Origin] (a) Where the Office of origin received a request to present to the International Bureau an international application governed exclusively by the Agreement before the mark which is referred to in that request is registered in the register of the said Office, the said request shall be deemed to have been received by the Office of origin, for the purposes of Article 3(4) of the Agreement, on the date of the registration of the mark in the register of the said Office.

(b) Subject to subparagraph (c), where the Office of origin receives a request to present to the International Bureau an international application governed by both the Agreement and the Protocol before the mark which is referred to in that request is registered in the register of the said Office, the international application shall be treated as an international application governed exclusively by the Protocol, and the Office of origin shall delete the designation of any Contracting Party bound by the Agreement but not by the Protocol.

(c) Where the request referred to in subparagraph (b) is accompanied by an express request that the international application be treated as an international application governed by both

the Agreement and the Protocol once the mark is registered in the register of the Office of origin, the said Office shall not delete the designation of any Contracting Party bound by the Agreement but not by the Protocol and the request to present the international application shall be deemed to have been received by the said Office, for the purposes of Article 3(4) of the Agreement and Article 3(4) of the Protocol, on the date of the registration of the mark in the register of the said Office.

(2) [Irregularities to Be Remedied by the Applicant] (a) If the International Bureau considers that the international application contains irregularities other than those referred to in paragraphs (3), (4) and (6) and in Rules 12 and 13, it shall notify the applicant of the irregularity and at the same time inform the Office of origin.

(b) Such irregularities may be remedied by the applicant within three months from the date of the notification of the irregularity by the International Bureau. If an irregularity is not remedied within three months from the date of the notification of that irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the applicant and the Office of origin.

(3) [Irregularity to Be Remedied by the Applicant or by the Office of Origin] (a) Notwithstanding paragraph (2), where the fees payable under Rule 10 have been paid to the International Bureau by the Office of origin and the International Bureau considers that the amount of the fees received is less than the amount required, it shall notify at the same time the Office of origin and the applicant. The notification shall specify the missing amount.

(b) The missing amount may be paid by the Office of origin or by the applicant within three months from the date of the notification by the International Bureau. If the missing amount is not paid within three months from the date of the notification of the irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the Office of origin and the applicant.

(4) [Irregularities to Be Remedied by the Office of Origin] (a) If the International Bureau

(i) finds that the international application does not fulfill the requirements of Rule 2 or was not presented on the official form prescribed under Rule 9(2)(a),

(ii) finds that the international application contains any of the irregularities referred to in Rule 15(1),

(iii) considers that the international application contains irregularities relating to the entitlement of the applicant to file an international application,

(iv) considers that the international application contains irregularities relating to the declaration by the Office of origin referred to in Rule 9(5)(d),

(v) [Deleted]

(vi) finds that the international application is not signed by the Office of origin, or

(vii) finds that the international application does not contain the date and number of the basic application or basic registration, as the case may be, it shall notify the Office of origin and at the same time inform the applicant.

(b) Such irregularities may be remedied by the Office of origin within three months from the date of notification of the irregularity by the International Bureau. If an irregularity is not remedied within three months from the date of the notification of that irregularity by the International Bureau, the international application shall be considered abandoned and the International Bureau shall notify accordingly and at the same time the Office of origin and the applicant.

(5) [Reimbursement of Fees] Where, in accordance with paragraphs (2)(b), (3) or (4)(b), the international application is considered abandoned, the International Bureau shall refund any fees paid in respect of that application, after deduction of an amount corresponding to one-half of the basic fee referred to in items 1.1.1, 2.1.1 or 3.1.1 of the Schedule of Fees, to the party having paid those fees.

(6) [Other Irregularity With Respect to the Designation of a Contracting Party Under the Protocol] (a) Where, in accordance with Article 3(4) of the Protocol, an international application is received by the International Bureau within a period of two months from the date of receipt of that international application by the Office of origin and the International Bureau considers that a declaration of intention to use the mark is required according to Rule 9(5)(f) but is missing or does not comply with the applicable requirements, the International Bureau shall promptly notify accordingly and at the same time the applicant and the Office of origin.

(b) The declaration of intention to use the mark shall be deemed to have been received by the International Bureau together with the international application if the missing or corrected declaration is received by the International Bureau within the period of two months referred to in subparagraph (a).

(c) The international application shall be deemed not to contain the designation of the Contracting Party for which a declaration of intention to use the mark is required if the missing or corrected declaration is received after the period of two months referred to in subparagraph (b). The International Bureau shall notify accordingly and at the same time the applicant and the Office of origin, reimburse any designation fee already paid in respect of that Contracting Party and indicate that the designation of the said Contracting Party may be effected as a subsequent designation under Rule 24, provided that such designation is accompanied by the required declaration.

(7) [International Application Not Considered as Such] If the international application is presented direct to the International Bureau by the applicant or does not comply with the requirement applicable under Rule 6(1), the international application shall not be considered as such and shall be returned to the sender.

Rule 12
IRREGULARITIES WITH RESPECT TO THE CLASSIFICATION OF GOODS
AND SERVICES

(1) [Proposal for Classification] (a) If the International Bureau considers that the requirements of Rule 9(4)(a)(xiii) are not complied with, it shall make a proposal of its own for the classification and grouping and shall send a notification of its proposal to the Office of origin and at the same time inform the applicant.

(b) The notification of the proposal shall also state the amount, if any, of the fees due as a consequence of the proposed classification and grouping.

(2) [Opinion Differing From the Proposal] The Office of origin may communicate to the International Bureau an opinion on the proposed classification and grouping within three months from the date of the notification of the proposal.

(3) [Reminder of the Proposal] If, within two months from the date of the notification referred to in paragraph (1)(a), the Office of origin has not communicated an opinion on the proposed classification and grouping, the International Bureau shall send to the Office of origin and to the applicant a communication reiterating the proposal. The sending of such a communication shall not affect the three-month period referred to in paragraph (2).

(4) [Withdrawal of Proposal] If, in the light of the opinion communicated under paragraph (2), the International Bureau withdraws its proposal, it shall notify the Office of origin accordingly and at the same time inform the applicant.

(5) [Modification of Proposal] If, in the light of the opinion communicated under paragraph (2), the International Bureau modifies its proposal, it shall notify the Office of origin and at the same time inform the applicant of such modification and of any consequent changes in the amount indicated under paragraph (1)(b).

(6) [Confirmation of Proposal] If, notwithstanding the opinion referred to in paragraph (2), the International Bureau confirms its proposal, it shall notify the Office of origin accordingly and at the same time inform the applicant.

(7) [Fees] (a) If no opinion has been communicated to the International Bureau under paragraph (2), the amount referred to in paragraph (1)(b) shall be payable within four months from the date of the notification referred to in paragraph (1)(a), failing which the international application shall be considered abandoned and the International Bureau shall notify the Office of origin accordingly and at the same time inform the applicant.

(b) If an opinion has been communicated to the International Bureau under paragraph (2), the amount referred to in paragraph (1)(b) or, where applicable, paragraph (5) shall be payable within three months from the date of the communication by the International Bureau of the modification or confirmation of its proposal under paragraph (5) or (6), as the case may be, failing which the international application shall be considered abandoned and the International Bureau shall notify the Office of origin accordingly and at the same time inform the applicant.

(c) If an opinion has been communicated to the International Bureau under paragraph (2) and if, in the light of that opinion, the International Bureau withdraws its proposal in accordance with paragraph (4), the amount referred to in paragraph (1)(b) shall not be due.

(8) [Reimbursement of Fees] Where, in accordance with paragraph (7), the international application is considered abandoned, the International Bureau shall refund any fees paid in respect of that application, after deduction of an amount corresponding to one-half of the basic fee referred to in items 1.1.1, 2.1.1 or 3.1.1 of the Schedule of Fees, to the party having paid those fees.

(9) [Classification in the Registration] Subject to the conformity of the international application with the other applicable requirements, the mark shall be registered with the classification and grouping that the International Bureau considers to be correct.

Rule 13

IRREGULARITIES WITH RESPECT TO THE INDICATION OF GOODS AND SERVICES

(1) [Communication of Irregularity by the International Bureau to the Office of Origin] If the International Bureau considers that any of the goods and services is indicated in the international application by a term that is too vague for the purposes of classification or is incomprehensible or is linguistically incorrect, it shall notify the Office of origin accordingly and at the same time inform the applicant. In the same notification, the International Bureau may suggest a substitute term, or the deletion of the term.

(2) [Time Allowed to Remedy Irregularity] (a) The Office of origin may make a proposal for remedying the irregularity within three months from the date of the notification referred to in paragraph (1).

(b) If no proposal acceptable to the International Bureau for remedying the irregularity is made within the period indicated in subparagraph (a), the International Bureau shall include in the international registration the term as appearing in the international application, provided that the Office of origin has specified the class in which such term should be classified; the international registration shall contain an indication to the effect that, in the opinion of the International Bureau, the specified term is too vague for the purposes of classification or is incomprehensible or is linguistically incorrect, as the case may be. Where no class has been specified by the Office of origin, the International Bureau shall delete the said term *ex officio* and shall notify the Office of origin accordingly and at the same time inform the applicant.

Chapter 3

INTERNATIONAL REGISTRATIONS

Rule 14

REGISTRATION OF THE MARK IN THE INTERNATIONAL REGISTER

(1) [Registration of the Mark in the International Register] Where the International Bureau finds that the international application conforms to the applicable requirements, it shall register the mark in the International Register, notify the Offices of the designated Contracting Parties of the international registration and inform the Office of origin

accordingly, and send a certificate to the holder. Where the Office of origin so wishes and has informed the International Bureau accordingly, the certificate shall be sent to the holder through the Office of origin.

(2) [Contents of the Registration] The international registration shall contain

(i) all the data contained in the international application, except any priority claim under Rule 9(4)(a)(iv) where the date of the earlier filing is more than six months before the date of the international registration,

(ii) the date of the international registration,

(iii) the number of the international registration,

(iv) where the mark can be classified according to the International Classification of Figurative Elements, and unless the international application contains a declaration to the effect that the applicant wishes that the mark be considered as a mark in standard characters, the relevant classification symbols of the said Classification as determined by the International Bureau,

(v) an indication, with respect to each designated Contracting Party, as to whether it is a Contracting Party designated under the Agreement or a Contracting Party designated under the Protocol.

(vi) indications annexed to the international application in accordance with Rule 9(5)(g)(i) concerning the Member State or Member States in or for which an earlier mark, for which seniority is claimed, is registered, the date from which the registration of that earlier mark was effective and the number of the relevant registration.

Rule 15

DATE OF THE INTERNATIONAL REGISTRATION

(1) [Irregularities Affecting the Date of the International Registration] Where the international application received by the International Bureau does not contain all of the following elements:

(i) indications allowing the identity of the applicant to be established and sufficient to contact the applicant or his representative, if any,

(ii) the Contracting Parties which are designated,

(iii) a reproduction of the mark,

(iv) the indication of the goods and services for which registration of the mark is sought, the international registration shall bear the date on which the last of the missing elements reached the International Bureau, provided that, where the last of the missing elements reaches the International Bureau within the two-month time limit referred to in Article 3(4) of the Agreement and Article 3(4) of the Protocol, the international registration shall bear the date on which the defective international application was received or, as provided in Rule 11(1), is deemed to have been received by the Office of origin.

(2) [Date of the International Registration in Other Cases] In any other case, the international registration shall bear the date determined in accordance with Article 3(4) of the Agreement and Article 3(4) of the Protocol.

Chapter 4 FACTS IN CONTRACTING PARTIES AFFECTING INTERNATIONAL REGISTRATIONS

Rule 16 TIME LIMIT FOR NOTIFYING PROVISIONAL REFUSAL BASED ON AN OPPOSITION

(1) [Information Relating to Possible Oppositions] (a) Subject to Article 9sexies(1)(b) of the Protocol, where a declaration has been made by a Contracting Party pursuant to Article 5(2)(b) and (c), first sentence, of the Protocol, the Office of that Contracting Party shall, where it has become apparent with regard to a given international registration designating that Contracting Party that the opposition period will expire too late for any provisional refusal based on an opposition to be notified to the International Bureau within the 18-month time limit referred to in Article 5(2)(b), inform the International Bureau of the number, and the name of the holder, of that international registration.

(b) Where, at the time of the communication of the information referred to in subparagraph (a), the dates on which the opposition period begins and ends are known, those dates shall be indicated in the communication. If such dates are not yet known at that time, they shall be communicated to the International Bureau at the latest at the same time as any notification of a provisional refusal based on an opposition.

(c) Where subparagraph (a) applies and the Office referred to in the said subparagraph has, before the expiry of the 18-month time limit referred to in the same subparagraph, informed the International Bureau of the fact that the time limit for filing oppositions will expire within the 30 days preceding the expiry of the 18-month time limit and of the possibility that oppositions may be filed during those 30 days, a provisional refusal based on an opposition filed during the said 30 days may be notified to the International Bureau within one month from the date of filing of the opposition.

(2) [Recording and Transmittal of the Information] The International Bureau shall record in the International Register the information received under paragraph (1) and shall transmit that information to the holder.

Rule 17 PROVISIONAL REFUSAL AND STATEMENT OF GRANT OF PROTECTION

(1) [Notification of Provisional Refusal] (a) A notification of provisional refusal may comprise a declaration stating the grounds on which the Office making the notification considers that protection cannot be granted in the Contracting Party concerned («ex officio provisional refusal») or a declaration that protection cannot be granted in the Contracting Party concerned because an opposition has been filed («provisional refusal based on an opposition») or both.

(b) A notification of provisional refusal shall relate to one international registration, shall be dated and shall be signed by the Office making it.

(2) [Content of the Notification] A notification of provisional refusal shall contain or indicate

(i) the Office making the notification,

(ii) the number of the international registration, preferably accompanied by other indications enabling the identity of the international registration to be confirmed, such as the verbal elements of the mark or the basic application or basic registration number,

(iii) [Deleted]

(iv) all the grounds on which the provisional refusal is based, together with a reference to the corresponding essential provisions of the law,

(v) where the grounds on which the provisional refusal is based relate to a mark which has been the subject of an application or registration and with which the mark that is the subject of the international registration appears to be in conflict, the filing date and number, the priority date (if any), the registration date and number (if available), the name and address of the owner, and a reproduction, of the former mark, together with the list of all or the relevant goods and services in the application or registration of the former mark, it being understood that the said list may be in the language of the said application or registration,

(vi) either that the grounds on which the provisional refusal is based affect all the goods and services or an indication of the goods and services which are affected, or are not affected, by the provisional refusal,

(vii) the time limit, reasonable under the circumstances, for filing a request for review of, or appeal against, the ex officio provisional refusal or the provisional refusal based on an opposition and, as the case may be, for filing a response to the opposition, preferably with an indication of the date on which the said time limit expires, and the authority with which such request for review, appeal or response should be filed, with the indication, where applicable, that the request for review, the appeal or the response has to be filed through the intermediary of a representative whose address is within the territory of the Contracting Party whose Office has pronounced the refusal.

(3) [Additional Requirements Concerning a Notification of Provisional Refusal Based on an Opposition] Where the provisional refusal of protection is based on an opposition, or on an opposition and other grounds, the notification shall, in addition to complying with the requirements referred to in paragraph (2), contain an indication of that fact and the name and address of the opponent; however, notwithstanding paragraph (2)(v), the Office making the notification must, where the opposition is based on a mark which has been the subject of an application or registration, communicate the list of the goods and services on which the opposition is based and may, in addition, communicate the complete list of goods and services of that earlier application or registration, it being understood that the said lists may be in the language of the earlier application or registration.

(4) [Recording; Transmittal of Copies of Notifications] The International Bureau shall record the provisional refusal in the International Register together with the data contained in the

notification, with an indication of the date on which the notification was sent or is regarded under Rule 18(1)(d) as having been sent to the International Bureau and shall transmit a copy thereof to the Office of origin, if that Office has informed the International Bureau that it wishes to receive such copies, and, at the same time, to the holder.

(5) [Confirmation or Withdrawal of Provisional Refusal] (a) An Office which has sent to the International Bureau a notification of provisional refusal shall, once all procedures before the said Office relating to the protection of the mark have been completed, send to the International Bureau a statement indicating either

(i) that protection of the mark is refused in the Contracting Party concerned for all goods and services,

(ii) that the mark is protected in the Contracting Party concerned for all goods and services requested, or

(iii) the goods and services for which the mark is protected in the Contracting Party concerned.

(b) Where, following the sending of a statement in accordance with subparagraph (a), a further decision affects the protection of the mark, the Office shall, to the extent that it is aware of that decision, send to the International Bureau a further statement indicating the goods and services for which the mark is protected in the Contracting Party concerned.[\[2\]](#)

(c) The International Bureau shall record any statement received under subparagraph (a) or (b) in the International Register and shall transmit a copy thereof to the holder.

(d) The Office of a Contracting Party may, in a declaration, notify the Director General that, in accordance with the law of the said Contracting Party,

(i) any provisional refusal that has been notified to the International Bureau is subject to review by the said Office, whether or not such review has been requested by the holder, and

(ii) the decision taken on the said review may be the subject of a further review or appeal before the Office.

Where this declaration applies and the Office is not in a position to communicate the said decision directly to the holder of the international registration concerned, the Office shall, notwithstanding the fact that all procedures before the said Office relating to the protection of the mark may not have been completed, send the statement referred to in subparagraph (a) to the International Bureau immediately following the said decision. Any further decision affecting the protection of the mark shall be sent to the International Bureau in accordance with subparagraph (b).

(e) The Office of a Contracting Party may, in a declaration, notify the Director General that, in accordance with the law of the said Contracting Party, any ex officio provisional refusal that has been notified to the International Bureau is not open to review before the said Office. Where this declaration applies, any ex officio notification of a provisional refusal by the said Office shall be deemed to include a statement in accordance with subparagraph (a)(i) or (iii).

(6) [Statement of Grant of Protection] (a) An Office which has not communicated a notification of provisional refusal may, within the period applicable under Article 5(2) of the Agreement or Article 5(2)(a) or (b) of the Protocol, send to the International Bureau any of the following:

(i) a statement to the effect that all procedures before the Office have been completed and that the Office has decided to grant protection to the mark that is the subject of the international registration;

(ii) a statement to the effect that the ex officio examination has been completed and that the Office has found no grounds for refusal but that the protection of the mark is still subject to opposition or observations by third parties, with an indication of the date by which such oppositions may be filed;

(iii) where a statement in accordance with item (ii) has been sent, a further statement to the effect that the opposition period has expired without any opposition or observations being filed and that the Office has therefore decided to grant protection to the mark that is the subject of the international registration.[\[3\]](#)

(b) The International Bureau shall record any statement received under subparagraph (a) in the International Register and shall transmit a copy to the holder.

Rule 18

IRREGULAR NOTIFICATIONS OF PROVISIONAL REFUSAL

(1) [Contracting Party Designated Under the Agreement] (a) A notification of provisional refusal communicated by the Office of a Contracting Party designated under the Agreement shall not be regarded as such by the International Bureau

(i) if it does not contain any international registration number, unless other indications contained in the notification permit the international registration to which the provisional refusal relates to be identified,

(ii) if it does not indicate any grounds for refusal, or

(iii) if it is sent too late to the International Bureau, that is, if it is sent after the expiry of one year from the date on which the recording of the international registration or the recording of the designation made subsequently to the international registration has been effected, it being understood that the said date is the same as the date of sending the notification of the international registration or of the designation made subsequently.

(b) Where subparagraph (a) applies, the International Bureau shall nevertheless transmit a copy of the notification to the holder, shall inform, at the same time, the holder and the Office that sent the notification that the notification of provisional refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.

(c) If the notification

(i) is not signed on behalf of the Office which communicated it, or does not otherwise comply with the requirements of Rule 2 or with the requirement applicable under Rule 6(2),

(ii) does not contain, where applicable, the details of the mark with which the mark that is the subject of the international registration appears to be in conflict (Rule 17(2)(v) and (3)),

(iii) does not comply with the requirements of Rule 17(2)(vi),

(iv) does not comply with the requirements of Rule 17(2)(vii), or

(v) [Deleted]

(vi) does not contain, where applicable, the name and address of the opponent and the indication of the goods and services on which the opposition is based (Rule 17(3)), the International Bureau shall, except where subparagraph (d) applies, nonetheless record the provisional refusal in the International Register. The International Bureau shall invite the Office that communicated the provisional refusal to send a rectified notification within two months from the invitation and shall transmit to the holder copies of the irregular notification and of the invitation sent to the Office concerned.

(d) Where the notification does not comply with the requirements of Rule 17(2)(vii), the provisional refusal shall not be recorded in the International Register. If however a rectified notification is sent within the time limit referred to in subparagraph (c), it shall be regarded, for the purposes of Article 5 of the Agreement, as having been sent to the International Bureau on the date on which the defective notification had been sent to it. If the notification is not so rectified, it shall not be regarded as a notification of provisional refusal. In the latter case, the International Bureau shall inform, at the same time, the holder and the Office that sent the notification that the notification of provisional refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.

(e) Any rectified notification shall, where the applicable law so permits, indicate a new time limit, reasonable under the circumstances, for filing a request for review of, or appeal against, the ex officio provisional refusal or the provisional refusal based on an opposition and, as the case may be, for filing a response to the opposition, preferably with an indication of the date on which the said time limit expires.

(f) The International Bureau shall transmit a copy of any rectified notification to the holder.

(2) [Contracting Party Designated Under the Protocol] (a) Paragraph (1) shall also apply in the case of a notification of provisional refusal communicated by the Office of a Contracting Party designated under the Protocol, it being understood that the time limit referred to in paragraph (1)(a)(iii) shall be the time limit applicable under Article 5(2)(a) or, subject to Article 9sexies(1)(b) of the Protocol, under Article 5(2)(b) or (c)(ii) of the Protocol.

(b) Paragraph (1)(a) shall apply to determine whether the time limit before the expiry of which the Office of the Contracting Party concerned must give the International Bureau the information referred to in Article 5(2)(c)(i) of the Protocol has been complied with. If such information is given after the expiry of that time limit, it shall be regarded as not having been given and the International Bureau shall inform the Office concerned accordingly.

(c) Where the notification of provisional refusal based on an opposition is made under Article 5(2)(c)(ii) of the Protocol without the requirements of Article 5(2)(c)(i) of the Protocol having been complied with, it shall not be regarded as a notification of provisional refusal. In such a

case, the International Bureau shall nevertheless transmit a copy of the notification to the holder, shall inform, at the same time, the holder and the Office that sent the notification that the notification of provisional refusal is not regarded as such by the International Bureau, and shall indicate the reasons therefor.

Rule 19 INVALIDATIONS IN DESIGNATED CONTRACTING PARTIES

(1) [Contents of the Notification of Invalidation] Where the effects of an international registration are invalidated in a designated Contracting Party under Article 5(6) of the Agreement or Article 5(6) of the Protocol and the invalidation is no longer subject to appeal, the Office of the Contracting Party whose competent authority has pronounced the invalidation shall notify the International Bureau accordingly. The notification shall contain or indicate

- (i) the authority which pronounced the invalidation,
- (ii) the fact that the invalidation is no longer subject to appeal,
- (iii) the number of the international registration,
- (iv) the name of the holder,
- (v) if the invalidation does not concern all the goods and services, those in respect of which the invalidation has been pronounced or those in respect of which the invalidation has not been pronounced, and
- (vi) the date on which the invalidation was pronounced and, where possible, its effective date.

(2) [Recording of the Invalidation and Information to the Holder and the Office Concerned] (a) The International Bureau shall record the invalidation in the International Register, together with the data contained in the notification of invalidation, and shall inform accordingly the holder. The International Bureau shall also inform the Office that communicated the notification of invalidation of the date on which the invalidation was recorded in the International Register if that Office has requested to receive such information.

(b) The invalidation shall be recorded as of the date of receipt by the International Bureau of a notification complying with the applicable requirements.

Rule 20 RESTRICTION OF THE HOLDER'S RIGHT OF DISPOSAL

(1) [Communication of Information] (a) The holder of an international registration or the Office of the Contracting Party of the holder may inform the International Bureau that the holder's right to dispose of the international registration has been restricted and, if appropriate, indicate the Contracting Parties concerned.

(b) The Office of any designated Contracting Party may inform the International Bureau that the holder's right of disposal has been restricted in respect of the international registration in the territory of that Contracting Party.

(c) Information given in accordance with subparagraph (a) or (b) shall consist of a summary statement of the main facts concerning the restriction.

(2) [Partial or Total Removal of Restriction] Where the International Bureau has been informed of a restriction of the holder's right of disposal in accordance with paragraph (1), the party that communicated the information shall also inform the International Bureau of any partial or total removal of that restriction.

(3) [Recording] (a) The International Bureau shall record the information communicated under paragraphs (1) and (2) in the International Register and shall inform accordingly the holder, the Office of the Contracting Party of the holder and the Offices of the designated Contracting Parties concerned.

(b) The information communicated under paragraphs (1) and (2) shall be recorded as of the date of its receipt by the International Bureau, provided that the communication complies with the applicable requirements.

Rule 20bis LICENSES

(1) [Request for the Recording of a License] (a) A request for the recording of a license shall be presented to the International Bureau on the relevant official form by the holder or, if the Office admits such presentation, by the Office of the Contracting Party of the holder or the Office of a Contracting Party with respect to which the license is granted.

(b) The request shall indicate

(i) the number of the international registration concerned,

(ii) the name of the holder,

(iii) the name and address of the licensee, given in accordance with the Administrative Instructions,

(iv) the designated Contracting Parties with respect to which the license is granted,

(v) that the license is granted for all the goods and services covered by the international registration, or the goods and services for which the license is granted, grouped in the appropriate classes of the International Classification of Goods and Services.

(c) The request may also indicate

(i) where the licensee is a natural person, the State of which the licensee is a national,

(ii) where the licensee is a legal entity, the legal nature of that entity and the State and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized,

(iii) that the license concerns only a part of the territory of a specified designated Contracting Party,

(iv) where the licensee has a representative, the name and address of the representative, given in accordance with the Administrative Instructions,

(v) where the license is an exclusive license or a sole license, that fact,[\[4\]](#)

(vi) where applicable, the duration of the license.

(d) The request shall be signed by the holder or by the Office through which it is presented.

(2) [Irregular Request] (a) If the request for the recording of a license does not comply with the requirements of paragraph (1)(a), (b) and (d), the International Bureau shall notify that fact to the holder and, if the request was presented by an Office, to that Office.

(b) If the irregularity is not remedied within three months from the date of the notification of the irregularity by the International Bureau, the request shall be considered abandoned, and the International Bureau shall notify accordingly and at the same time the holder and, if the request was presented by an Office, that Office, and refund any fees paid, after deduction of an amount corresponding to one-half of the relevant fees referred to in item 7 of the Schedule of Fees, to the party having paid those fees.

(3) [Recording and Notification] (a) Where the request complies with the requirements of paragraph (1)(a), (b) and (d), the International Bureau shall record the license in the International Register, together with the information contained in the request, shall notify accordingly the Offices of the designated Contracting Parties in respect of which the license is granted and shall inform at the same time the holder and, if the request was presented by an Office, that Office.

(b) The license shall be recorded as of the date of receipt by the International Bureau of a request complying with the applicable requirements.

(4) [Amendment or Cancellation of the Recording of a License] Paragraphs (1) to (3) shall apply mutatis mutandis to a request for the amendment or cancellation of the recording of a license.

(5) [Declaration That the Recording of a Given License Has No Effect] (a) The Office of a designated Contracting Party which is notified by the International Bureau of the recording of a license in respect of that Contracting Party may declare that such recording has no effect in the said Contracting Party.

(b) The declaration referred to in subparagraph (a) shall indicate

(i) the reasons for which the recording of the license has no effect,

(ii) where the declaration does not affect all the goods and services to which the license relates, those which are affected by the declaration or those which are not affected by the declaration,

(iii) the corresponding essential provisions of the law, and

(iv) whether such declaration may be subject to review or appeal.

(c) The declaration referred to in subparagraph (a) shall be sent to the International Bureau before the expiry of 18 months from the date on which the notification referred to in paragraph (3) was sent to the Office concerned.

(d) The International Bureau shall record in the International Register any declaration made in accordance with subparagraph (c) and shall notify accordingly the party (holder or Office) that presented the request to record the license. The declaration shall be recorded as of the date of receipt by the International Bureau of a communication complying with the applicable requirements.

(e) Any final decision relating to a declaration made in accordance with subparagraph (c) shall be notified to the International Bureau which shall record it in the International Register and notify accordingly the party (holder or Office) that presented the request to record the license.

(6) [Declaration That the Recording of Licenses in the International Register Has No Effect in a Contracting Party] (a) The Office of a Contracting Party the law of which does not provide for the recording of trademark licenses may notify the Director General that the recording of licenses in the International Register has no effect in that Contracting Party.

(b) The Office of a Contracting Party the law of which provides for the recording of trademark licenses may, before the date on which this Rule comes into force or the date on which the said Contracting Party becomes bound by the Agreement or the Protocol, notify the Director General that the recording of licenses in the International Register has no effect in that Contracting Party. Such notification may be withdrawn at any time.[\[5\]](#)

Rule 21

REPLACEMENT OF A NATIONAL OR REGIONAL REGISTRATION BY AN INTERNATIONAL REGISTRATION

(1) [Notification] Where, in accordance with Article 4bis(2) of the Agreement or Article 4bis(2) of the Protocol, the Office of a designated Contracting Party has taken note in its Register, following a request made direct by the holder with that Office, that a national or a regional registration has been replaced by an international registration, that Office shall notify the International Bureau accordingly. Such notification shall indicate

(i) the number of the international registration concerned,

(ii) where the replacement concerns only one or some of the goods and services listed in the international registration, those goods and services, and

(iii) the filing date and number, the registration date and number, and, if any, the priority date of the national or regional registration which has been replaced by the international registration.

The notification may also include information relating to any other rights acquired by virtue of that national or regional registration, in a form agreed between the International Bureau and the Office concerned.

(2) [Recording] (a) The International Bureau shall record the indications notified under paragraph (1) in the International Register and shall inform the holder accordingly.

(b) The indications notified under paragraph (1) shall be recorded as of the date of receipt by the International Bureau of a notification complying with the applicable requirements.

Rule 21bis

OTHER FACTS CONCERNING SENIORITY CLAIM

(1) [Final Refusal of Seniority Claim] Where a claim of seniority has been recorded in the International Register in respect of the designation of a Contracting Organization, the Office of that Organization shall notify the International Bureau of any final decision refusing, in whole or in part, the validity of such claim.

(2) [Seniority Claimed Subsequent to the International Registration] Where the holder of an international registration designating a Contracting Organization has, under the law of such Contracting Organization, claimed directly with the Office of that Organization the seniority of one or more earlier marks registered in, or for, a Member State of that Organization, and where such claim has been accepted by the Office concerned, that Office shall notify that fact to the International Bureau. Such notification shall indicate:

(i) the number of the international registration concerned, and

(ii) the Member State or Member States in or for which the earlier mark is registered, together with the date from which the registration of that earlier mark was effective and the number of the relevant registration.

(3) [Other Decisions Affecting Seniority Claim] The Office of a Contracting Organization shall notify the International Bureau of any further final decision, including withdrawal and cancellation, affecting a claim to seniority which has been recorded in the International Register.

(4) [Recording in the International Register] The International Bureau shall record in the International Register the information notified under paragraphs (1) to (3).

Rule 22

CEASING OF EFFECT OF THE BASIC APPLICATION, OF THE REGISTRATION RESULTING THEREFROM, OR OF THE BASIC REGISTRATION

(1) [Notification Relating to Ceasing of Effect of the Basic Application, of the Registration Resulting Therefrom, or of the Basic Registration] (a) Where Article 6(3) and (4) of the Agreement or Article 6(3) and (4) of the Protocol, or both, apply, the Office of origin shall notify the International Bureau accordingly and shall indicate

(i) the number of the international registration,

(ii) the name of the holder,

(iii) the facts and decisions affecting the basic registration, or, where the international registration concerned is based on a basic application which has not resulted in a registration,

the facts and decisions affecting the basic application, or, where the international registration is based on a basic application which has resulted in a registration, the facts and decisions affecting that registration, and the effective date of those facts and decisions, and

(iv) where the said facts and decisions affect the international registration only with respect to some of the goods and services, those goods and services which are affected by the facts and decisions or those which are not affected by the facts and decisions.

(b) Where a judicial action referred to in Article 6(4) of the Agreement, or a proceeding referred to in item (i), (ii) or (iii) of Article 6(3) of the Protocol, began before the expiry of the five-year period but has not, before the expiry of that period, resulted in the final decision referred to in Article 6(4) of the Agreement, or in the final decision referred to in the second sentence of Article 6(3) of the Protocol or in the withdrawal or renunciation referred to in the third sentence of Article 6(3) of the Protocol, the Office of origin shall, where it is aware thereof and as soon as possible after the expiry of the said period, notify the International Bureau accordingly.

(c) Once the judicial action or proceeding referred to in subparagraph (b) has resulted in the final decision referred to in Article 6(4) of the Agreement, in the final decision referred to in the second sentence of Article 6(3) of the Protocol or in the withdrawal or renunciation referred to in the third sentence of Article 6(3) of the Protocol, the Office of origin shall, where it is aware thereof, promptly notify the International Bureau accordingly and shall give the indications referred to in subparagraph (a)(i) to (iv).

(2) [Recording and Transmittal of the Notification; Cancellation of the International Registration] (a) The International Bureau shall record any notification referred to in paragraph (1) in the International Register and shall transmit a copy of the notification to the Offices of the designated Contracting Parties and to the holder.

(b) Where any notification referred to in paragraph (1)(a) or (c) requests cancellation of the international registration and complies with the requirements of that paragraph, the International Bureau shall cancel, to the extent applicable, the international registration in the International Register.

(c) Where the international registration has been cancelled in the International Register in accordance with subparagraph (b), the International Bureau shall notify the Offices of the designated Contracting Parties and the holder of the following:

(i) the date on which the international registration was cancelled in the International Register;

(ii) where the cancellation concerns all goods and services, that fact;

(iii) where the cancellation concerns only some of the goods and services, the goods and services indicated under paragraph (1)(a)(iv).

Rule 23

DIVISION OR MERGER OF THE BASIC APPLICATIONS, OF THE REGISTRATIONS RESULTING THEREFROM, OR OF THE BASIC REGISTRATIONS

(1) [Notification of the Division of the Basic Application or Merger of the Basic Applications] Where, during the five-year period referred to in Article 6(3) of the Protocol, the basic application is divided into two or more applications, or several basic applications are merged into a single application, the Office of origin shall notify the International Bureau accordingly and shall indicate

(i) the number of the international registration or, if the international registration has not yet been effected, the number of the basic application,

(ii) the name of the holder or applicant,

(iii) the number of each application resulting from the division or the number of the application resulting from the merger.

(2) [Recording and Notification by the International Bureau] The International Bureau shall record the notification referred to in paragraph (1) in the International Register and shall notify the Offices of the designated Contracting Parties and, at the same time, the holder.

(3) [Division or Merger of Registrations Resulting from Basic Applications or of Basic Registrations] Paragraphs (1) and (2) shall apply, mutatis mutandis, to the division of any registration or merger of any registrations which resulted from the basic application or applications during the five-year period referred to in Article 6(3) of the Protocol and to the division of the basic registration or merger of the basic registrations during the five-year period referred to in Article 6(3) of the Agreement and in Article 6(3) of the Protocol.

Chapter 5 SUBSEQUENT DESIGNATIONS; CHANGES

Rule 24 DESIGNATION SUBSEQUENT TO THE INTERNATIONAL REGISTRATION

(1) [Entitlement] (a) A Contracting Party may be the subject of a designation made subsequent to the international registration (hereinafter referred to as «subsequent designation» where, at the time of that designation, the holder fulfills the conditions, under Article 1(2) and 2 of the Agreement or under Article 2 of the Protocol, to be the holder of an international registration.

(b) Where the Contracting Party of the holder is bound by the Agreement, the holder may designate, under the Agreement, any Contracting Party that is bound by the Agreement, provided that the said Contracting Parties are not both bound also by the Protocol.

(c) Where the Contracting Party of the holder is bound by the Protocol, the holder may designate, under the Protocol, any Contracting Party that is bound by the Protocol, whether or not the said Contracting Parties are both also bound by the Agreement.

(2) [Presentation; Form and Signature] (a) A subsequent designation shall be presented to the International Bureau by the holder or by the Office of the Contracting Party of the holder; however,

(i) where Rule 7(1), as in force before October 4, 2001, applies, it must be presented by the Office of origin;

(ii) where any of the Contracting Parties are designated under the Agreement, the subsequent designation must be presented by the Office of the Contracting Party of the holder;

(iii) where paragraph (7) applies, the subsequent designation resulting from conversion must be presented by the Office of the Contracting Organization.

(b) The subsequent designation shall be presented on the official form in one copy. Where it is presented by the holder, it shall be signed by the holder. Where it is presented by an Office, it shall be signed by that Office and, where the Office so requires, also by the holder. Where it is presented by an Office and that Office, without requiring that the holder also sign it, allows that the holder also sign it, the holder may do so.

(3) [Contents] (a) Subject to paragraph (7)(b), the subsequent designation shall contain or indicate

(i) the number of the international registration concerned,

(ii) the name and address of the holder,

(iii) the Contracting Party that is designated,

(iv) where the subsequent designation is for all the goods and services listed in the international registration concerned, that fact, or, where the subsequent designation is for only part of the goods and services listed in the international registration concerned, those goods and services,

(v) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions, and,

(vi) where the subsequent designation is presented by an Office, the date on which it was received by that Office.

(b) Where the subsequent designation concerns a Contracting Party that has made a notification under Rule 7(2), that subsequent designation shall also contain a declaration of intention to use the mark in the territory of that Contracting Party; the declaration shall, as required by the said Contracting Party,

(i) be signed by the holder himself and be made on a separate official form annexed to the subsequent designation, or

(ii) be included in the subsequent designation.

(c) The subsequent designation may also contain

(i) the indications and translation or translations, as the case may be, referred to in Rule 9(4)(b),

(ii) a request that the subsequent designation take effect after the recording of a change or a cancellation in respect of the international registration concerned or after the renewal of the international registration,

(iii) where the subsequent designation concerns a Contracting Organization, the indications referred to in Rule 9(5)(g)(i), which shall be on a separate official form to be annexed to the subsequent designation, and in Rule 9(5)(g)(ii).

(d) Where the international registration is based on a basic application, a subsequent designation under the Agreement shall be accompanied by a declaration, signed by the Office of origin, certifying that the said application has resulted in a registration and indicating the date and number of that registration, unless such a declaration has already been received by the International Bureau.

(4) [Fees] The subsequent designation shall be subject to the payment of the fees specified or referred to in item 5 of the Schedule of Fees.

(5) [Irregularities] (a) If the subsequent designation does not comply with the applicable requirements, and subject to paragraph (10), the International Bureau shall notify that fact to the holder and, if the subsequent designation was presented by an Office, that Office.

(b) If the irregularity is not remedied within three months from the date of the notification of the irregularity by the International Bureau, the subsequent designation shall be considered abandoned, and the International Bureau shall notify accordingly and at the same time the holder and, if the subsequent designation was presented by an Office, that Office, and refund any fees paid, after deduction of an amount corresponding to one-half of the basic fee referred to in item 5.1 of the Schedule of Fees, to the party having paid those fees.

(c) Notwithstanding subparagraphs (a) and (b), where the requirements of paragraph (1)(b) or (c) are not complied with in respect of one or more of the designated Contracting Parties, the subsequent designation shall be deemed not to contain the designation of those Contracting Parties, and any complementary or individual fees already paid in respect of those Contracting Parties shall be reimbursed. Where the requirements of paragraph (1)(b) or (c) are complied with in respect of none of the designated Contracting Parties, subparagraph (b) shall apply.

(6) [Date of Subsequent Designation] (a) A subsequent designation presented by the holder direct to the International Bureau shall, subject to subparagraph (c)(i), bear the date of its receipt by the International Bureau.

(b) A subsequent designation presented to the International Bureau by an Office shall, subject to subparagraph (c)(i), (d) and (e), bear the date on which it was received by that Office, provided that the said designation has been received by the International Bureau within a period of two months from that date. If the subsequent designation has not been received by the International Bureau within that period, it shall, subject to subparagraph (c)(i), (d) and (e), bear the date of its receipt by the International Bureau.

(c) Where the subsequent designation does not comply with the applicable requirements and the irregularity is remedied within three months from the date of the notification referred to in paragraph (5)(a),

(i) the subsequent designation shall, where the irregularity concerns any of the requirements referred to in paragraph (3)(a)(i), (iii) and (iv) and (b)(i), bear the date on which that designation is put in order, unless the said designation was presented to the International Bureau by an Office and the irregularity is remedied within the period of two months referred to in subparagraph (b); in the latter case, the subsequent designation shall bear the date on which it was received by the said Office;

(ii) the date applicable under subparagraph (a) or (b), as the case may be, shall not be affected by an irregularity concerning requirements other than those which are referred to in paragraph (3)(a)(i), (iii) and (iv) and (b)(i).

(d) Notwithstanding subparagraphs (a), (b) and (c), where the subsequent designation contains a request made in accordance with paragraph (3)(c)(ii), it may bear a date which is later than that resulting from subparagraph (a), (b) or (c).

(e) Where a subsequent designation results from conversion in accordance with paragraph (7), that subsequent designation shall bear the date on which the designation of the Contracting Organization was recorded in the International Register.

(7) [Subsequent Designation Resulting From Conversion] (a) Where the designation of a Contracting Organization has been recorded in the International Register and to the extent that such designation has been withdrawn, refused or has ceased to have effect under the law of that Organization, the holder of the international registration concerned may request the conversion of the designation of the said Contracting Organization into the designation of any Member State of that Organization which is party to the Agreement and/or the Protocol.

(b) A request for conversion under subparagraph (a) shall indicate the elements referred to in paragraph (3)(a)(i) to (iii) and (v), together with:

(i) the Contracting Organization whose designation is to be converted, and

(ii) where the subsequent designation of a Contracting State resulting from conversion is for all the goods and services listed in respect of the designation of the Contracting Organization, that fact, or, where the designation of that Contracting State is for only part of the goods and services listed in the designation of that Contracting Organization, those goods and services.

(8) [Recording and Notification] Where the International Bureau finds that the subsequent designation conforms to the applicable requirements, it shall record it in the International Register and shall notify accordingly the Office of the Contracting Party that has been designated in the subsequent designation and at the same time inform the holder and, if the subsequent designation was presented by an Office, that Office.

(9) [Refusal] Rules 16 to 18 shall apply mutatis mutandis.

(10) [Subsequent Designation Not Considered as Such] If the requirements of paragraph (2)(a) are not complied with, the subsequent designation shall not be considered as such and the International Bureau shall inform the sender accordingly.

Rule 25
REQUEST FOR RECORDING OF A CHANGE;
REQUEST FOR RECORDING OF A CANCELLATION

(1) [Presentation of the Request] (a) A request for recording shall be presented to the International Bureau on the relevant official form, in one copy, where the request relates to any of the following:

(i) a change in the ownership of the international registration in respect of all or some of the goods and services and all or some of the designated Contracting Parties;

(ii) a limitation of the list of goods and services in respect of all or some of the designated Contracting Parties;

(iii) a renunciation in respect of some of the designated Contracting Parties for all the goods and services;

(iv) a change in the name or address of the holder;

(v) cancellation of the international registration in respect of all the designated Contracting Parties for all or some of the goods and services.

(b) Subject to subparagraph (c), the request shall be presented by the holder or by the Office of the Contracting Party of the holder; however, the request for the recording of a change in ownership may be presented through the Office of the Contracting Party, or of one of the Contracting Parties, indicated in the said request in accordance with paragraph (2)(a)(iv).

(c) The request for the recording of a renunciation or a cancellation may not be presented directly by the holder where the renunciation or cancellation affects any Contracting Party whose designation is, on the date of receipt of the request by the International Bureau, governed by the Agreement.

(d) Where the request is presented by the holder, it shall be signed by the holder. Where it is presented by an Office, it shall be signed by that Office and, where the Office so requires, also by the holder. Where it is presented by an Office and that Office, without requiring that the holder also sign it, allows that the holder also sign it, the holder may do so.

(2) [Contents of the Request] (a) The request for the recording of a change or the request for the recording of a cancellation shall, in addition to the requested change or cancellation, contain or indicate

(i) the number of the international registration concerned,

(ii) the name of the holder, unless the change relates to the name or address of the representative,

(iii) in the case of a change in the ownership of the international registration, the name and address, given in accordance with the Administrative Instructions, of the natural person or legal entity mentioned in the request as the new holder of the international registration (hereinafter referred to as «the transferee»),

(iv) in the case of a change in the ownership of the international registration, the Contracting Party or Parties in respect of which the transferee fulfills the conditions, under Articles 1(2) and 2 of the Agreement or under Article 2 of the Protocol, to be the holder of an international registration,

(v) in the case of a change in the ownership of the international registration, where the address of the transferee given in accordance with item (iii) is not in the territory of the Contracting Party, or of one of the Contracting Parties, given in accordance with item (iv), and unless the transferee has indicated that he is a national of a Contracting State or of a State member of a Contracting Organization, the address of the establishment, or the domicile, of the transferee in the Contracting Party, or in one of the Contracting Parties, in respect of which the transferee fulfills the conditions to be the holder of an international registration,

(vi) in the case of a change in the ownership of the international registration that does not relate to all the goods and services and to all the designated Contracting Parties, the goods and services and the designated Contracting Parties to which the change in ownership relates, and

(vii) the amount of the fees being paid and the method of payment, or instructions to debit the required amount of fees to an account opened with the International Bureau, and the identification of the party effecting the payment or giving the instructions.

(b) The request for the recording of a change in the ownership of the international registration may also contain,

(i) where the transferee is a natural person, an indication of the State of which the transferee is a national;

(ii) where the transferee is a legal entity, indications concerning the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized.

(c) The request for recording of a change or a cancellation may also contain a request that it be recorded before, or after, the recording of another change or cancellation or a subsequent designation in respect of the international registration concerned or after the renewal of the international registration.

(3) [Request Not Admissible] A change in the ownership of an international registration may not be recorded in respect of a given designated Contracting Party if that Contracting Party

(i) is bound by the Agreement but not by the Protocol, and the Contracting Party indicated under paragraph (2)(a)(iv) is not bound by the Agreement, or none of the Contracting Parties indicated under that paragraph is bound by the Agreement;

(ii) is bound by the Protocol but not by the Agreement, and the Contracting Party indicated under paragraph (2)(a)(iv) is not bound by the Protocol, or none of the Contracting Parties indicated under that paragraph is bound by the Protocol.

(4) [Several Transferees] Where the request for the recording of a change in the ownership of the international registration mentions several transferees, that change may not be recorded in

respect of a given designated Contracting Party if any of the transferees does not fulfill the conditions to be holder of the international registration in respect of that Contracting Party.

Rule 26

IRREGULARITIES IN REQUESTS FOR RECORDING OF A CHANGE AND FOR RECORDING OF A CANCELLATION

(1) [Irregular Request] If the request for the recording of a change, or the request for the recording of a cancellation, referred to in Rule 25(1)(a) does not comply with the applicable requirements, and subject to paragraph (3), the International Bureau shall notify that fact to the holder and, if the request was made by an Office, to that Office.

(2) [Time Allowed to Remedy Irregularity] The irregularity may be remedied within three months from the date of the notification of the irregularity by the International Bureau. If the irregularity is not remedied within three months from the date of the notification of the irregularity by the International Bureau, the request shall be considered abandoned, and the International Bureau shall notify accordingly and at the same time the holder and, if the request for the recording of a change or the request for the recording of a cancellation was presented by an Office, that Office, and refund any fees paid, after deduction of an amount corresponding to onehalf of the relevant fees referred to in item 7 of the Schedule of Fees, to the party having paid those fees.

(3) [Requests Not Considered as Such] If the requirements of Rule 25(1)(b) or (c) are not complied with, the request shall not be considered as such and the International Bureau shall inform the sender accordingly.

RULE 27

RECORDING AND NOTIFICATION OF A CHANGE OR OF A CANCELLATION; MERGER OF INTERNATIONAL REGISTRATIONS; DECLARATION THAT A CHANGE IN OWNERSHIP OR A LIMITATION HAS NO EFFECT

(1) [Recording and Notification of a Change or of a Cancellation] (a) The International Bureau shall, provided that the request referred to in Rule 25(1)(a) is in order, promptly record the change or the cancellation in the International Register, shall notify accordingly the Offices of the designated Contracting Parties in which the change has effect or, in the case of a cancellation, the Offices of all the designated Contracting Parties, and shall inform at the same time the holder and, if the request was presented by an Office, that Office. Where the recording relates to a change in ownership, the International Bureau shall also inform the former holder in the case of a total change in ownership and the holder of the part of the international registration which has been assigned or otherwise transferred in the case of a partial change in ownership. Where the request for the recording of a cancellation was presented by the holder or by an Office other than the Office of origin during the five-year period referred to in Article 6(3) of the Agreement and Article 6(3) of the Protocol, the International Bureau shall also inform the Office of origin.

(b) The change or the cancellation shall be recorded as of the date of receipt by the International Bureau of a request complying with the applicable requirements, except that,

where a request has been made in accordance with Rule 25(2)(c), it may be recorded as of a later date.

(2) [Deleted]

(3) [Recording of Merger of International Registrations] Where the same natural person or legal entity has been recorded as the holder of two or more international registrations resulting from a partial change in ownership, the registrations shall be merged at the request of the said person or entity, made either direct or through the Office of the Contracting Party of the holder. The International Bureau shall notify accordingly the Offices of the designated Contracting Parties affected by the change and shall inform at the same time the holder and, if the request was presented by an Office, that Office.

(4) [Declaration That a Change in Ownership Has No Effect] (a) The Office of a designated Contracting Party which is notified, by the International Bureau, of a change in ownership affecting that Contracting Party may declare that the change in ownership has no effect in the said Contracting Party. The effect of such a declaration shall be that, with respect to the said Contracting Party, the international registration concerned shall remain in the name of the transferor.

(b) The declaration referred to in subparagraph (a) shall indicate

(i) the reasons for which the change in ownership has no effect,

(ii) the corresponding essential provisions of the law, and

(iii) whether such declaration may be subject to review or appeal.

(c) The declaration referred to in subparagraph (a) shall be sent to the International Bureau before the expiry of 18 months from the date on which the notification referred to in subparagraph (a) was sent to the Office concerned.

(d) The International Bureau shall record in the International Register any declaration made in accordance with subparagraph (c) and, as the case may be, record as a separate international registration that part of the international registration which has been the subject of the said declaration, and shall notify accordingly the party (holder or Office) that presented the request for the recording of a change in ownership and the new holder.

(e) Any final decision relating to a declaration made in accordance with subparagraph (c) shall be notified to the International Bureau which shall record it in the International Register and, as the case may be, modify the International Register accordingly, and shall notify accordingly the party (holder or Office) that presented the request for the recording of a change in ownership and the new holder.

(5) [Declaration That a Limitation Has No Effect] (a) The Office of a designated Contracting Party which is notified by the International Bureau of a limitation of the list of goods and services affecting that Contracting Party may declare that the limitation has no effect in the said Contracting Party. The effect of such a declaration shall be that, with respect to the said Contracting Party, the limitation shall not apply to the goods and services affected by the declaration.

(b) The declaration referred to in subparagraph (a) shall indicate

(i) the reasons for which the limitation has no effect,

(ii) where the declaration does not affect all the goods and services to which the limitation relates, those which are affected by the declaration or those which are not affected by the declaration,

(iii) the corresponding essential provisions of the law, and

(iv) whether such declaration may be subject to review or appeal.

(c) The declaration referred to in subparagraph (a) shall be sent to the International Bureau before the expiry of 18 months from the date on which the notification referred to in subparagraph (a) was sent to the Office concerned.

(d) The International Bureau shall record in the International Register any declaration made in accordance with subparagraph (c) and shall notify accordingly the party (holder or Office) that presented the request to record the limitation.

(e) Any final decision relating to a declaration made in accordance with subparagraph (c) shall be notified to the International Bureau which shall record it in the International Register and notify accordingly the party (holder or Office) that presented the request to record the limitation.

Rule 28

CORRECTIONS IN THE INTERNATIONAL REGISTER

(1) [Correction] Where the International Bureau, acting ex officio or at the request of the holder or of an Office, considers that there is an error concerning an international registration in the International Register, it shall modify the Register accordingly.

(2) [Notification] The International Bureau shall notify accordingly the holder and, at the same time, the Offices of the designated Contracting Parties in which the correction has effect. In addition, where the Office that has requested the correction is not the Office of a designated Contracting Party in which the correction has effect, the International Bureau shall also inform that Office.

(3) [Refusal Following a Correction] Any Office referred to in paragraph (2) shall have the right to declare in a notification of provisional refusal addressed to the International Bureau that it considers that protection cannot, or can no longer, be granted to the international registration as corrected. Article 5 of the Agreement or Article 5 of the Protocol and Rules 16 to 18 shall apply mutatis mutandis, it being understood that the period allowed for sending the said notification shall be counted from the date of sending the notification of the correction to the Office concerned.

(4) [Time Limit for Correction] Notwithstanding paragraph (1), an error which is attributable to an Office and the correction of which would affect the rights deriving from the international registration may be corrected only if a request for correction is received by the

International Bureau within nine months from the date of publication of the entry in the International Register which is the subject of the correction.

Chapter 6 RENEWALS

Rule 29 Unofficial Notice of Expiry

The fact that the unofficial notice referred to in Article 7(4) of the Agreement and Article 7(3) of the Protocol is not received shall not constitute an excuse for failure to comply with any time limit under Rule 30.

Rule 30 DETAILS CONCERNING RENEWAL

(1) [Fees] (a) The international registration shall be renewed upon payment, at the latest on the date on which the renewal of the international registration is due, of

(i) the basic fee,

(ii) where applicable, the supplementary fee, and,

(iii) the complementary fee or individual fee, as the case may be, for each designated Contracting Party for which no refusal or invalidation is recorded in the International Register in respect of all the goods and services concerned, as specified or referred to in item 6 of the Schedule of Fees. However, such payment may be made within six months from the date on which the renewal of the international registration is due, provided that the surcharge specified in item 6.5 of the Schedule of Fees is paid at the same time.

(b) If any payment made for the purposes of renewal is received by the International Bureau earlier than three months before the date on which the renewal of the international registration is due, it shall be considered as having been received three months before the date on which renewal is due.

(2) [Further Details] (a) Where the holder does not wish to renew the international registration in respect of a designated Contracting Party for which no refusal is recorded in the International Register in respect of all the goods and services concerned, payment of the required fees shall be accompanied by a statement that the renewal of the international registration is not to be recorded in the International Register in respect of that Contracting Party.

(b) Where the holder wishes to renew the international registration in respect of a designated Contracting Party notwithstanding the fact that a refusal is recorded in the International Register for that Contracting Party in respect of all the goods and services concerned, payment of the required fees, including the complementary fee or individual fee, as the case may be, for that Contracting Party, shall be accompanied by a statement that the renewal of the international registration is to be recorded in the International Register in respect of that Contracting Party.

(c) The international registration may not be renewed in respect of any designated Contracting Party in respect of which an invalidation has been recorded for all goods and services under Rule 19(2) or in respect of which a renunciation has been recorded under Rule 27(1)(a). The international registration may not be renewed in respect of any designated Contracting Party for those goods and services in respect of which an invalidation of the effects of the international registration in that Contracting Party has been recorded under Rule 19(2) or in respect of which a limitation has been recorded under Rule 27(1)(a).

(d) The fact that the international registration is not renewed in respect of all of the designated Contracting Parties shall not be considered to constitute a change for the purposes of Article 7(2) of the Agreement or Article 7(2) of the Protocol.

(3) [Insufficient Fees] (a) If the amount of the fees received is less than the amount of the fees required for renewal, the International Bureau shall promptly notify at the same time both the holder and the representative, if any, accordingly. The notification shall specify the missing amount.

(b) If the amount of the fees received is, on the expiry of the period of six months referred to in paragraph (1)(a), less than the amount required under paragraph (1), the International Bureau shall not, subject to subparagraph (c), record the renewal, and shall reimburse the amount received to the party having paid it and notify accordingly the holder and the representative, if any.

(c) If the notification referred to in subparagraph (a) was sent during the three months preceding the expiry of the period of six months referred to in paragraph (1)(a) and if the amount of the fees received is, on the expiry of that period, less than the amount required under paragraph (1) but is at least 70% of that amount, the International Bureau shall proceed as provided in Rule 31(1) and (3). If the amount required is not fully paid within three months from the said notification, the International Bureau shall cancel the renewal, notify accordingly the holder, the representative, if any, and the Offices which had been notified of the renewal, and reimburse the amount received to the party having paid it.

(4) [Period for Which Renewal Fees Are Paid] The fees required for each renewal shall be paid for ten years, irrespective of the fact that the international registration contains, in the list of designated Contracting Parties, only Contracting Parties whose designation is governed by the Agreement, only Contracting Parties whose designation is governed by the Protocol, or both Contracting Parties whose designation is governed by the Agreement and Contracting Parties whose designation is governed by the Protocol. As regards payments under the Agreement, the payment for ten years shall be considered to be a payment for an instalment of ten years.

Rule 31

RECORDING OF THE RENEWAL; NOTIFICATION AND CERTIFICATE

(1) [Recording and Effective Date of the Renewal] Renewal shall be recorded in the International Register with the date on which renewal was due, even if the fees required for renewal are paid within the period of grace referred to in Article 7(5) of the Agreement and in Article 7(4) of the Protocol.

(2) [Renewal Date in the Case of Subsequent Designations] The effective date of the renewal shall be the same for all designations contained in the international registration, irrespective of the date on which such designations were recorded in the International Register.

(3) [Notification and Certificate] The International Bureau shall notify the Offices of the designated Contracting Parties concerned of the renewal and shall send a certificate to the holder.

(4) [Notification in Case of Non-Renewal] (a) Where an international registration is not renewed, the International Bureau shall notify accordingly the Offices of all of the Contracting Parties designated in that international registration.

(b) Where an international registration is not renewed in respect of a designated Contracting Party, the International Bureau shall notify the Office of that Contracting Party accordingly.

Chapter 7 GAZETTE AND DATA BASE

Rule 32 GAZETTE

(1) [Information Concerning International Registrations] (a) The International Bureau shall publish in the Gazette relevant data concerning (i) international registrations effected under Rule 14;

(ii) information communicated under Rule 16(1);

(iii) provisional refusals recorded under Rule 17(4), with an indication as to whether the refusal relates to all the goods and services or only some of them but without an indication of the goods and services concerned and without the grounds for refusal, and statements and information recorded under Rule 17(5)(c) and (6)(b);

(iv) renewals recorded under Rule 31(1);

(v) subsequent designations recorded under Rule 24(8);

(vi) continuation of effects of international registrations under Rule 39;

(vii) changes in ownership, limitations, renunciations and changes of name or address of the holder recorded under Rule 27;

(viii) cancellations effected under Rule 22(2) or recorded under Rule 27(1) or Rule 34(3)(d);

(ix) corrections effected under Rule 28;

(x) invalidations recorded under Rule 19(2);

(xi) information recorded under Rules 20, 20bis, 21, 21bis, 22(2)(a), 23, 27(3) and (4) and 40(3);

(xii) international registrations which have not been renewed.

(b) The reproduction of the mark shall be published as it appears in the international application. Where the applicant has made the declaration referred to in Rule 9(4)(a)(vi), the publication shall indicate that fact.

(c) Where a color reproduction of the mark is furnished under Rule 9(4)(a)(v) or (vii), the Gazette shall contain both a reproduction of the mark in black and white and the reproduction in color.

(2) [Information Concerning Particular Requirements and Certain Declarations of Contracting Parties] The International Bureau shall publish in the Gazette

(i) any notification made under Rule 7 or Rule 20bis(6) and any declaration made under Rule 17(5)(d) or (e);

(ii) any declarations made under Article 5(2)(b) or Article 5(2)(b) and (c), first sentence, of the Protocol;

(iii) any declarations made under Article 8(7) of the Protocol;

(iv) any notification made under Rule 34(2)(b) or (3)(a);

(v) a list of the days on which the International Bureau is not scheduled to be open to the public during the current and the following calendar year.

(3) [Number of Copies for Offices of Contracting Parties] (a) The International Bureau shall send to the Office of each Contracting Party copies of the Gazette. Each Office shall be entitled, free of charge, to two copies and, where during a given calendar year the number of designations recorded with respect to the Contracting Party concerned has exceeded 2,000, in the following year one additional copy and further additional copies for every 1,000 designations in excess of 2,000. Each Contracting Party may purchase every year, at half of the subscription price, the same number of copies as that to which it is entitled free of charge.

(b) If the Gazette is available in more than one form, each Office may choose the form in which it wishes to receive any copy to which it is entitled.

Rule 33 ELECTRONIC DATA BASE

(1) [Contents of Data Base] The data which are both recorded in the International Register and published in the Gazette under Rule 32 shall be entered in an electronic data base.

(2) [Data Concerning Pending International Applications and Subsequent Designations] If an international application or a designation under Rule 24 is not recorded in the International Register within three working days following the receipt by the International Bureau of the international application or designation, the International Bureau shall enter in the electronic data base, notwithstanding any irregularities that may exist in the international application or designation as received, all the data contained in the international application or designation.

(3) [Access to Electronic Data Base] The electronic data base shall be made accessible to the Offices of the Contracting Parties and, against payment of the prescribed fee, if any, to the public, by on-line access and through other appropriate means determined by the International Bureau. The cost of accessing shall be borne by the user. Data entered under paragraph (2) shall be accompanied by a warning to the effect that the International Bureau has not yet made a decision on the international application or on the designation under Rule 24.

Chapter 8 FEES

Rule 34 AMOUNTS AND PAYMENT OF FEES

(1) [Amounts of Fees] The amounts of fees due under the Agreement, the Protocol or these Regulations, other than individual fees, are specified in the Schedule of Fees that is annexed to these Regulations and forms an integral part thereof.

(2) [Payments] (a) The fees indicated in the Schedule of Fees may be paid to the International Bureau by the applicant or the holder, or, where the Office of the Contracting Party of the holder accepts to collect and forward such fees, and the applicant or the holder so wishes, by that Office.

(b) Any Contracting Party whose Office accepts to collect and forward fees shall notify that fact to the Director General.

(3) [Individual Fee Payable in Two Parts] (a) A Contracting Party that makes or has made a declaration under Article 8(7) of the Protocol may notify the Director General that the individual fee to be paid in respect of a designation of that Contracting Party comprises two parts, the first part to be paid at the time of filing the international application or the subsequent designation of that Contracting Party and the second part to be paid at a later date which is determined in accordance with the law of that Contracting Party.

(b) Where subparagraph (a) applies, the references in items 2, 3 and 5 of the Schedule of Fees to an individual fee shall be construed as references to the first part of the individual fee.

(c) Where subparagraph (a) applies, the Office of the designated Contracting Party concerned shall notify the International Bureau when the payment of the second part of the individual fee becomes due. The notification shall indicate

(i) the number of the international registration concerned,

(ii) the name of the holder,

(iii) the date by which the second part of the individual fee must be paid,

(iv) where the amount of the second part of the individual fee is dependent on the number of classes of goods and services for which the mark is protected in the designated Contracting Party concerned, the number of such classes.

(d) The International Bureau shall transmit the notification to the holder. Where the second part of the individual fee is paid within the applicable period, the International Bureau shall record the payment in the International Register and notify the Office of the Contracting Party concerned accordingly. Where the second part of the individual fee is not paid within the applicable period, the International Bureau shall notify the Office of the Contracting Party concerned, cancel the international registration in the International Register with respect to the Contracting Party concerned and notify the holder accordingly.

(4) [Modes of Payment of Fees to the International Bureau] Fees shall be paid to the International Bureau as specified in the Administrative Instructions.

(5) [Indications Accompanying the Payment] At the time of the payment of any fee to the International Bureau, an indication must be given,

(i) before international registration, of the name of the applicant, the mark concerned and the purpose of the payment;

(ii) after international registration, of the name of the holder, the number of the international registration concerned and the purpose of the payment.

(6) [Date of Payment] (a) Subject to Rule 30(1)(b) and to subparagraph (b), any fee shall be considered to have been paid to the International Bureau on the day on which the International Bureau receives the required amount.

(b) Where the required amount is available in an account opened with the International Bureau and that Bureau has received instructions from the holder of the account to debit it, the fee shall be considered to have been paid to the International Bureau on the day on which the International Bureau receives an international application, a subsequent designation, an instruction to debit the second part of an individual fee, a request for the recording of a change or an instruction to renew an international registration.

(7) [Change in the Amount of the Fees] (a) Where the amount of the fees payable in respect of the filing of an international application is changed between, on the one hand, the date on which the request to present the international application to the International Bureau is received, or is deemed to have been received under Rule 11(1)(a) or (c), by the Office of origin and, on the other hand, the date of the receipt of the international application by the International Bureau, the fee that was valid on the first date shall be applicable.

(b) Where a designation under Rule 24 is presented by the Office of the Contracting Party of the holder and the amount of the fees payable in respect of that designation is changed between, on the one hand, the date of receipt, by the Office, of the request by the holder to present the said designation and, on the other hand, the date on which the designation is received by the International Bureau, the fee that was valid on the first date shall be applicable.

(c) Where paragraph (3)(a) applies, the amount of the second part of the individual fee which is valid on the later date referred to in that paragraph shall be applicable.

(d) Where the amount of the fees payable in respect of the renewal of an international registration is changed between the date of payment and the due date of the renewal, the fee

that was valid on the date of payment, or on the date considered to be the date of payment under Rule 30(1)(b), shall be applicable. Where the payment is made after the due date, the fee that was valid on the due date shall be applicable.

(e) Where the amount of any fee other than the fees referred to in subparagraphs (a), (b), (c) and (d) is changed, the amount valid on the date on which the fee was received by the International Bureau shall be applicable.

Rule 35 CURRENCY OF PAYMENTS

(1) [Obligation to Use Swiss Currency] All payments due under these Regulations shall be made to the International Bureau in Swiss currency irrespective of the fact that, where the fees are paid by an Office, that Office may have collected those fees in another currency.

(2) [Establishment of the Amount of Individual Fees in Swiss Currency] (a) Where a Contracting Party makes a declaration under Article 8(7)(a) of the Protocol that it wants to receive an individual fee, the amount of the individual fee indicated to the International Bureau shall be expressed in the currency used by its Office.

(b) Where the fee is indicated in the declaration referred to in subparagraph (a) in a currency other than Swiss currency, the Director General shall, after consultation with the Office of the Contracting Party concerned, establish the amount of the individual fee in Swiss currency on the basis of the official exchange rate of the United Nations.

(c) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the other currency in which the amount of an individual fee has been indicated by a Contracting Party is higher or lower by at least 5% than the last exchange rate applied to establish the amount of the individual fee in Swiss currency, the Office of that Contracting Party may ask the Director General to establish a new amount of the individual fee in Swiss currency according to the official exchange rate of the United Nations prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount in the Gazette.

(d) Where, for more than three consecutive months, the official exchange rate of the United Nations between the Swiss currency and the other currency in which the amount of an individual fee has been indicated by a Contracting Party is lower by at least 10% than the last exchange rate applied to establish the amount of the individual fee in Swiss currency, the Director General shall establish a new amount of the individual fee in Swiss currency according to the current official exchange rate of the United Nations. The new amount shall be applicable as from a date which shall be fixed by the Director General, provided that such date is between one and two months after the date of the publication of the said amount in the Gazette.

Rule 36 EXEMPTION FROM FEES

Recording of the following shall be exempt from fees:

- (i) the appointment of a representative, any change concerning a representative and the cancellation of the recording of a representative,
- (ii) any change concerning the telephone and telefacsimile numbers of the holder,
- (iii) the cancellation of the international registration,
- (iv) any renunciation under Rule 25(1)(a)(iii),
- (v) any limitation effected in the international application itself under Rule 9(4)(a)(xiii) or in a subsequent designation under Rule 24(3)(a)(iv),
- (vi) any request by an Office under Article 6(4), first sentence, of the Agreement or Article 6(4), first sentence, of the Protocol,
- (vii) the existence of a judicial proceeding or of a final decision affecting the basic application, or the registration resulting therefrom, or the basic registration,
- (viii) any refusal under Rule 17, Rule 24(9) or Rule 28(3), any statement under Rule 17(5) or (6) or any declaration under Rule 20bis(5) or Rule 27(4) or (5),
- (ix) the invalidation of the international registration,
- (x) information communicated under Rule 20,
- (xi) any notification under Rule 21 or Rule 23,
- (xii) any correction in the International Register.

Rule 37

DISTRIBUTION OF SUPPLEMENTARY FEES AND COMPLEMENTARY FEES

(1) The coefficient referred to in Article 8(5) and (6) of the Agreement and Article 8(5) and (6) of the Protocol shall be as follows:

for Contracting Parties which examine only for

absolute grounds of refusal two

for Contracting Parties which also examine for prior rights:

(a) following opposition by third parties three

(b) ex officio four

(2) Coefficient four shall also be applied to Contracting Parties which carry out ex officio searches for prior rights with an indication of the most significant prior rights.

Rule 38
CREDITING OF INDIVIDUAL FEES TO THE ACCOUNTS OF THE
CONTRACTING PARTIES CONCERNED

Any individual fee paid to the International Bureau in respect of a Contracting Party having made a declaration under Article 8(7)(a) of the Protocol shall be credited to the account of that Contracting Party with the International Bureau within the month following the month in the course of which the recording of the international registration, subsequent designation or renewal for which that fee has been paid was effected or the payment of the second part of the individual fee was recorded.

Chapter 9
MISCELLANEOUS

Rule 39
CONTINUATION OF EFFECTS OF INTERNATIONAL REGISTRATIONS IN
CERTAIN SUCCESSOR STATES

(1) Where any State («the successor State») whose territory was, before the independence of that State, part of the territory of a Contracting Party («the predecessor Contracting Party») has deposited with the Director General a declaration of continuation the effect of which is that the Agreement, the Protocol, or both the Agreement and the Protocol are applied by the successor State, the effects in the successor State of any international registration with a territorial extension to the predecessor Contracting Party which is effective from a date prior to the date fixed under paragraph (2) shall be subject to

(i) the filing with the International Bureau, within six months from the date of a notice addressed for that purpose by the International Bureau to the holder of the international registration concerned, of a request that such international registration continue its effects in the successor State, and

(ii) the payment to the International Bureau, within the same time limit, of a fee of 41 Swiss francs, which shall be transferred by the International Bureau to the Office of the successor State, and of a fee of 23 Swiss francs for the benefit of the International Bureau.

(2) The date referred to in paragraph (1) shall be the date notified by the successor State to the International Bureau for the purposes of this Rule, provided that such date may not be earlier than the date of independence of the successor State.

(3) The International Bureau shall, upon receipt of the request and the fees referred to in paragraph (1), notify the Office of the successor State and make the corresponding recording in the International Register.

(4) With respect to any international registration concerning which the Office of the successor State has received a notification under paragraph (3), that Office may only refuse protection if the applicable time limit referred to in Article 5(2) of the Agreement or in Article 5(2)(a), (b) or (c) of the Protocol has not expired with respect to the territorial extension to the predecessor Contracting Party and if the notification of refusal is received by the International Bureau within that time limit.

(5) This Rule shall not apply to the Russian Federation, nor to a State which has deposited with the Director General a declaration according to which it continues the legal personality of a Contracting Party.

Rule 40
ENTRY INTO FORCE; TRANSITIONAL PROVISIONS

(1) [Entry into Force] These Regulations shall enter into force on April 1, 1996, and shall, as of that date, replace the Regulations under the Agreement as in force on March 31, 1996 (hereinafter referred to as «the Regulations under the Agreement»).

(2) [General Transitional Provisions] (a) Notwithstanding paragraph (1),

(i) an international application the request for presentation to the International Bureau of which was received, or is deemed to have been received under Rule 11(1)(a) or (c), by the Office of origin before April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 14;

(ii) a request for the recording of a change under Rule 20 of the Regulations under the Agreement sent by the Office of origin or by another interested Office to the International Bureau before April 1, 1996, or, where such date can be identified, whose date of receipt by the Office of origin or by another interested Office for presentation to the International Bureau is earlier than April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 24(7) or to be in order for the purposes of Rule 27;

(iii) an international application, or a request for the recording of a change under Rule 20 of the Regulations under the Agreement, that, before April 1, 1996, has been the subject of any action by the International Bureau under Rules 11, 12, 13 or 21 of the Regulations under the Agreement, shall continue to be processed by the International Bureau under the said Rules; the date of the resulting international registration or recording in the International Register shall be governed by Rule 15 or 22 of the Regulations under the Agreement;

(iv) a notification of refusal or a notification of invalidation sent by the Office of a designated Contracting Party before April 1, 1996, shall, to the extent that it conforms to the requirements of the Regulations under the Agreement, be deemed to conform to the applicable requirements for the purposes of Rule 17(4) and (5) or of Rule 19(2).

(b) For the purposes of Rule 34(7), the fees valid at any date before April 1, 1996, shall be the fees prescribed by Rule 32 of the Regulations under the Agreement.

(c) Notwithstanding Rule 10(1), where, in accordance with Rule 34(7)(a), the fees paid in respect of the filing of an international application are the fees prescribed for 20 years by Rule 32 of the Regulations under the Agreement, no second instalment shall be due.

(d) Where, in accordance with Rule 34(7)(b), the fees paid in respect of a subsequent designation are the fees prescribed by Rule 32 of the Regulations under the Agreement, paragraph (3) shall not apply.

(3) [Transitional Provisions Applicable to International Registrations for Which Fees Have Been Paid for 20 Years] (a) Where an international registration for which the required fees had been paid for 20 years is the subject of a subsequent designation under Rule 24 and where the current term of protection of that international registration expires more than ten years after the effective date of the subsequent designation as determined in accordance with Rule 24(6), the provisions of subparagraphs (b) and (c) shall apply.

(b) Six months before the expiry of the first period of ten years of the current term of protection of the international registration, the International Bureau shall send to the holder and his representative, if any, a notice indicating the exact date of expiry of the first period of ten years and the Contracting Parties which were the subject of subsequent designations referred to in subparagraph (a). Rule 29 shall apply *mutatis mutandis*.

(c) Payment of complementary and individual fees corresponding to the fees referred to in Rule 30(1)(iii) shall be required for the second period of ten years in respect of the subsequent designations referred to in subparagraph (a). Rule 30(1) and (3) shall apply *mutatis mutandis*.

(d) The International Bureau shall record in the International Register the fact that payment has been made to the International Bureau for the second period of ten years. The date of recording shall be the date of expiry of the first period of ten years, even if the fees required are paid within the period of grace referred to in Article 7(5) of the Agreement and in Article 7(4) of the Protocol.

(e) The International Bureau shall notify the Offices of the designated Contracting Parties concerned of the fact that payment has or has not been made for the second period of ten years and shall at the same time inform the holder.

(4) [Transitional Provisions Concerning Languages] (a) Rule 6 as in force before April 1, 2004, shall continue to apply to any international application filed before that date and to any international application governed exclusively by the Agreement filed between that date and August 31, 2008, inclusively, to any communication relating thereto and to any communication, recording in the International Register or publication in the Gazette relating to the international registration resulting therefrom, unless

(i) the international registration has been the subject of a subsequent designation under the Protocol between April 1, 2004, and August 31, 2008; or

(ii) the international registration is the subject of a subsequent designation on or after September 1, 2008; and

(iii) the subsequent designation is recorded in the International Register.

(b) For the purposes of this paragraph, an international application is deemed to be filed on the date on which the request to present the international application to the International Bureau is received, or deemed to have been received under Rule 11(1)(a) or (c), by the Office of origin, and an international registration is deemed to be the subject of a subsequent designation on the date on which the subsequent designation is presented to the International Bureau, if it is presented directly by the holder, or on the date on which the request for presentation of the subsequent designation is filed with the Office of the Contracting Party of the holder if it is presented through the latter.

Rule 41
ADMINISTRATIVE INSTRUCTIONS

(1) [Establishment of Administrative Instructions; Matters Governed by Them] (a) The Director General shall establish Administrative Instructions. The Director General may modify them. Before establishing or modifying the Administrative Instructions, the Director General shall consult the Offices which have a direct interest in the proposed Administrative Instructions or their proposed modification.

(b) The Administrative Instructions shall deal with matters in respect of which these Regulations expressly refer to such Instructions and with details in respect of the application of these Regulations.

(2) [Control by the Assembly] The Assembly may invite the Director General to modify any provision of the Administrative Instructions, and the Director General shall proceed accordingly.

(3) [Publication and Effective Date] (a) The Administrative Instructions and any modification thereof shall be published in the Gazette.

(b) Each publication shall specify the date on which the published provisions become effective. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication in the Gazette.

(4) [Conflict with the Agreement, the Protocol or These Regulations] In the case of conflict between, on the one hand, any provision of the Administrative Instructions and, on the other hand any provision of the Agreement, the Protocol or these Regulations, the latter shall prevail.

[1]1 Paragraph (1) of Rule 7 read: «Where a Contracting Party requires that, where its Office is the Office of origin and the holder's address is in the territory of that Contracting Party, designations made subsequently to the international registration be presented to the International Bureau by the said Office, it shall notify that requirement to the Director General.»

[2]2 Interpretative statement endorsed by the Assembly of the Madrid Union: «The reference in Rule 17(5)(b) to a further decision that affects the protection of the mark includes also the case where that further decision is taken by the Office, for example in the case of restitutio in integrum, notwithstanding the fact that the Office has already stated that the procedures before the Office have been completed.»

[3]3 Interpretative statement endorsed by the Assembly of the Madrid Union: «The references in Rule 17(6)(a)(ii) and (iii) to observations by third parties apply only to those Contracting Parties whose legislation provides for such observations.»

[4]4 Interpretative statement endorsed by the Assembly of the Madrid Union: «Where a request to record a license does not include the indication, provided for in Rule 20bis(1)(c)(v), that the license is exclusive or sole, it may be considered that the license is non-exclusive.»

[5]5 Interpretative statement endorsed by the Assembly of the Madrid Union:

«Subparagraph (a) of Rule 20bis(6) deals with the case of a notification by a Contracting Party whose law does not provide for the recording of trademark licenses; such a notification may be made at any time; subparagraph (b) on the other hand deals with the case of a notification by a Contracting Party whose law does provide for the recording of trademark licenses but which is unable at present to give effect to the recording of a license in the International Register; this latter notification, which may be withdrawn at any time, may only be made before this Rule has come into force or before the Contracting Party has become bound by the Agreement or the Protocol.»