



Canada and the *Madrid Protocol: An Update*

Lorraine M. Fleck

Madrid Protocol Group Meeting

Boston, MA

May 25, 2010



Outline

- I. Status of Canada's implementation of the *Madrid Protocol*.
- II. What are some of the changes required to align Canadian trade-mark law and practice with the *Madrid Protocol*?



Status

- Canada has not acceded to or ratified the *Madrid Protocol* (MP).
- The Canadian Intellectual Property Office (CIPO) recently held its second consultation on amending Canada's *Trade-marks Act* to align with the MP and the *Singapore Treaty on the Law of Trademarks*.



Status

- Recent consultation occurred between December 15, 2009 to March 15, 2010. Comments not available as of writing.
- Previous consultation occurred between February 25 to May 31, 2005. Some questioned the MP's benefits to Canada in the 2005 consultation.



Status

- CIPO's stated objectives for revisiting the MP include:
 1. Facilitating trade;
 2. Streamlining the trade-mark regime to improve accessibility and reduce costs.



Status

- The questions CIPO is considering in the consultation are:
 1. What would be the benefits for Canadian firms in using the MP? Is it likely that Canadian businesses will use the MP for some international registrations? Who will use the MP more – large or small companies?



Status

- Questions (continued):
 2. What are the disadvantages to Canadian firms in using the MP?
 3. How would foreign firms benefit from using the MP to protect their trademarks in Canada?
 4. Would the MP create overall economic benefits to Canada?



Changes

If Canada accedes to the MP, some of the changes in Canadian practice include:

- Implementation of a classification system;
- Abandoning use prior to registration;
- Processing applications with the MP time limits;
- Reducing the registration term from 15 years to 10 years.



Thank you...questions?

Lorraine M. Fleck

Barrister & Solicitor | Trade-mark Agent

Hoffer Adler LLP

Toronto, Canada

lfleck@hofferadler.com

These slides do not constitute legal advice.