

International and Regional IPR Mechanism for Improving the Access to the Global Market

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I. What does an owner of IP rights expect (3 criteria):

- Filing and subsequent procedures as quick and simple as possible
- As cheap as possible
- With a geographical protection as large as possible

For both trademarks and designs, **three different types of instruments** at our disposal:

- National filings
- Regional filings (EU, OAPI)
- International filings (Madrid system for trademarks and The Hague system for designs)

1) Trademarks

Comparison between the Madrid, the Community systems and national filings :

Costs, filing and subsequent formalities (renewal, assignment, ...), unique currency, choice of languages, seniority / substitution of prior national rights, speed, security, prestige

Comparison between the Madrid and the Community systems :

Who can file, where (geographical protection), costs, filing and subsequent formalities (renewal, assignment, ...), currency, choices of languages, seniority / substitution of prior national rights, speed, one or more rights, use, opting back, home trademark

2) Designs

Advantages of The Hague system :

Costs, filing and subsequent formalities, unique currency, choice of languages, speed, security, prestige

Conclusion: The Madrid and the Hague systems are the instruments which best meet Richemont's needs and expectations. They are the basis for our trademark and design protection strategy and are then supplemented by national filings in countries which are not members of Madrid / The Hague. As far as trademarks are concerned, the "opting-back" process available in Madrid for EU designations lifted our latest reservations to file Community trademarks which we therefore file within Madrid. As far as designs are concerned, the entry of the EU within The Hague system amounted to the revival of the same for our brands. Our wish is to see new member states adhering to both Madrid and The Hague systems.

II. How to best use these instruments?

Need of a good trademark, a good design and a good protection

1) What is a good trademark :

- i) from a marketing point of view : be coherent with and evocative of the product / of its environment / the concept, refer to the history of the brand, be understandable by a vast majority
- ii) from a legal point of view : be distinctive and available; too evocative of the product may amount to non distinctiveness or to prior existing trademarks.

Example : some years ago, Cartier launched a jewellery collection composed of orchid motifs. Cartier envisaged naming it "Orchids collection". Due to prior registered trademarks, we finally agreed for use of the name "Caresses d'orchidées par Cartier" and filed "Caresse d'orchidées" as a trademark.

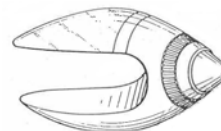
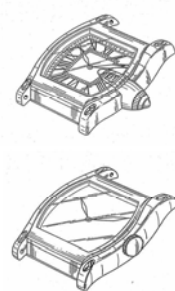
2) A good design :

- i) from a marketing point of view : aesthetically and technically creative and to include the true values / heritage / codes of the brand.
- ii) from a legal point of view : novelty and originality. If the new model is aesthetically too close to a prior design, no design protection is available

To efficiently protect a good design, one should protect the design per se and also the different new and characteristic features.

Example:

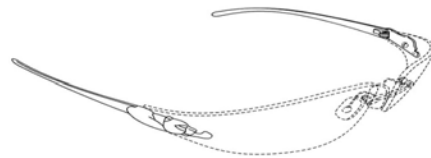
- 1) Roadster watch : do protect the watch in its whole but also the original characteristics, such as the winder, individually.



2) Panthère de Cartier eyewear : this eyewear which combines modern aesthetics and the panther, symbol of the House of Cartier, exists in three different shapes. Do protect one shape in its whole but also the main original characteristic, i.e. the arm, using dotted lines in the design applications where available.



Continuous line



Frame in dotted lines

3) **A good protection should take into account 3 criteria :**

- the product : a one-shot product is not to be protected in the same extent as a product supposed to last for years, a unique piece is not to be protected in the same extent as a product to enter into range, ...
- the markets : take into consideration your markets of today, but also their neighboring countries and the markets of tomorrow
- counterfeit : do not forget the countries in which counterfeit products are manufactured / sold.

III. Conclusion

In these difficult times, innovation is the key word. To preserve and promote innovation, the working places and the human beings occupying said working places, it is essential to protect innovation and the related IP rights. Therefore, business models aiming at being efficient in terms of job creation and development, must take IP rights into consideration, protect them and defend them.