

Canadian Consultation on Proposed Changes to the Madrid System Principle of Dependency

Mark Davis, Emily Ernst

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The Canadian Intellectual Property Office (CIPO) is currently conducting a [public consultation](#) on the principle of dependency under the Madrid System. The Madrid System allows trademark owners to apply for trademark protection in over 100 countries by filing a single application with the World Intellectual Property Office through the trademarks office in their home country. The principle of dependency has been a key concept in the Madrid System – it provides that an international registration is dependent on the “basic mark” filed or registered in the trademark owner’s home country, for a term of five years from the date of the international registration. The goal of the consultation is to receive feedback on the proposed changes to the principle of dependency, namely whether to change the five year dependency rule and thereby limit or remove the principle of central attack.

BACKGROUND

A central element of the Madrid System is the principle of dependency, which states that an international trademark registration is dependent on the status of its basic mark for a five year period from the date of the international registration. The basic mark can be either a pending trademark application or a registered trademark in the owner’s home country (Office of Origin).

Under the principle of dependency, if the basic mark is cancelled, limited, or ceases to be valid during the five year dependency period, the international registration will also be cancelled or limited, in whole or in part. This is known as the principle of central attack. Central attack is considered one of the most significant risks for trademark owners using the Madrid System, as it can adversely affect trademark rights in countries where the mark has previously been accepted and used.

The Madrid Protocol provides a solution to the principle of central attack, namely, if the basic mark is invalidated within the five-year dependency period, the owner of the international registration has the option to transform the international registration into national or regional applications in Madrid Member States. While this reduces the uncertainty surrounding the principle of central attack, this transformation must be done within three months of the basic mark’s cancellation.

To address concerns of stakeholders, who view the principle of dependency and its effects as a deterrent to the widespread adoption of the Madrid System, the Madrid Working Group is soliciting proposals on

changes to the principle of dependency under the Madrid System. As a result, CIPO is seeking feedback from the Canadian public and trademark professionals regarding the principle of dependency and the options being discussed by the Madrid Working Group.

OPTIONS PRESENTED TO THE MADRID WORKING GROUP FOR CONSIDERATION

The options currently being considered by the Madrid Working Group include:

- **Preserving the Current Principle of Dependency:** This option opposes any changes to the principle of dependency on the ground that dependency is a fundamental principle of the Madrid System and any significant changes to the principle of dependency would remove the possibility for central attack.
- **Abolishing the Principle of Dependency:** This option proposes to remove the principle of dependency from the Madrid Protocol, making international registration independent from the basic mark. The implementation of this option would remove the possibility of central attack.
- **Reducing the Grounds of Dependency:** This option proposes reducing the grounds of dependency. For example, dependency could be limited to ceasing of effect of the basic mark based only on third party action. Such amendments would preserve the principle of central attack and eliminate the risk that an international registration is cancelled due to grounds that are only relevant to the Office of Origin.
- **Reducing the Dependency Period:** This option proposes to reduce the dependency period from five to three years, preserving the possibility of central attack while decreasing the level of uncertainty created by a five year dependency period.
- **Eliminating the Automatic Effect of Dependency:** This option proposes amending the Madrid Protocol such that the Office of Origin is only required to notify the International Bureau of a ceasing of effect at the request of a third party concerned.
- **Freezing the Operation of Dependency:** This option proposes temporarily suspending the five year dependency provision in the Madrid Protocol, the ceasing effect of basic trademarks, and notification protocols for the Office of Origin, allowing further analysis of the impact of eliminating dependency.

WHAT TO WATCH FOR

CIPO's consultation period ends July 25, 2025 and discussions on proposals concerning dependency are set to continue at the 23rd session of the Madrid Working Group scheduled for September 2025. We will be watching with interest as to which, if any, of the proposed changes are advanced and whether those changes will have an effect on Canadian's use of the Madrid System.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.