

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
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**SPECIAL UNION FOR THE INTERNATIONAL REGISTRATION OF MARKS  
(MADRID UNION)**

**ASSEMBLY**

**Twenty-Eighth Session (12th Ordinary)  
Geneva, September 22 to October 1, 1997**

MATTERS CONCERNING THE MADRID UNION: DISSEMINATION OF DATA

*Memorandum prepared by the International Bureau*

## Background

1. The establishment of an electronic data base of international registrations of marks started in 1981. In 1985, the Director General proposed to the Assembly of the Madrid Union (hereinafter referred to as "the Assembly") that extractions from the electronic data base used for the photocomposition of the publication *Les Marques internationales* be made available to third parties under the following conditions (see document MM/A/XV/3, paragraphs 10 to 13):

(i) for Offices of States member of the Madrid Union: at cost price, namely, based on an amount of 150 Swiss francs per month representing the cost of a tape, the copying of the data on the tape and the cost of mailing of the tape, 1,800 Swiss francs per year for one tape a month;

(ii) for Offices of non members of the Madrid Union: 3,600 Swiss francs per year;

(iii) for any other natural or legal person: 7,200 Swiss francs a year.

2. The Assembly adopted the said proposal (see document MM/A/XV/4, paragraph 15).
3. At present, the so-called photocomposition files are provided to four Offices of States member of the Madrid Union and to three private companies, at the annual subscription prices referred to in items (i) and (iii), respectively, of paragraph 1, above. It should be noted however that, since the successor publication of *Les Marques internationales*, that is, the *WIPO Gazette of International Marks*, issues every second week, subscribers receive in effect 25 tapes a year instead of 12.
4. In June 1992, the International Bureau issued the first production disk of ROMARIN (*Read Only memory of Madrid Actualized Registry INformation*). In September 1992, the Director General submitted to the Assembly proposals regarding the pricing of ROMARIN and its by-products (see document MM/A/XXIV/2, paragraphs 25 and 26, and Annex II). The said proposals were approved by the Assembly (see document MM/A/XXIV/4, paragraph 21).
5. One of the by-products of ROMARIN is an extraction of the electronic data base of international registrations of marks containing all the data included in the ROMARIN CD-ROM, that is, a partly consolidated, partly historical view of entries in the International Register relating to all international registrations currently in force, including images for marks containing figurative elements.
6. Regarding the said extraction, the price list approved by the Assembly provided for the following conditions:
  - (a) for members of the Madrid Union:
    - (i) for internal use: provision of the backfile extraction and monthly updates at marginal cost (cost of the tapes plus handling charge);
    - (ii) for commercial use: 0.10 Swiss francs per record of bibliographic data (backfile and updates), 0.20 Swiss francs per image in the backfile, 0.10 Swiss francs per image in the updates, and a royalty of 0.20 Swiss francs per record cited when the data is made available on-line;
  - (b) for other members of the Paris Union or members of WIPO: for internal use, the prices under (a)(ii), above, minus 20%, and without a royalty; for commercial use, the same prices as under (a)(ii), above;
  - (c) for information service brokers: the same prices as under (a)(ii), above.
7. Currently, six Offices of States member of the Madrid Union and two other customers have acquired the ROMARIN backfile; currently, four of those Offices and the two other customers continue to receive the ROMARIN updates.

## Adapting the Access to the Information Contained in the Electronic Data Base to a New Environment

### *New Statutory Environment*

8. New statutory provisions regarding the access by Offices of Contracting Parties of the Madrid Agreement and the Madrid Protocol and by the general public to the electronic data base of international marks, as well as new technologies for the distribution of electronic data, seem to call for a review of the decisions by the Assembly referred to in paragraphs 2 and 6, above, and the underlying data distribution policy.

9. Rule 33 of the Common Regulations under the Madrid Agreement and Madrid Protocol provides for free access by Offices of members of the Union to the electronic data base of international marks. This is ensured by offering such Offices free access through an ISDN connection or a modem to modem connection to the MAPS (*Madrid Agreement and Protocol System*) data base (at present, the Swiss Office and the Italian Office have availed themselves of this facility). Besides, Offices of Contracting Parties have, under Rule 2(6) of the Common Regulations, the possibility to receive by electronic means all notifications addressed to them by the International Bureau, that is, to receive in electronic form all the data in the International Register relevant to international registrations affecting them. It seems therefore to be illogical to give free access to data contained in the electronic data base on the one hand and to subject the provision of the same data to conditions and charges when they are provided as a by-product of the photocomposition of the *WIPO Gazette of International Marks* or of the preparation of ROMARIN on the other hand.

10. The same goes to a certain extent as regards access to data in the electronic data base of international marks by the general public. Although Rule 33 of the Common Regulations, which provides for access by the general public to the electronic data base, reserves the possibility for the International Bureau to charge a fee for such access, no use has been made so far of this possibility. It is recalled in that respect that the general public has access to the electronic data base through a combination of ROMARIN (which issues every four weeks) and, for data recorded in the International Register between two issues of ROMARIN as well as for pending international applications and subsequent designations, of daily update files available on the Internet.

11. In view of the foregoing, it is proposed to adopt more liberal solutions for the provision of data from the electronic data base of international marks, based on the following guiding principles:

(i) a distinction would be made between “raw” data (requiring formatting and further processing by the user) and significant “value-added” data (incorporated in a physical product like ROMARIN), the former being made available at marginal cost or free of charge if the marginal cost is negligible, and the latter being sold at market price;

(ii) no distinction would be made in the pricing of raw data according to the user (Offices or other entities or persons) or according to the intended use (internal use or commercial use).

*New Technologies for the Distribution of Electronic Data*

12. At the present time, the extractions from the electronic data base used for the photocomposition of the *WIPO Gazette of International Marks* as well as the ROMARIN extractions are distributed on tapes (IBM standard or Exabyte tapes). This results in handling costs which could be virtually eliminated if the relevant files were simply made available on a server (the server of the United Nations International Computing Center (UNICC)), leaving it to the user to “pull” the file to its own system through an ISDN link. The International Bureau is setting in place the relevant facility and intends to discontinue the provision of tapes by the beginning of 1998. Users are being informed.

13. The result of this new distribution method will be that the marginal cost of distributing the files used for the photocomposition of the *WIPO Gazette of International Marks* and the ROMARIN monthly extraction files will become negligible.

*Consequences on the Decision Taken by the Assembly at its Ordinary Sessions of 1985 and 1992, and Proposal for Change of Those Decisions*

14. Applying the guiding principles set out in paragraph 11, above, to the pricing decisions taken by the Assembly as regards the photocomposition files (paragraph 2, above) and the ROMARIN extraction files (paragraph 6, above) would—when, as mentioned in paragraph 13, above, the cost of distribution of the data is reduced to a minimum through it being made available on a server—result in making the photocomposition files and the ROMARIN extraction files available free of charge whoever the user is and whatever the intended use is. Recognizing, however, that current commercial subscribers (IMSMARQ, SKRIPTOR and the French Industrial Property Office) have acquired the ROMARIN backfile at the price referred to in paragraph 6(a)(ii), above, it is proposed to continue to charge for making available the said backfile to information vendors, the charge in the future being a one-time lump sum payment of 30,000 Swiss francs. It is to be noted in that respect that the backfile contains some 320,000 records of bibliographic data and some 120,000 images.

15. It is therefore proposed that the Assembly authorize the Director General, with effect from October 1, 1997,

(i) to make available to anybody who requests them, free of charge, the bi-weekly data files used for the photocomposition of the *WIPO Gazette of International Marks* and the four-weekly extraction files used for the preparation of ROMARIN, and

(ii) to make available to anyone the ROMARIN backfile covering all international registrations in force (bibliographic data and images), subject to a one-time lump sum of 30,000 Swiss francs to be paid by information vendors (i.e. those intending to provide access to information contained in the backfile against a fee).

16. *The Assembly is invited to approve the proposals contained in paragraph 15, above.*

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