

## INDIA MOVES ONE STEP FURTHER TOWARDS MADRID PROTOCOL

Recently the Lok Sabha (Lower House of Indian Parliament) passed the Trademark (Amendment) Bill-2009. Same shall be now presented before the Rajya Sabha (the Upper House of Indian Parliament) and once it would be passed there and receives assent of President of India same shall be become an Act. The statement of objects and reasons as this bill sought to achieve are:

1. *“At present, a person desirous of obtaining registration of his trade mark in other countries has to make separate applications in different languages and pay different fees in the respective countries. There is no provision under the Trade Marks Act, 1999 (hereinafter referred to as the Trade Marks Act) to facilitate Indian nationals as well as foreign nationals to secure simultaneous protection of trade marks in other countries.*
2. *The Madrid Protocol, administered by the International Bureau of the World Intellectual Property Organisation, a specialised agency of the United Nations, was adopted in 1989. The Madrid Protocol is a simple, facilitative and cost-effective system for international registration of trade marks. It enables the nationals of the Member countries of the Protocol to obtain protection of trade marks within the prescribed period of 18 months by filing a single application with one fee and in one language in their country of origin, which in turn is transmitted to the other designated countries through the International Bureau.*
3. *Accession to the Madrid Protocol entails amendments to the Trade Marks Act. For this purpose, it is proposed to suitably amend the Trade Marks Act and to incorporate therein a new Chapter IVA containing special provisions relating to protection of international registration of trade marks under the Madrid Protocol. It is sought to empower the Registrar of Trade Marks to deal with international applications originating from India as well as those received from the International Bureau and maintain record of international registrations. Definitions of new terms are being given. It is further proposed to provide for the effect of international registration, duration and its renewal.*
4. *It is also proposed to remove the discretion of the Registrar to extend the time for filing notice of opposition of published applications and provide for a uniform time limit of four months in all cases. Further, with a view to simplify the law relating to transfer of ownership of trade marks by assignment or transmission and to bring the law generally in tune with international practice and modern business needs, section 45 is proposed to be modified. It is also proposed to omit Chapter X of the Trade Marks Act dealing with special provisions for textile goods, as it has now become redundant.”*

But it would be some months before the bill become an Act and few more months till Indian Trademark Rules are amended to prescribe procedure in respect of International application filed through India or designating India.