



## Time Frames of Madrid Trademark Registration

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Compared with the Chinese national trademark registration, the Madrid trademark registration is special in the Chinese trademark registration system. There are many different rules comparing with the Chinese national trademark registration. The detailed provisions on the Madrid trademark registration are prescribed in the *Implementing Regulations of the Trademark Law of the People's Republic of China*. This article briefly introduces the issue of the time frames of the Madrid trademarks.

### 1. Time frame of the trademark examination

The date of recording of an international trademark registration is the date on which the WIPO notifies the Trademark Office about the territorial extension of the International Registration, that is, the date on which the refusal time limit starts. According to provisions of the Madrid Agreement and the Madrid Protocol, the examination period of each office expires after 12 months or 18 months as of this date. After the above periods, the national offices could not issue refusals. The examination period for the Madrid trademarks varies depending on the country of the basic registration. Countries of the Madrid Agreement and Madrid Protocol, and countries of the Madrid Agreement, the examination period is 12 months from the date of recording, and for countries of Madrid Protocol, the examination period is 18 months as of the date of recording.

Nation of the Basic Registration	Examination period
Madrid Agreement	12 months
Madrid Protocol	18 months
Madrid Agreement & Madrid Protocol	12 months



If the Trademark Office does not issue a notice of refusal within the examination period, the application for the trademark will be deemed protected in China after the examination period expires. Although the Trademark Office issues a *Statement of Grant of Protection* for a non-rejected mark in advance for a trademark that has not been rejected in the examination, the statement itself cannot be deemed as a formal proof of protection. In theory, the Trademark Office may still issue another refusal notice within the examination period. Therefore, the time when the trademark is formally protected is still after the examination period of the trademark rejection. The applicant can apply for a certified trademark registration certificate.

## **2. Time frame for filing a review**

Similar to electronic delivery of refusal notification concerning a Chinese national trademark registration application, the notification of provisional refusal of an IR is deemed being served to the registrant in 15 days after delivery date, that is, it shall be deemed to be served to the registrant on the 15 days from the date of notification by WIPO to the holder. Plus 15 days' period for filing the review, the time limited for filing a refusal review is actually 30 days upon receipt of the notification.

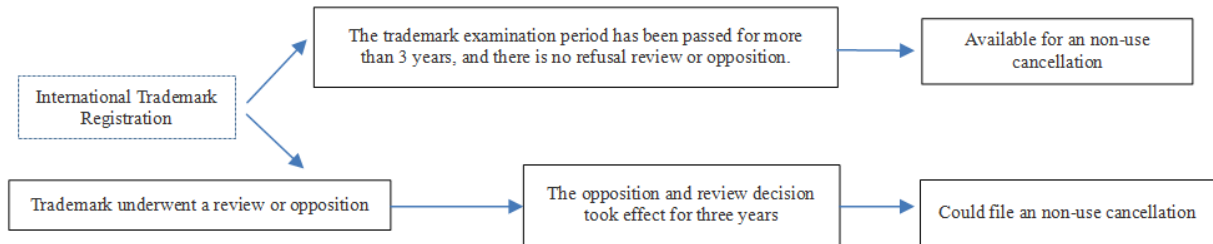
## **3. Time Frame for filing an opposition**

Different from the opposition filed after substantive examination for a Chinese national trademark registration application, the opposition against the Chinese part of an international registration shall be filed as of the first day of the next month following the publication of the *International Trademark Gazette* on which the opposed trademark is published. The opposition period of an international trademark registration is also three months which is the same as the trademark opposition against a national trademark. It is worth noting that the due date for filing the opposition period falls the last day of the third month of the publication period. For example, if the publication date is January 16, 2018, then the trademark opposition period is from February 1 to April 30, not May 1.

## **4. Time frame for filing an non-use cancellation**

The application for cancelling an international trademark registration based on the ground of non-use shall be filed with the Trademark Office after 3 years form the expiry date of the examination period. If

the application for international registration of the trademark is still under the procedure for review or opposition when the time limit for examination expires, the cancellation shall be filed with the Trademark Office in three years from the day when the decision to grant the registration becomes effective. Therefore, before filing a non-use cancellation, it is necessary to confirm whether the mark has been formally protected for more than 3 years.



**5. Time frame for filing an invalidation**

An application for invalidation of an international trademark registration based on paragraph 1 of Article 44 of the Trademark Law shall be filed with the Trademark Review and Adjudication Board upon expiry of the time limit for examination for international registration of the trademark. If the application for international registration of the trademark is still under the procedure for review or opposition when the time limit expires, the application shall be filed with the Board within five years the decision to grant registration made by trademark appeal board becomes effective.

An application for invalidation against an international trademark registration under paragraph 1 of Article 45 of the Trademark Law shall be filed with the Board within five years from the expiry date of the time limit for refusal of the application for international registration of the trademark. If the application for international registration of the trademark is still under the procedure for review or opposition when the time limit expires, an application shall be filed with the Trademark Appeal Board within five years after the decision to grant registration made by trademark appeal board becomes effective. If registration is filed in bad faith, the holder of a well-known trademark is not limited by the five-year time limit.



## **6. Time frame for filing an renewal**

An international trademark registration is valid for 10 years. Unlike the Chinese trademark registration, the applicant should apply for renewal within 12 months before the expiration. The Madrid system does not clearly prescribe the special time limit for filing a renewal before the expiration. In practice, in 6 months before the expiration, WIPO will informally notify the trademark registrant about the renewal, including the expiration date of the validity period. If the registrant fails to apply for a renewal before the expiration date of the validity period, WIPO will grant a six-month extension period. If the application has not been applied for renewal during the extension period, the international registration will become invalid. If a renewal is timely filed, the validity period of the international registration of the trademark can be renewed for another 10 years. Compared with the Chinese national trademark registration, the examination of the Madrid trademark renewal is relatively longer. Therefore, it is recommended that the registrant should apply for renewal as soon as possible to avoid that the late renewal may affect business.