

深度了解提交马德里国际申请的实用技巧

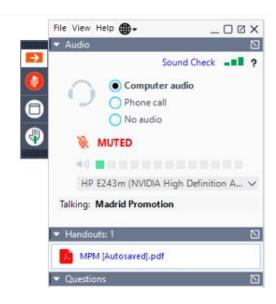
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日内瓦 2021年10月28日

如何使用GoToWebinar







网络研讨会内容框架

- 介绍:如何填写马德里申请表格,避免不规范
- ■会间互动问答
- 结尾问答环节
- 讲座PPT可供下载
- 视频会上传到马德里网络研讨会页面
- 简短调查问卷搜集反馈意见



马德里体系的特点

■ 方便易用——使用一种语言提交一份申请,缴纳一组费用,即可在多个领土申请商标保护

■ 覆盖范围广——覆盖世界贸易80%以上的领土范围

■ **性价比高**——提交一件国际申请,而非各个国家申请,可以节省时间和费用;节省翻译费用和代理费用

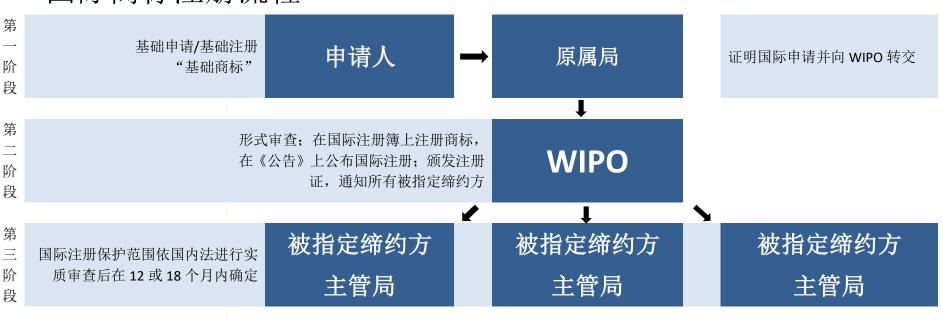


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马德里体系如何运作

国际商标注册流程



互动问题一:

■ 截至目前,最新加入马德里体系的国家是哪个?

- a. 阿拉伯联合酋长国
- b. 巴基斯坦
- c. 特立尼达和多巴哥



提交申请的基本要求

- 申请人需符合下列条件之一,才具备使用马德里体系的资格:
 - 申请人为马德里体系缔约方的国民, 或
 - 申请人在马德里体系缔约方有住所, 或
 - ■申请人在马德里体系缔约方境内设有真实有效的工商营业所

■ 申请人需在具有申请资格的知识产权局(**原属局**)已注册商 标或申请商标(**基础商标**)



如何提交国际申请?

■ 必须通过申请人的原属局

■ MM2表格 或 网上申请

中国国家知识产权局:

网上申请系统 http://sbj.cnipa.gov.cn/wssq/



CNIPA网上申请系统

	*	国家知识产权局商标局 中国商标网 TRADEMARK OFFICE OF NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION, PRC	
商标网上服务系统		位置: 国际申请 > 国际注册申请	北京时间:16时05分
商标注册申请	>	操作步骤: 2、提交	
国际申请	>	【开始填写前,请点击这里查看马德里国际商标注册网上申请填写要求】	
商标后续申请	>		
代理申请业务	>	基本信息 申请人信息 申请人资格 共有人 代理信息 注册/申请号 优先权 商标图样	其他事项 指定缔约方 商品和服务
电子送达	>	● BASIC INFORMATION 基本信息	
商标数据开放	>	Applicant' s Reference	申请或代理编号。选填
网上缴费平台	>	(申请人编号): Contracting party whose	中 将3次1 以生物气。 22%
票据管理	>	office is the office of origin CHINA (中国) * (原属局所在缔约方):	
我的账户	>	下一步	



如何填写申请表格

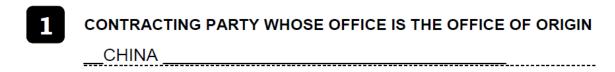


国际申请

■ 申请人和/或主管局编号

Applicant's reference:	
Office's reference:	

■原属局所属缔约方





申请人详细信息:

■申请人名称和地址

■电子邮箱和电话

■通信地址

APPLICANT

(a)) Name: XXX XXX XXX
) Address: No. XX, XX Road, XX District, XX City, XX Province, China
	Address for correspondence: No. XX, XX Street, XXX Zone, XX City, XX Province, China
(d)	Telephone: 0086-XX-XXXXXXX Fax:
	E-mail address: XXXX@XX.com



互动问题二:

■ 提交国际申请时,是否必须提供申请人的电子邮箱?是否可以提供代理人的电子邮箱作为申请人的使用?

- a. 必须提供;不可以。
- b. 必须提供; 可以。
- c. 非必须; 可以。



申请人信息:

■希望使用的通信语言

Preferred language for correspondence: English

French

Spanish



申请人信息:

■ 自然人的国籍

(i) If the applicant is a **natural person**, indicate the nationality of the applicant:

Nationality of the applicant:

■ 法律实体的性质

(ii) If the applicant is a **legal entity**, provide **both** of the following indications:

Legal nature of the legal entity:	Limited Liability Company
State (country) and, where applicable, territorial unit within that State (canton, province, state, etc.), under the law of which the said legal entity has been organized:	CHINA



申请资格

- 系该马德里体系缔约国国民,或
- 在该马德里体系缔约方有住所,或
- 在该马德里体系缔约方有真实有效的工商营业所



申请资格

如申请人地址不在该缔约方境内:

=NIII	LEME	NT TO FILE			
a) Check the appropriate box:					
(i)		where the Contracting Party mentioned in item 1 is a State, the applicant is a national of that State; or			
(ii)		where the Contracting Party mentioned in item 1 is an organization, the name of the State of which the applicant is a national:; or			
(iii)	\checkmark	the applicant is domiciled in the territory of the Contracting Party mentioned in item 1; or			
(iv)		the applicant has a real and effective industrial or commercial establishment in the territory of the Contracting Party mentioned in item 1.			
		e address of the applicant, given in item 2(b), is not in the territory of the Contracting Party mentioned in dicate in the space provided below:			
(i)		e box in paragraph (a)(iii) of the present item has been checked, the domicile of the applicant in the territory of Contracting Party, or,			
(ii)		if the box in paragraph (a)(iv) of the present item has been checked, the address of the applicant's industrial or commercial establishment in the territory of that Contracting Party.			
	No.	1, Qingfeng Road, Fengtai District, Beijing, China 如申请人地址不在该缔约方境内,必须提供在该缔约方的住所地址或真实有效工商营业所的地址 WIPO MADRI	D		

指定代理人

- 按照MM2表格或网上申请中指定代理人项的要求填写
- ■每件国际申请仅可指定一个代理人
- 各类通知仅发送给代理人,不发送给申请人
- ■必须提供电子邮箱



基础商标和优先权

■ 基础申请或基础注册(可多个)

- ■要求优先权
- ▶ 基础申请之日起6个月内,可要求在先申请的优先权
- ▶ 如要求多个优先权,必须注明每个优先权对应的类别及商品/服务



商标图样

■ 与基础商标一致,图样必须清晰





商标-标准字符

■申请人声明希望该商标被视为标准字符商标

ROMARIN

The applicant declares that he wishes the mark to be considered as a mark in standard characters.



商标-颜色商标

- 商标仅包含一种颜色或几种颜色组合,不含任何图形要素
 - The mark consists exclusively of a color or a combination of colors as such, without any figurative element.





互动问题三:

■ 请问右图所示的商标是否为颜色组合商标?

- a. 是
- b. 不是





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商标-要求保护的颜色



✓ The applicant claims color as a distinctive feature of the mark.
Color or combination of colors claimed: blue and red
Indication, for each color, of the principal parts of the mark that are in that color (as may be required by certain designated Contracting Parties):

其它说明-商标音译



商标中含有 非拉丁字符 或非阿拉伯数字 或非罗马数字, 必须提供音译

Transliteration of the mark (this information is compulsory where the mark consists of or contains matter in characters other than Latin characters, or numerals other than Arabic or Roman numerals):

Li Zi



其它说明

- 商标意译(翻译成英语、法语或西班牙语)
- ■商标中包含的文字无含义
- ■商标说明

经原属局证明的基础申请或基础注册中包含的商标说明

和/或 自愿的商标说明



其它说明

- 特殊商标的类型:
 - ■立体商标
 - ■声音商标
 - ■集体商标、证明商标或保证商标

注意: 与基础商标保持一致

了解被指定缔约方主管局对特殊商标的特别要求

(使用成员概况数据库查询相关信息)



其它说明-文字要素(如适用)



Verbal elements of the mark (where applicable):

bee happy



其它事项-放弃专用权声明



The applicant wishes to disclaim protection for the following element(s) of the mark:

Pharmaceuticals Pharmaceutical



商品和服务

■国际注册申请的商品和服务

要求:按照现行版本的尼斯分类(11-2021)

不超过基础商标所申请/注册的商品/服务的范围

建议: 使用马德里商品与服务管理器

(a) Indicate below the goods and services for which the international registration is sought:

Class

Goods and services

- Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery; essential oils.
- 18 luggage and carrying bags; umbrellas and parasols.
- 25 Clothing; footwear; headwear.



商品和服务

JP Class 3 & 18

■ 在某些被指定缔约方对商品/服务清单进行删减

(b) The applicant wishes to limit the list of goods and services in respect of one or more designated Contracting Parties, as follows:

Contracting Party

Class(es) or list of goods and services for which protection is sought in this Contracting Party

US Class 3 Non-medicated dentifrices; perfumery; essential oils.

Class 18 Carrying bags; umbrellas and parasols.

Class 25 Clothing, namely, T-shirts, shirts, coats, vests; shoes and boots;

Hats and caps.



指定缔约方

☐ AF	Afghanistan		Algeria		Kazakhstan	☐ RO	Romania
	Antigua and		Estonia		Lao People's	□ RS	Serbia
	Barbuda		Egypt		Democratic	RU	Russian
	Albania		European		Republic		Federation
	Armenia		Unionª		Liechtenstein		Rwanda
\square AT	Austria	□ ES	Spain		Liberia		Sudan
	Australia		Finland		Lesotho ^b	SE	Sweden
	Azerbaijan	□ FR	France		Lithuania	SG	Singapore ^b
	Bosnia and	☐ GB	United		Latvia	☐ SI	Slovenia
	Herzegovina		Kingdom ^{b,j}		Morocco	□ SK	Slovakia
□ BG	Bulgaria	□ GE	Georgia	□ MC	Monaco	□ SL	Sierra Leone
□ BH	Bahrain	□ GG	Guernsey ^{b,k}		Republic of	□ SM	San Marino
□ BN	Brunei	□ GH	Ghana		Moldova	□ ST	Sao Tome
	Darussalam ^b	☐ GM	Gambia	_	Montenegro		and Principe
☐ BQ	Bonaire,	☐ GR	Greece		Madagascar	□ SX	Sint Maarten
	Saint Eustatius and		Croatia		North		(Dutch part)f
	Saba ^{f,g}		Hungary	_	Macedonia	SY	
	Brazil ^{e,h}		Indonesia		Mongolia		Republic
	Bhutan		Ireland ^b		Malawi ^b		Eswatini
_	Botswana		Israel		Mexico		Thailand
	Benelux ⁱ		Indiab		Malaysia ^b	☐ TJ	Tajikistan
	Belarus		Iran (Islamic		Mozambique ^b		Turkmenistan
	Canada	_	Republic of)		Namibia		Tunisia
	Switzerland	□ IS	Iceland		Norway		Turkey
□ CH			Italy		New	□ TT	Trinidad and
	Colombia	□ JP	Japan ^e		Zealand ^b		Tobago ^b
_		□ KE	Kenya		African Intellectual		Ukraine
_	Cubae	□ KG	Kyrgyzstan		Property	□ US	United States
	Curaçaof	□ KH	Cambodia		Organization		of Americad
_	Cyprus	□ KP	Democratic		(OAPI)°		Uzbekistan
⊔ cz	Czech		People's		Oman		Viet Nam
	Republic		Republic of	□ PH	Philippines		Samoa
	Germany Denmark		Korea		Pakistan ^b		Zambia
□ bk	Denmark		Republic of	□ PL	Poland		Zimbabwe
			Korea	□ PT	Portugal		



某些指定缔约方的特殊要求

- 欧盟:
 - 必须在申请语言之外,向欧盟知识产权局指定第二语言: 英语、法语、德语、意大利语或西班牙语
 - ■可以基于在先注册或申请提出先有权(MM17表格)
- 指定某些缔约方即被视为有使用商标的意向
- 美国: MM18表格, 商标使用意向声明



MM18

MM18(E)

DECLARATION OF INTENTION TO USE THE MARK: UNITED STATES OF AMERICA

By designating the United States in the international application/subsequent designation, the person signing below declares that:

- the applicant/holder has a bona fide intention to use the mark in commerce that the United States Congress can regulate on or in connection with the goods/services identified in the international application/subsequent designation;
- (2) he/she is properly authorized to execute this declaration on behalf of the applicant/holder;
- (3) he/she believes applicant/holder to be entitled to use the mark in commerce that the United States Congress can regulate on or in connection with the goods/services identified in the international application/subsequent designation; and
- (4) to the best of his/her knowledge and belief no other person, firm, corporation, association, or other legal entity has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive;
- (5) to the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

I declare under penalty of perjury under the laws of the United States of America that all the foregoing statements are true and correct to the best of my knowledge and belief. I understand that willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom and are punishable by fine or imprisonment, or both (18 U.S.C. §1001), 35 U.S.C. §25(b).



INSTRUCTION

This declaration must be signed by:

- (1) the applicant/holder or a person with legal authority to bind the applicant/holder; or
- (2) a person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant/holder; or
- (3) an attorney who is authorized to practice before the United States Patent and Trademark Office under 37 C.F.R. §10.1(c), who has an actual written or verbal power of attorney or an implied power of attorney from the applicant/holder.



原属局的证明和签字

- ■原属局证明
 - ■国际申请的收文日期
 - ■申请人和基础商标的申请人/持有人一致
 - ■商标与基础商标一致
 - ■申请的商品和服务在基础商标的商品和服务范围之内



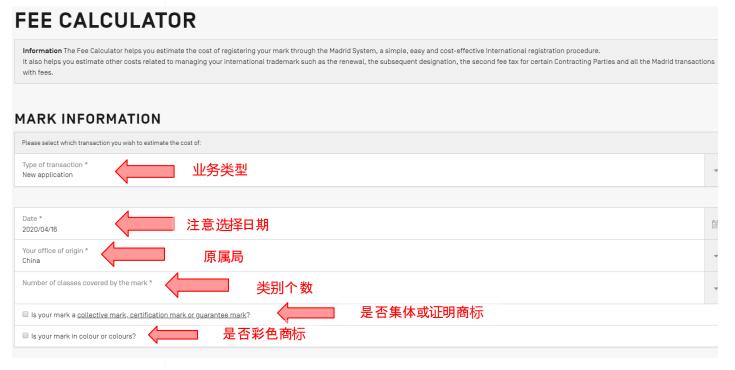
费用计算

- 需以瑞士法郎向产权组织支付费用
 - 基础费: 653瑞士法郎(黑白)或 903瑞士法郎(彩色)
 - ■指定费
 - ■标准费
 - ■每个被指定缔约方100瑞士法郎
 - ■超过3个类,每增加一个类别需缴纳100瑞士法郎
 - ■单独规费
 - ■部分缔约方单独规费分两部分支付
 - 0 日本,巴西



费用计算器

https://www.wipo.int/madrid/feescalculator/





付费方式

■原属局代收规费并向产权组织转交

- ■直接向产权组织缴纳规费
 - 选择一: 通过在产权组织开设的账户
 - 选择二:通过信用卡支付
 - 选择三: 通过银行或邮局转账



国际申请不规范 - 类型

- 商品和服务分类不规范 (依据实施细则第12条)
- 商品和服务名称不规范 (依据实施细则第13条)
- 其他不规范 (依据实施细则第11条):

申请人资格、**优先权信息**、MM18表格、**商标图样、商标 音译、未缴纳规费**等



不规范通知 - 回复方式

■ 必须通过原属局回复:

依据实施细则第12和13条,关于**商品和服务的不规范**必须通过原属 局回复国际局

依据实施细则第11条,其它<u>须由原属局证明的内容</u>,例如:原属局 收文日期等

■ 可由申请人直接回复国际局(Contact Madrid)

依据实施细则第11条,例如:电子邮箱,商标音译,商标图样不清晰等

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互动问题四:

■ 如果收到国际局关于商品/服务的不规范通知,申请人必须在通知之日起多长时间内提交答复意见?可以通过Contact Madrid提交吗?

- a. 2个月;可以。
- b. 3个月;不可以。
- c. 4个月,可以。



不规范通知 一 逾期未回复的后果

■ 国际申请**视为放弃**,并扣除基本费(黑白图样)一半的款额:

例如:申请人电子邮箱、商标音译、商标图样不清晰等

■ 国际申请继续登记:

例如:商品和服务名称不规范却逾期未回复,国际局将在该商品和服务名称后面增加说明,表示国际局认为该词过于含混、不便分类,费解,或用词不准确。



问答环节

张俊琴 高级顾问 马德里信息推广司 戴晓丹 审查员 马德里运营司

随时了解最新信息



■ 网站 访问<u>马德里体系网站</u>



■ 马德里新闻 订阅<u>马德里新闻</u>



■ 网络研讨会

观看马德里网络研讨会的录像并随时关注新主题



■ YouTube频道

在产权组织的<u>YouTube</u>频道上查看 我们的马德里视频播放列表



■ 教程

播放我们的马德里 "How-to"系列视频和

教程



■问题

将您的问题、评论意见或建议发送

给我们 (Contact Madrid MADRID

谢谢!

45

Contact Madrid