

The Madrid Protocol and IKR

Many countries have adopted the Madrid Protocol as a way to enhance Trademark protection and to ease the administrative burden of filing a Trademark in multiple countries. However, some countries are reluctant to adopt the Madrid Protocol, and some Trademark-owning individuals/companies are reluctant to use the Madrid Protocol. We firmly believe that the IKR may address some of the underlying concerns and therefore believe that the IKR can help to support the adoption of the Madrid Protocol.

Evidence of first use:

Proving evidence of first use may be important for a Trademark owner so as to form the basis for a Trademark application, and/or to contest another Trademark user's conflicting application. However, one of the evidentiary issues is actually showing when a Trademark is first used, and what the actual Trademark was at the time.

The IKR can provide an incontrovertible date and time stamp¹ of any electronic document and is thus potentially allows Trademark owner to show what was used, and at what time. For example, the Trademark owner may simply upload an image file such as a ".pdf" of the trademark to the IKR so as to receive a time/date stamp of the existence of that Trademark.

Alternatively, and more sophisticatedly, a Trademark owner may wish to provide the Trademark in an electronic document, which further describes other relevant information such as the amount of money spent on that Trademark, the countries, and initial dates of use, etc. The Trademark owner may then upload that document to the IKR and receive a time/date stamp therefor. Such a document and time/date stamp may then be provided to a court, arbitration body, etc. and in some cases, for example, may be entitled to a presumption of legitimacy, so as to shift the burden of proof to the other party.

IKR is for the purpose of providing nonbiased nonpartisan (third party) evidential information* key to establishing prior creation, use and/or existence to relevant jurisdiction(s) to fulfill its mandate.

IKR from IIPCC is a free to the public, internationally in cooperation with specific globally respected neutral entities.

Additional reading: IKR and patents and IPRs.

¹ The IKR determines the time based on Network Time Protocol (NTP). Each IIPCC IKR server synchronizes with its local pool.ntp.org. In addition, the US IIPCC IKR server will use the time.nist.gov server.