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## Beyond Territoriality: Assessing the Effectiveness of the Madrid System for Trademark Protection in Indonesia

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### Article

### Abstract

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Benefits; Challenges; International Trademark Protection; Madrid System.

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Registered trademark protection is territorial, granting legal rights only within the jurisdiction where the mark is registered. To overcome this limitation, the WIPO administers the Madrid System, which allows trademark owners to obtain protection in multiple member countries through a single international application. Indonesia has adopted this system through Law No. 20 of 2016. However, its utilisation by Indonesian trademark owners remains relatively low. This study examines the benefits of the Madrid System for Indonesian trademark owners in accessing global markets and analyses the challenges that hinder its effective use. Employing a socio-legal research method, the study finds that the Madrid System offers clear advantages, including administrative efficiency through a single application filed in one language, centralised management by WIPO, and cost savings through the payment of one set of fees in a single currency. Despite these benefits, several obstacles limit participation. These include low public awareness of international trademark registration, high registration costs that disproportionately affect micro, small, and medium enterprises, and limited English-language proficiency among applicants. A further significant concern is the risk of a "central attack," whereby the refusal or cancellation of the basic Indonesian application within the first five years may invalidate all corresponding international registrations. Additionally, weak inter-institutional coordination and the absence of measurable policy indicators undermine effective implementation. The study underscores the need for stronger government intervention to enhance national trademark registration and to improve public understanding of the strategic importance of international trademark protection.

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## INTRODUCTION

The existence of trademarks in the global trade of goods and services plays a significant role, including in supporting tourism activities. Its existence is significant not only for companies'

interests but also for consumers'. From the perspective of the Indonesian Trademark Law, in the section Considering letter a. Law No. 20 of 2016 concerning Trademarks and Geographical Indications (UUMIG) explicitly regulates the role of trademarks in global trade, especially to maintain healthy, fair business competition, consumer protection, protection of Micro, Small, and Medium Enterprises, and the domestic industry. A trademark is considered a work in Intellectual Property Rights because it is a right to property resulting from human thought or intellectual ability. Intellectual Property Rights aim to provide legal protection for products of human thought. Products that have a distinctive identity from other products showcase the company's identity and creativity, helping it be recognised and attract consumers. The essential protection of a trademark is not only for the trademark owner but also for the consumer.<sup>1</sup> In Indonesia, this functional linkage between UUMIG and consumer protection is reflected in the broader regulatory framework, such as Law No. 8 of 1999 on Consumer Protection (Law 8/1999). As highlighted in Article 29 (1) the government bears the responsibility for fostering the implementation of consumer protection and ensuring both rights and obligations of consumer are respected as well as the fulfilment of their obligation<sup>2</sup>.

IPR in Indonesia has been adapted to meet the standard set out under the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPs Agreement).<sup>3</sup> Trademark protection, as one of the intellectual property law regimes, is based on the principle of protecting registered trademarks and has a territorial basis, as regulated in Article 15 of the TRIPs Agreement. The study by Farley, Christine Haight, and Irene Calboli (2016) stated that, in general, Article 15.1 indicates that, for WTO Members, particularly civil law countries, protecting trademarks based on consumer confusion, but privileges a system based on trademark registration vs trademark use. In addition to a compromise between different legal traditions, Article 15.1 of TRIPS also indicates that it lists several types of signs that, "in particular," if proven to be distinctive, can be registered as trademarks.<sup>4</sup> As a member country of the TRIPs Agreement, which is part of civil law countries, Indonesia has regulated the protection of registered trademarks through a territorial registration system, in accordance with Article 3 of the UUMIG. Protection of registered trademarks based on the first-to-file principle refers to protection for the first registrant.

Furthermore, territorial means that brand protection only applies in the country where the trademark is registered. This means that companies or trademark owners who want their trademarks protected in several countries must register them in those countries. This protection system cannot always maintain healthy business competition in the trade of goods and services and is even vulnerable to abuse by parties with bad intentions seeking to register abroad, because the real trademark owner only registers their trademark in their own country. Trademark cases related to the first-to-file registration and the territorial basis, for example, are IKEA vs IKEA

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<sup>1</sup> Rory Jeff Akyuwen, Muchtar Anshary Hamid Labetubun, and Senly Soplantila, 2024, "The Legal Ramifications of Sexual Commodification in Trademark Usage in Indonesia," *Sriwijaya Law Review*, 8(2), p325.

<sup>2</sup> Ashadi L. Diab, et al, "Safeguarding Consumers: The Role of Industry and Trade Office in Countering Monopolistic Practices and Ensuring Business Protection", *Volksgeist* VI(2), p304.

<sup>3</sup> Ni Ketut Supasti Dharmawan et al., 2023, "Quo Vadis Traditional Cultural Expressions Protection: Threats from Personal Intellectual Property and Artificial Intelligence," *Law Reform*, 19(2), p322.

<sup>4</sup> Irene Calboli and Christine Haight Farley, "The Trademark Provisions in the TRIPS Agreement," *Intellectual Property and International Trade: TRIPS Agreement, Third Ed. Wolters Kluwer*, 2016, p163.

Sweden<sup>5</sup>, Nissin Foods Holdings vs. the Ministry of Law and Human Rights, Directorate General of Intellectual Property, Trademark Appeal Commission, regarding the registration of the *Torikara* trademark<sup>6</sup>. Other cases of trademark infringement are also associated with Cyber Squatting. Trademark squatting is the act of registering other people's trademarks in other countries by squatters to gain benefits from the real trademark owners. Trademark squatting is becoming more common as the global market expands, leading to increased internal and international trademark infringement. It is the act of applying for trademark registration without the trademark owner's permission, who lawfully obtained or enjoyed the rights under the law. Trademark squatting is a complex issue, caused mainly by the territorial and first-to-file systems at the international level<sup>7</sup>.

Many trademark owners or business entities have recently confronted trademark squatting, but there is no particular resolution<sup>8</sup>. One characteristic of trademark squatting is that a person knows that the trademark belongs to someone else but still registers it under their own name. This shows they intentionally try to use someone else's trademark for their own benefit<sup>9</sup>. It is a bad-faith attitude. On the one hand, the first-to-file system and the territorial basis can guarantee legal certainty within the national scope. In practice, however, crucial issues often arise regarding unregistered foreign trademarks in a given country, leading to their lack of protection in that territory. Likewise, Indonesian brands will not be protected if they are not registered in the destination market country. Moreover, this can even lead to bad-faith trademark squatting within that country's territory, including Indonesia.

Normatively, for a nationally registered trademark to be protected internationally in several destination countries, it has actually been regulated through international agreement known as the Madrid System, which includes the Madrid Agreement of 1981 and the Madrid Protocol of 1989, which governs the protection of national registered trademarks in the global market in the international realm, which is facilitated by the World Intellectual Property Organization (WIPO). The Madrid System, widely recognised as the best solution for international trademark protection, is a centralised registration and management system: one application, one language, one currency, a fast, efficient, low-cost, and effective way. This mechanism offers one solution for international trademark registration, including for small, medium, and large enterprises. In line with this global agreement, Indonesia has normatively supported the internationalisation of national trademark protection regulations by ratifying the Madrid Protocol, which came into effect on January 2, 2018, as explicitly provided for in Article 52 of Law No. 20 of 2016 concerning Trademarks and Geographical Indications.

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<sup>5</sup> Thoyyibah Bafadhal, 'Perlindungan Hukum Terhadap Merek Terkenal Di Indonesia: Kasus IKEA', *Undang: Jurnal Hukum*, 1.1 (2018), 21–41.. See also, Margareta Kristiani Hartono, Cendana Suryani, and Moody Rizqy Syailendra, 2023, "Pembatalan Merek Yang Telah Terdaftar Berdasarkan Undang-Undang Merek Nomor 20 Tahun 2016", *Unes Law Review*, 5(4), p3415

<sup>6</sup> Astrid Puspita Ramadhan and Kholis Roisah, 'Penerapan Prinsip First To File Dalam Sengketa Merek Internasional Putusan Nomor: 106/Pdt. Sus-Merek/2023/PN. Niaga. Jkt. Pst.', *Unes Law Review*, 7.1 (2024), 457.

<sup>7</sup> X Fu, 'Strategies for the Resolution of Trademark Squatting in the EU and China. Department Of Business Law Master's Thesis in European and International Trade Law, School of Economic and Management, Lund University', 2024, 13.

<sup>8</sup> Kitsuron Sangsuvan, 'Trademark Squatting', *Wis. Int'l LJ*, 2013, 252.

<sup>9</sup> Fu.

For Indonesia, the existence of the Madrid System and the Trademark and Geographical Indications Law mean that using international trademark registration can expand access to a broader global market and protect registered owners in several countries<sup>10</sup>. The existence of this legal framework should encourage and facilitate Indonesian business actors and brand owners, including micro, small, and medium enterprises (MSMEs), to register their brands efficiently in various countries through a single mechanism. This is especially important to ensure that Indonesian national brands receive international protection and to minimise trademark cases related to the first-to-file system and territorial protection. The Madrid System provides benefits to both trademark holders and IP offices compared with other methods of obtaining international trademark protection, such as the Paris Convention, also known as the direct route<sup>11</sup>. In addition, this mechanism offers benefits to both Indonesian and other WIPO Madrid System member-country trademark owners, enabling them to invest internationally across multiple countries. However, in practice (das-sein), a small number of Indonesian trademark owners use this mechanism, compared with foreign trademark owners who register for destination Indonesia. An empirical study from the Directorate General of Trademarks, Directorate General of Intellectual Property of Indonesia, shows that in 2018, only 34 Indonesian brands were registered abroad using the Madrid Protocol, known as Madrid Outgoing/OO, while from abroad using the Madrid Protocol, known as Madrid Ingoing/DCP, the number was 6834. In 2019, there were 50 Madrid Outgoing/OO and 8713 Ingoing/DCP. In 2020, there were 98 Madrid Outgoing and 8718 Madrid Ingoing/DCP. In 2021, there were 116 Madrid Outgoing and 9687 Madrid Ingoing/DCP. In 2022, there were 101 Madrid Outgoing, while there were 9154 Madrid Ingoing/DCP. In 2023, there were 102 Madrid Outgoing and 8257 Madrid Ingoing/DCP. In 2024, there were 110 Madrid Outgoing and 10.087 Madrid Ingoing/DCP<sup>12</sup>. Based on the background, the primary focus of this study is to examine the Madrid System as a mechanism for global trademark protection and analyse its benefits and challenges for Indonesia by focusing on the gap between the legal framework and its practical implementation, the study seeks to explain why the number of international trademark applications filed by Indonesian applicants remain low despite the mechanism of the Madrid System offered advantages for their member countries including Indonesia.

## RESEARCH METHOD

This study employs socio-legal research, utilising a statutory, comparative, factual, and analytical approach, which is analysed qualitatively. This research is both prescriptive and descriptive, by studying and analysing several statutes, including relevant international agreements, comparatively, such as the Indonesian Trademark Law, the WIPO Madrid Agreement, the Madrid Protocol, the Madrid Monitor, the Madrid Yearly Review 2025, the TRIPS Agreement,

<sup>10</sup> Burham Pranawa and Tegar Harbriyana Putra Yuri Utomo, 'Pendaftaran Merek Sepatu Vans Sebagai Upaya Perlindungan Hukum Terhadap Pemegang Hak Merek Ber-Dasarkan Undang-Undang Nomor 20 Tahun 2016', *Jurnal Bedah Hukum*, 5.2 (2021), 96.

<sup>11</sup> WIPO, 'International Registration of Marks (Online)', *Madrid Yearly Review*, 2025, 74 <<https://www.wipo.int/edocs/pubdocs/en/wipo>>.

<sup>12</sup> 'Data Sourced from In-Depth Interviews with the Director of Trademarks, Coordinator of Trademarks Inspection of the Trademark from the Directorate of Trademarks (Mr. Agung Indriyanto), and Other Trademarks Directorate Staff, from the Directorate General of Indonesian Intellectual Property in Jakarta', 2025.

the World Trade Organisation (WTO) Agreement, the Trademark Cases and relevant international journals. As for the empirical data, it was collected through in-depth interviews and questionnaires. Those primary and secondary legal materials and empirical data have been analysed comprehensively, and the research problems have been answered and concluded, including providing strategies and solutions to better utilise the Madrid System for international trademark protection, particularly Indonesian trademark protection in global jurisdictions.

## ANALYSIS AND DISCUSSION

### **The Madrid System for Global Trademark Protection for Companies and SMEs**

#### ***Trademark's Essentiality and Territorial Principle Protection in the Global Market***

Trademarks are personally protected under the intellectual property law regime; namely, registered trademarks are protected on a territorial basis for the first registration. For member countries of the WTO-TRIPs Agreement, trademark protection based on registration can be observed through Article 15 (1) of the TRIPs Agreement, which explicitly regulates that any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements, and combinations of colours, as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, members may register their trademarks on the grounds of distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible. In the development of trademark protection, non-traditional signs have also been recognised. However, it is not easy to clarify the precision of visually perceptible. According to Geiregat, S. (2022), the ability to protect three non-traditional signs as trademarks in the EU: smell (olfactory marks), taste (gustatory marks), and feel (tactile marks). All three types of subject matter can meet the definition of a sign. However, granting protection to these three types of signs carries the risk of depleting and appropriating almost anything<sup>13</sup>. It can be argued that by adding three new types of trademarks are smell (olfactory marks), taste (gustatory marks), and feel (tactile marks) which are considered relevant to the definition of a brand, it appears to be expanding, even entering the realm of other types of the intellectual property, such as smell and taste may, potentially overlapping with trade secret protection. Furthermore, to determine the essential elements of distinctiveness in the trademark registration process, especially for trademark registrants and trademark examiners, there remains a need for more concrete technical regulations.

Trademark protection is essentially on signs used to distinguish products, goods, and services that are visually visible. In Indonesia, exclusive trademark protection, namely the personal rights of trademark owners in the use of their trademarks granted by the state, is regulated in Article 1, number 5 of the UUMIG, which adheres to the Constitutive System, namely a registration system based on the first-to-file principle<sup>14</sup>. The essence of trademark

<sup>13</sup> Simon Geiregat, 'Trade Mark Protection for Smells, Tastes and Feels—Critical Analysis of Three Non-Visual Signs in the EU', *IIC-International Review of Intellectual Property and Competition Law*, 53.2 (2022), 219.

<sup>14</sup> and R. Rahaditya Nadya Enjelin Kusuma, 'Tinjauan Prinsip Itikad Baik Dalam Upaya Perlindungan Hukum Sengketa Merek (Studi Putusan Nomor 3/Pdt. Sus. Hki/Merek/2022/PN Niaga Mdn)', *UNES Law Review*, 6.2 (2023), 4520.

existence cannot be seen solely from the context of its legal protection, which focuses on "signs as a distinguishing power." Still, upon entering the global market, the trademark serves as a strategic asset for the company, with high economic value, and provides consumers with information to help them make their choice. The meaning a sign or logo holds for consumers can help them recognise a product, foster positive attitudes, and motivate the company to perform better<sup>15</sup>. Trademarks are essential for distinguishing the identity of products or services in an increasingly competitive market. The success of cross-country business expansion is primarily determined by trademark owners' ability to protect their marks across jurisdictions effectively. Thus, the need for trademark protection extends beyond national security, and international trademark protection is urgent in the context of free trade and the global digital economy.

Brand image significantly influences consumer decisions to buy a product, especially when a positive brand image is associated with a product, thereby increasing purchase intentions through electronic word of mouth. From a consumer perspective, a brand is everything related to a company, product, or service. Brand image is a consumer's perception of a product formed from information obtained through its use<sup>16</sup>. The advancement of digital technology in the era of the global market also facilitates the rapid flow of information about brand image and reputation to consumers across countries. For example, in the previous era, consumers may have been familiar only with reputable shoe products such as Adidas or Nike. Still, in the current era, consumers also use shoe brands such as Onitsuka Tiger , a Japanese brand<sup>17</sup>. Also, a shoe trademark **asics** that comes from Japan.

The essence of a trademark for a company is that it is an intangible asset with economic value that results from intellectual creativity in producing products with distinctive power. A trademark, as an intangible asset with economic value, can be transferred, licensed by the owner, or inherited. In its development, it can also serve as a fiduciary guarantee and ultimately increase the company's valuation. The trademark as an investment results from the dedication of energy, time, money, and perhaps even family members within the company, producing products or services that have distinctive power. They possess a distinctive identity of origin, image, quality, and reputation that distinguishes them from similar products produced by other companies, in line with efforts to create distinctive brands, as well as to ensure the sustainability of reputable, consistent products and brands. Trademark protection can be understood as intellectual property rights protection in general, namely through the Natural Rights Theory, Labour Theory, Reward Theory, Economic Incentive Theory, and even Consumer Protection Theory. John Locke (1632-1704), a philosopher who laid an important foundation for the philosophy of IPR protection, argued in the Second Treatise of Government that everything in this world has belonged to all mankind since its inception. However, "everything" cannot be used directly; it must first be obtained and processed. Locke emphasised the importance of applying the Theory of Natural Law in rewarding those who have made "sacrifices" to discover and produce something derived from nature in the form of ownership. Every person naturally has a right to himself. Therefore,

<sup>15</sup> Min Jung Kim and Joon Ho Lim, 'A Comprehensive Review on Logo Literature: Research Topics, Findings, and Future Directions', *Journal of Marketing Management*, 35 (2019), 1291.

<sup>16</sup> Komang Yoga Ade Candra and Ni Nyoman Kerti Yasa, 'Event Marketing, E-WOM, Citra Merek Terhadap Niat Beli: Konsep Dan Aplikasi', *Badung: CV. Intelektual Manifes Media*, 2023, 9.

<sup>17</sup> Onitsuka Tiger, 'No Title', 2025 <<https://www.onitsukatiger.com/jp/ja-jp/>>.

the results of his work, the outpouring of his energy (power), have added "personality" to something that has been processed, naturally becoming his property. Locke emphasised that every person has "property rights" over their own 'person'. No one has the right to it but himself. The 'labour' of his body and the 'work' of his hands can be said to be his own property. Whatever he has taken from what nature has provided and abandoned, he has infused his energy into it, making it relevant to him<sup>18</sup>. In this context, the trademark, as one of the intellectual property regimes, can be considered relevant to the Natural Right Theory, which aligns with the Labor Theory and, in turn, the Reward Theory, thereby protecting the brand owner's exclusive rights. Meanwhile, in the context of consumer protection, the brand's existence is actually to prevent confusion, known as the likelihood of confusion, and to prevent consumers from being misled (misleading practices).

The dynamics of the global market that have helped build a trademark reputation that is growing rapidly across borders, on the one hand, certainly benefit the brand owner company. In the era of global and digital trade, a brand's essence functions as a marker of cross-country reputation that warrants legal protection, mainly to prevent increasingly complex brand disputes, such as trademark squatting, bad-faith registration, and passing off. However, on the other hand, many companies also face the risk of unauthorized use of trademarks in other countries that have the potential to harm not only the economy but also the reputation. The risk of loss is a phenomenon that cannot be denied and is related to the territorial nature of trademark protection. Trademark protection is territorial, meaning it applies only in the country where the trademark is registered. Trademark owners who want protection in several countries must register their trademarks in each target country. The Territorial Principle essentially gives a member country authority to regulate the registration of intellectual works and to protect them within its territorial borders. Protection is only provided within a country's territorial borders, not internationally<sup>19</sup>. In the context of the territorial principle, which protects trademarks only when registered domestically and not internationally, the rationality of its protection is relevant to the theory of state sovereignty. Proponents, or figures known for their work on the theory of state sovereignty, include George Jellinek, Jean Bodin, and Thomas Hobbes<sup>20</sup>. This theory focuses on the state as the highest authority for enacting, enforcing, and applying laws within its jurisdiction. Related trademark protection, it can be argued that it is a direct manifestation of state sovereignty in trade law. The state grants exclusive rights to a trademark to its owner. Protection is mandatory through registration. The state, as a sovereign entity, has the authority to regulate and recognise exclusive trademark rights within its territory. Without registration, there is no legal protection for a trademark. A logical consequence of state sovereignty with protection based on the territorial principle is that the state has no legal authority outside its territory. The legal bases for trademark protection are trademark registration in a country and its territorial nature. It can be emphasised that philosophically, trademarks not only serve as signs of differentiation but also go beyond that,

<sup>18</sup> P.H. and Imanullah Purwandoko, 'Application of Natural Law Theory (the Natural Right) to Protect the Intellectual Property', *Yustisia*, 2017, 143–44.

<sup>19</sup> Dayu Medina and Dewi Enggriyeni, 'Pengaturan Dan Penerapan Prinsip Teritorial Dalam Perlindungan Indikasi Geografis Indonesia (Dalam Perspektif Hukum Internasional Dan Nasional)', *Unes Law Review*, 6.1 (2023), 25.

<sup>20</sup> N Wijaya, D.D. and Mubin, 'Teori Kedaulatan Negara', *WISSEN: Jurnal Ilmu Sosial Dan Humaniora*, 2.4 (2024), 120.

embodying values arising from the relationship among human creativity, consumer trust, and the country's legal system.

The legal basis for the principle of territoriality is set out in Article 6 of the Paris Convention, particularly Article 6(3). Trademark rights are territorial and reinforced by the independence principle under Article 6(3). Independence is a sign of affirming the character of adhering to the territorial principle in trademark protection<sup>21</sup>. Territorial trademark protection is a legal framework that cannot be separated from the brand registration system.

As stipulated in the Paris Convention and the TRIPS Agreement, Indonesia, as a member, has regulated trademark protection through a registration system, meaning that protection follows registration and is territorial in nature. Indonesia is regulated under Articles 1.5 and 3 of UUMIG. The purpose of trademark registration is to ensure legal certainty for trademark owners.

The territorial nature is often exploited by other parties in bad faith to obtain brand protection in certain countries through the trademark registration process during global market expansion, or to register a trademark without the original trademark owner's permission. In this context, the true trademark owner registers his trademark only nationally in his country of origin. In reality, in relation to the territorial nature of trademark protection, even though a well-known trademark has registered its trademark in several countries, such as IKEA Sweden has registered its trademark including in Indonesia, the issue of "Non-Use" and the Court's decision that is legally binding at the national level also still implies how vulnerable trademark protection is, such as in the trademark dispute in the case of IKEA Sweden vs IKEA Surabaya. In reality, in relation to the territorial nature of trademark protection, even though a well-known trademark has registered its trademark in several countries, such as IKEA Sweden has registered its trademark including in Indonesia, the issue of "Non-Use" and the Court's decision that is legally binding at the national level also still implies how vulnerable trademark protection is, such as in the trademark dispute in the case of IKEA Sweden vs IKEA Surabaya. In this context, the protection of trademarks, including well-known trademarks, remains subject to the legal policies of each country under the territorial principle in trademark law<sup>22</sup>. Violations of registered trademarks across national borders, besides being vulnerable to the territorial principle, also often involve trademark cybersquatting.

By observing this phenomenon, cross-jurisdictional trademark protection becomes a necessity that cannot be ignored. Trademark owners are not only sufficient in the country of origin but also in the international market. Globalisation has established trademarks as a key pillar for entering the global market, and trademark protection is a vital element in sustaining international business competitiveness. However, it is certainly not easy to register trademarks one by one in the target country due to high costs and unfamiliar administrative registration processes for companies from different countries.

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<sup>21</sup> I Gede Agus Kurniawan and Rafika Amalia Ni Ketut Supasti, Dharmawan, Putu Aras Samsithawrati, 'Protecting Well-Known Marks Related to Territorial Principle: From Substantive Similarity to the Distinctiveness Theory', *Journal Equity of Law and Governance*, 6.2 (2024), 44.

<sup>22</sup> and Mas'ut Mas'ut Dionisa Nadya Dyah Santika, Hendro Saptono, 'Analisa Hukum Terhadap Perlindungan Merek Terkenal Yang Dianggap Sebagai "Merek Non-Use"', *Diponegoro Law Journal*, 14.2 (2025), 1. See also Ali Oksy Murbiantoro, Rachmad Safa'at, Yulianti and Sukarmi, 2020, "Adopting the Passing off Concept of Unfair Competition into Indonesia's Trademark Law", *Open J. Legal Stud.*, 3(2), p133

## **The Madrid System Provides a Global Solution for International Trademark Protection, both for Companies and SMEs**

The Madrid System allows trademark holders to obtain protection in multiple countries or territories by filing a single Madrid application through a national or regional intellectual property office. The Madrid System simplifies the multinational trademark registration process by filing a single application in each jurisdiction where the trademark needs protection or in which the protection is sought<sup>23</sup>. For registration procedures, any person within a member country can submit a single Madrid application addressed to the International Office for the Protection of Industrial Property. This is based on Article 2 (1) Madrid Protocol that states, “Where an application for the registration of a mark has been filed with the Office of a Contracting Party, or where a mark has been registered in the register of the Office of a Contracting Party, the person in whose name that application (hereinafter referred to as “the basic application”) or that registration (hereinafter referred to as “the basic registration”) stands may, subject to the provisions of this Protocol, secure protection for his mark in the territory of the Contracting Parties, by obtaining the registration of that mark in the register of the International Bureau of the World Intellectual Property Organization (hereinafter referred to as “the international registration,” “the International Register,” “the International Bureau” and “the Organization,” respectively).....”. The application must be filed at the office in the applicant's country of origin, ensuring that the trademark has been registered in that country. The system also aims to facilitate international trademark registration and the effective management of protection. Furthermore, registration of changes to the label's title, name, or address can be determined by a central procedure of the International Bureau, thereby eliminating fees and expenses and saving time and effort<sup>24</sup>. The international application must include a list of goods and services for the required countries and indicate the designations and be subject to a basic fee (CHF 653) or CHF 903 Swiss Francs, a complementary fee (CHF 100) per designated Madrid member, and a supplementary fee (CHF 100) per class of goods and services. The application for trademark registration through the Madrid single application can be considered as a solution for trademark owners who want to expand in the global market amidst the vulnerability of abuse of first-to-file- system and territorial based to trademark registration by parties with bad intentions by registering a trademark in the country of origin, the propose trademark registration actually has similarities in principle or in its entirety with the trademark of another party that has not been registered in the country of origin.

The Madrid System does not create a single global trademark right but merely provides a centralised registration mechanism. Therefore, the Madrid System is an international registration system, not an international trademark right. In relation to the territorial first-to-file system, the Madrid System does not eliminate territorial and national principles, in which the country of destination retains full authority to assess trademarks, and there is no coercion of acceptance by WIPO. Therefore, the Madrid System does not reduce substantive national authority. This can

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<sup>23</sup> World Intellectual Property Organization (WIPO), ‘International Registration of Marks’, *Madrid Yearly Review*, 2025 <<https://doi.org/DOI:10.34667/tind.53405>>.

<sup>24</sup> G.M.D.Y.A. Al Wahshat, Z.M., Al-Freihat, M.S., Issa, H.A., Aleissa, T.Y. and Al, ‘The Impact of Jordan’s Accession to the Madrid Trademark Registration System’, *Multidisciplinary Reviews*, 7.2 (2024), 2024008–2024008.

be seen from Article 4(1)(a) Madrid Protocol that states “From the date of the registration or recordal effected in accordance with the provisions of Articles 3 and 3ter, the protection of the mark in each of the Contracting Parties concerned shall be the same as if the mark had been deposited directly with the Office of that Contracting Party...”. The existence of this article confirms the theory of state sovereignty in Trademark Law regarding the territorial principle of trademark protection. In relation to state sovereignty, the Madrid System also accommodates the Theory of State Sovereignty, where the Destination State not only has the right to approve the acceptance of registration but also has the right to refuse (Sovereign Right of Refusal), as can be understood from Article 5(1) of the Madrid Protocol, “...of the protection resulting from the international registration shall have the right to declare in a notification of refusal that protection cannot be granted in the said Contracting Party to the mark which is the subject of such extension....”. The implications of trademark rejection and cancellation in the Country of Origin can affect all international registrations, which are also lapsed (in the first 5 years), which is known as the Risk of Central Attack. This is evident in Articles 6(3) and 6(4) of the Madrid Protocol. In brief, international trademark protection under the Madrid Protocol emphasises its procedural and territorial nature. While the Madrid system offers administrative efficiency, it is also vulnerable to risks and remains dependent on the strength of the underlying trademark in the country of origin. Therefore, the risk of a Central Attack poses a challenge for developing countries with non-optimal national trademark registrations.

International trademark registration can be conducted under the Madrid Protocol. The Madrid System, which offers a single application, requires that the trademark be registered in the country of origin. This allows any trademark owner in the Contracting Party, including SMEs, to utilise the Madrid System. The Madrid System does not specifically regulate SMEs, but due to its procedural and neutral nature, it applies equally to all legal subjects. In this context, it can be interpreted that all brand owners can be served, whether large companies, individuals, or SMEs, as long as they already have brand protection in their country of origin. Protection for SMEs is relatively widely accommodated in national policies and WIPO soft law programs. Examples include WIPO SMEs Strategy and IP for Business/IP for SMEs.

The existence of a registered trademark is undeniably one of the essential pillars for protecting products or services produced by companies, from SMEs to multinational companies. Trademarks increase the economic value of a product, especially in the digital era, where everything is unstoppable and quickly crosses national borders, including products, their reputations, and images. Hence, trademark protection also requires greater attention, not only to national security, which, as is known, is territorial. In other words, it only protects registered trademarks at the national level where they are registered. In the context of the expansion of trade in goods and services across a country's legal jurisdiction, it is necessary to have regulations that are legally certain, fair, and beneficial to both small- and medium-sized companies and multinational companies.

Study I Carboli (2023) emphasised that to overcome the problem of territorial national trademark legal protection to the interests of safety in trading products across national borders, thankfully the national trademark legal system has been harmonised through relevant multilateral agreements, starting from the Paris Convention which specifically protects Industrial Property Rights including trademarks, then TRIPs which protect aspects related to trade in Intellectual

Property Rights, to post-TRIPs international legal instruments managed by WIPO. The global framework for trademark protection facilitates national trademark registration through the international registration mechanism managed by WIPO, following the TRIPs Agreement<sup>25</sup>. Furthermore, Agnieszka Przygoda's study (2019) reveals that there are three paths that companies can take to obtain trademark protection, namely through national registration at the EU level through an application to the European Intellectual Property Office (EUIPO), which protects 28 of the EU member states, and international trademark registration under the Madrid System managed by the International Bureau of the World Intellectual Property Organization (WIPO). Currently, for national trademark protection across borders, international trademark registration through the Madrid System is considered the best solution for companies of all sizes, including both small and multinational enterprises. The Madrid Agreement, which underlies the Madrid System, can be regarded as the first international intellectual property registration service mechanism, known as the Madrid System for International Trademark Registration<sup>26</sup>. Two treaties govern the Madrid System for the International Registration of Marks: the Madrid Agreement and the Protocol of Madrid. The Madrid Agreement concerning the international registration of marks was concluded on April 14, 1891, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at the Hague on November 6, 1925, at London on June 2, 1934, at Nice on June 15, 1957, and at Stockholm on July 14, 1967, and amended in 1979. In addition, the Protocol relating to that agreement, concluded in 1989, aims to make the Madrid system more flexible and more compatible with the domestic legislation of certain countries or intergovernmental organisations that had not been able to accede to the agreement. States and organisations that are party to the Madrid System are collectively referred to as Contracting Parties. The system enables the protection of a trademark in many countries by obtaining an international registration that has effect in each designated Contracting Party<sup>27</sup>. The Madrid System facilitates the international registration of trademarks, allowing trademark owners to seek protection in multiple member countries by filing a single application with WIPO. The Madrid System provides trademark protection for the right holder in many countries through international registration, which can be obtained by filing a single application with the International Bureau (WIPO) in a single language and a single set of fees<sup>28</sup>. This simplifies the process by requiring a single application in one language, resulting in lower costs and a single set of fees in a single currency. The three official languages of WIPO are English, French, and Spanish<sup>29</sup>. The texts in the three languages shall be equally authentic, as stipulated under Article 16 of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as amended in 2007.

<sup>25</sup> Irene Calboli, 'Trademarks: International Harmonization of National Laws', *Edward Elgar Publishing*, 2023, 1.

<sup>26</sup> Bhagyamma G, 'Protection of Intellectual Property Rights: An Examination of International Legal Frameworks', *ILE Intellectual Property and Corporate Law Review*, 2.1 (2023), 42.

<sup>27</sup> WIPO, 'Summary of the Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to That Agreement (1989)', 2025 <[https://www.wipo.int/treaties/en/registration/madrid/summary\\_madrid\\_marks.html](https://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html)>.

<sup>28</sup> Paul G. Morcos and Elsa F. Khneisser, 'Intellectual Property Rights' in Adnan Badran, Elias Baydoun, John R. Hillman (Eds), *Higher Education in the Arab World Building A Culture of Innovation and Entrepreneurship*.

<sup>29</sup> Agnieszka Przygoda, 'The International Registration of Trade Marks under the Madrid System: Advantages and Disadvantages', *Eastern European Journal of Transnational Relations*, 3.1 (2019), 67.

The Madrid System has become more flexible through the Protocol of Madrid, offering a convenient and cost-effective solution for registering and managing trademarks across multiple territories. It also introduces new features to address the difficulties that prevented certain countries and intergovernmental organisations from adhering to the agreement<sup>30</sup>. All elements can be considered benefits of using the Madrid System. The Madrid System is also a one-stop solution for national or regional trademark owners or holders to obtain and maintain trademark protection worldwide, across various jurisdictions, for both small start-ups and large companies, allowing them to manage and protect trademarks efficiently and at a low cost, all centrally<sup>31</sup>.

According to the Madrid Yearly Review 2025 International Registration of Marks, there has been an increase in applications from countries seeking to protect their national trademarks internationally through the Madrid System. For the fourth consecutive year, the UK (28,877) topped the list of Madrid applications in 2024, followed by the European Union (EU) (28,809), the US (25,093), Canada (19,882), and China (18,560). The 20 most designated Madrid members combined received 62.7% of all designations in Madrid applications filed in 2024. Including China, nine of the top 20 designated Madrid members were middle-income countries: namely, Brazil (10,753), India (12,210), Indonesia (8,678), Malaysia (8,413), Mexico (11,804), Thailand (8,717), Türkiye (8,485), and Viet Nam (8,949). Among the top 20 destinations for international trademark registration through the Madrid System, 14 saw an increase in 2023 designations, with Vietnam (+11.2%) and Thailand (+11%) experiencing the most significant growth, followed by Indonesia (+10.3%) and Malaysia (+9.3%)<sup>32</sup>.

From the perspective of designation countries for registering trademarks through the Madrid System, as revealed in the Madrid Yearly Review 2025, among the 20 countries designated for international trademark registration through the Madrid System, 14 saw an increase in 2023, including Indonesia<sup>33</sup>. This phenomenon looks promising; at least Indonesia has been considered a global market destination for other member countries. It may also provide greater legal certainty, protecting the trademark owner's products across different member countries in Indonesia. As a member of the Madrid Protocol, Indonesia is one of the countries of origin that aims to protect the owners of Indonesian trademark registrations internationally through the Madrid System. However, Various studies and reports have shown that the number of Indonesian trademark owners using the Madrid System for international trademark protection remains relatively small compared to other member countries that register trademarks with the designation "Indonesia" through the Madrid System<sup>34</sup>. It is a challenge for Indonesia to implement the Madrid Protocol, which would benefit and better protect Indonesian trademark owners in the global market.

### ***The challenges in utilising the Madrid System from an Indonesian Perspective***

<sup>30</sup> WIPO, 'Madrid System The International Trademark System Protect and Manage Your Trademarks Abroad', 2025 <<https://www.wipo.int/en/web/madrid-system>>.

<sup>31</sup> WIPO, 'Benefits of the Madrid System', 2025 <[https://www.wipo.int/en/web/madrid-system/madrid\\_benefits](https://www.wipo.int/en/web/madrid-system/madrid_benefits)>.

<sup>32</sup> WIPO, 'International Registration of Marks', *Madrid Yearly Review*, 2025, 9.

<sup>33</sup> WIPO, 'International Registration of Marks'.

<sup>34</sup> and Hamka Hamka Annisa Daniati, Edy Sutrisno, 'Implementasi Kebijakan Protokol Madrid Di Indonesia', *Journal of Public Policy and Applied Administration*, 6.2 (2024), 38.

After enacting the UUMIG, Indonesia not only protects trademarks nationally but also regulates international trademark protection under Article 52 of UUMIG, which is further regulated through Government Regulation No. 22 of 2018 concerning International Trademark Registration based on the Protocol related to the Madrid Agreement concerning International Trademark Registration. The complete wording of Article 52 of UUMIG is as follows:

“(1) The Application for international registration of a Mark may be in the form of: a. Application from Indonesia that is designated to the international bureau through the Minister; or b. An application designated for Indonesia as one of the designated countries is received by the Minister from the international bureau. (2) The Application for international registration of Mark as referred to in section (1), point a, may only be applied by: a. Applicant with Indonesian nationality; b. Applicant having a domicile or lawfully residing in the territory of the Unitary State of the Republic of Indonesia; or c. Applicant having real industrial or commercial business activities in the territory of the Unitary State of the Republic of Indonesia. (3) The Applicant, as referred to in section (2), has filed an Application or has had a Mark registration in Indonesia as a basic Application for international registration of a Mark. (4) Further provisions concerning the international registration of the mark according to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks are regulated in a Government Regulation.”

By analysing Article 52 of UUMIG, it can be argued that it provides a crucial legal basis for international trademark registration by Indonesian applicants under the Madrid Protocol. In essence, it establishes a legal framework for international trademark registration by Indonesian applicants through the Madrid Protocol. This provision permits and serves as a gateway for integrating the Indonesian trademark legal system into the international trademark protection regime. In short, its essence provides access to efficient and integrated global trademark protection. Article 52 UUMIG also emphasises that: international trademark registration applications may be submitted by applicants domiciled in Indonesia or Indonesian citizens; the application is submitted through the Minister (DJKI) as the Office of Origin; and national trademark registration serves as the basic application/registration for international applications. Furthermore, Article 52 reflects Indonesia's compliance with its international commitments as a member state of the Madrid Protocol (1989) and of WIPO. Indonesia not only protects trademarks domestically but also facilitates cross-border protection for Indonesian trademark owners and the protection of Indonesian brands in the global market. No less importantly, Article 52 governs the core of the Madrid System, which concerns international trademark registration applications, making them more efficient through a single application, a single language, and a single basic fee to obtain trademark protection in various destination countries. This mechanism is a solution to the separate registrations in each country, such as the Paris route, which entails much more complex costs and procedures.

In addition, Article 52 of UUMIG primarily addresses the context of an application for international trademark registration. Meanwhile, Government Regulation No. 22 of 2018 provides the procedure, process, and requirements for international trademark registration under the Madrid System. The Madrid Protocol facilitates Indonesian participation in the Madrid System, providing additional opportunities for trademark protection across member countries.

Based on Presidential Regulation of the Republic of Indonesia Number 92 of 2017 concerning Ratification of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, particularly as stipulated in the Explanatory Text of Accession to the Protocol of the Madrid Agreement regarding international trademark registration, the benefit of international trademark registration for Indonesia through the Madrid Protocol is increased flexibility, with the "basic application" or "basic registration" being offered. Additionally, the

Madrid Protocol allows member countries to choose three languages: English, French, or Spanish. Likewise, the international registration process imposes a "basic fee" and an "individual fee". The basic fee is determined by the International Bureau (WIPO), and the designated country determines an Individual fee. Each member country may determine the amount of the payment, provided that it does not exceed the national trademark registration application fee applicable in that country. Likewise, there is certainty regarding the time limit for the substantive examination process in member states, with the option to choose either 12 or 18 months. Overall, the mechanism aligns with the basic principles of the Madrid Protocol: "Easier, Simpler, and Faster." In the Explanatory Text, it is further stated that the use of the Madrid Protocol brings benefits to the applicant, benefits to the Indonesian state, and also benefits to Intellectual Property Rights Consultants.

The results of an empirical study conducted at the Directorate of Trademarks and Geographical Indications, Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia, show that the use of the Madrid Protocol for international trademark registration by Indonesian trademark owners for global market protection generally increases from year to year. However, sometimes registrations decline, as occurred in 2022. The empirical data showed an increase in the following year<sup>35</sup>. In more detail, the number of Indonesian trademark registrations that registered their marks internationally in destination countries using the Madrid Protocol mechanism, year by year, is presented in the following Graphs.

**Graph 1: The number of Indonesian trademark owners who register their trademark using the Madrid Protocol in Jakarta from 2018 to 2024**



**Source:** Results of deep interviews with the Director and staff of the Trademark Directorate at the Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia, in Jakarta, August 7, 2025

The Madrid system is indeed widely regarded as the best solution for international trademark protection, and as shown in Graph 1, the owner of an Indonesian trademark has already utilised it to register internationally. However, in Indonesia, international trademark registration applications are still dominated by foreign trademark owners, specifically those addressed to Indonesia as a destination country, which the Minister receives from the International Bureau, WIPO. There are still fewer Indonesian trademark owners who utilise the Madrid system than foreign trademark owners. The study by Zulvia Makka & Kholis Roisah (2023) emphasised that foreign trademark owners still dominate trademark registration under the Madrid Protocol<sup>36</sup>. Furthermore, the empirical research also shows that, in the context of foreign trademarks

<sup>35</sup> 'Interview Conducted with Director & Staff of the Directorate of Trademarks and Geographical Indications, Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia', 2025.

<sup>36</sup> Makka and Roisah, 'No Title', *Loc.Cit.*

registered in Indonesia, the number is higher compared to the total number of Indonesian trademark registrations nationwide, including those registered through the Madrid System<sup>37</sup>.

According to Graph 2, the data show that Indonesian trademark registrations at the Directorate General of Intellectual Property of the Indonesian Ministry of Law for territorial-based trademark protection have increased significantly year after year, as have collective trademark registrations. It indicates that awareness of national trademark protection is expanding and strengthening. Additionally, as of August 6, 2025, there are 65 Indonesian trademark registrations in the ongoing process through the Madrid System (data as of 2025)<sup>38</sup>. However, data on international trademark registrations through the Madrid System still shows a much higher number of foreign trademarks registered in Indonesia than Indonesian trademarks registered in countries designated for international trademark protection. This disparity reflects Indonesia's attractiveness as a consumer market for foreign trademark owners, while many Indonesian businesses remain domestically oriented and seem to lack awareness of pursuing trademark protection abroad. Thus, the Madrid System is more frequently used by foreign trademark owners as a market-entry tool than by Indonesian trademark owners as an outward-expansion mechanism. Additionally, in terms of business structure, Indonesia is dominated by SMEs with limited capital and limited understanding of IP; thus, the cost of registering a trademark internationally through the Madrid System is considered high. Furthermore, national trademark owners in Indonesia remain vulnerable to trademark refusals, for example, due to descriptive or generic trademarks, thereby increasing the risk of centralised attacks. Empirical findings indicate that limited awareness of trademark protection under the Madrid Protocol extends beyond SMEs to other stakeholders, including academics, with 64% of the respondents (65 out of 101) reporting unfamiliarity with the system<sup>39</sup>. Another factor that contributes to a low level of utilisation of the Madrid Protocol by Indonesian trademark owners is the lack of optimal socialisation regarding the Madrid Protocol and the differences in national legal systems between the Country of Origin and the Designated Country<sup>40</sup>.

**Graph 2. Comparison of the Number of National and Foreign Trademark Owners in International Trademark Registration Applications based on the Madrid Protocol**

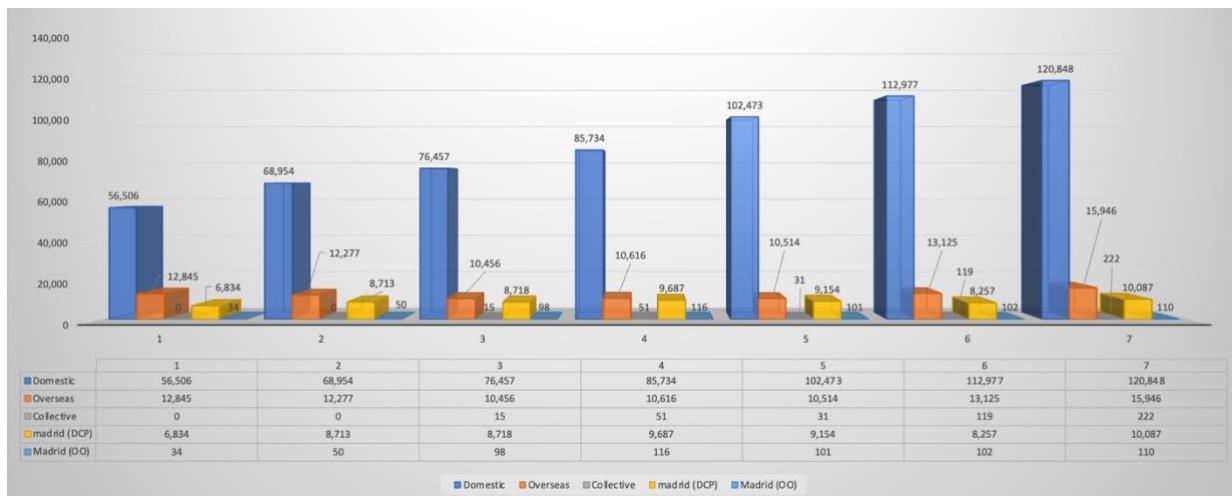
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<sup>37</sup> ‘The Empirical Study Was Conducted at the Directorate of Trademark and Geographical Indications, Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia’, 2025.

<sup>38</sup> ‘Deep Interview with Mr. Agung Indrianto (Trademark Examination Coordinator) at Directorate Trademark and Geographical Indication, Directorate General IP, Jakarta’, 2025.

<sup>39</sup> ‘Data Collected through Google from Filled by Academics (Lecturers and Students) from June-August 2025’, 2025.

<sup>40</sup> ‘The Results of an Empirical Research at the Directorate of Trademarks and Geographical Indications, Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia’, 2025.



**Source:** Interview with the Director and staff of the Trademark Directorate at the Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia in Jakarta, August 7, 2025.

**Note:**

1 = Year 2018; 2 = Year 2019; 3 = Year 2020; 4 = Year 2021; 5 = Year 2022; 6 = Year 2023; 7 = Year 2024.

The implementation of the Madrid Protocol in Indonesia, which began in 2018, continues to face several significant obstacles, particularly low participation by domestic businesses, including MSMEs. This is due to a lack of public awareness and understanding of the benefits and procedures for international trademark registration. Although more efficient than conventional systems, registration fees remain high for many MSMEs. Furthermore, limited English proficiency and the technical requirements of completing the MM2 form present obstacles for domestic applicants. From an institutional perspective, the Directorate General of Intellectual Property Rights (DGIP) needs to strengthen its human resource capacity, particularly in understanding the Madrid System. The risk of a "central attack" is also a concern, as failure of a basic application in Indonesia within the first five years could invalidate all international protection. Furthermore, suboptimal coordination between institutions and the absence of measurable policy indicators also hampers the effective implementation of the Madrid Protocol. Therefore, a more comprehensive national strategy is needed to encourage maximum utilisation of this system<sup>41</sup>.

The Madrid System offers cost-efficient trademark protection for businesses seeking registration in multiple jurisdictions, making it particularly suitable for trademarks with international market targets, such as Nestlé. However, it is less practical for applicants targeting only a single country, for whom direct national registration is more appropriate<sup>42</sup>. In Indonesia, the limited use of the Madrid System reflects both cost considerations and the perception among entrepreneurs that domestic market protection is sufficient.

Another challenge that still arises is the limited socialisation about the importance of protecting national trademarks through international registration under the Madrid System. The

<sup>41</sup> 'The Results of an Empirical Research at the Directorate of Trademarks and Geographical Indications, Directorate General of Intellectual Property, Ministry of Law of the Republic of Indonesia'.

<sup>42</sup> 'Deep Interview with Mr. Agung Indrianto (Trademark Examination Coordinator) at Directorate Trademark and Geographical Indication, Directorate General IP, Jakarta'.

empirical study reveals that most trademark owners in Indonesia, particularly among Micro, Small, and Medium Enterprises (MSMEs), are not yet fully aware that they can register their brands in various destination countries through the Directorate General of Intellectual Property (DGIP) using the Madrid Protocol-based International Trademark Registration Application mechanism. Many local brand owners are unaware that they can protect their brands globally in a more efficient, centralised, and cost-effective manner through the Madrid system. This obstacle is inextricably linked to the lack of socialisation associated with international trademark registration through the Madrid Protocol. Data from the Directorate of Trademarks, Directorate General of Intellectual Property in Jakarta, indicate that socialisation was conducted between 2016 and 2019. However, currently, there is almost no socialisation regarding the Madrid Protocol<sup>43</sup>. Likewise, the results of an empirical study in Bali Province, particularly from the Bali Regional Office of the Ministry of Law (Kemenkum) for Intellectual Property Affairs, also stated that there had been socialisation with a source from the Directorate General of Intellectual Property, but not as frequently as socialisation regarding trademark protection in general, or copyright protection<sup>44</sup>. In addition, the study by Daniati, A., et al. (2024) shows that, at the government level, which has the authority to implement policies, even though it already has considerable budget resources related to the Madrid Protocol, there is no special allocation. It was also emphasised that communication between organisations and the implementation of activities is essential for policy implementation, as effective implementation depends on policy implementers' understanding of their duties. The Directorate General of Intellectual Property aims to disseminate information about the Madrid Protocol to the public and business actors with export products, and continues to communicate with policy implementers who are closely involved with the Madrid Protocol services. The socialisation of the Madrid Protocol remains very weak. During 2022, socialisation was specifically carried out only once in 1 budget year<sup>45</sup>.

By observing this phenomenon, socialisation activities about the importance of international trademark protection, which are very urgent, are carried out continuously. For example, the government, through the Ministry of Law and Human Rights, Directorate General of Intellectual Property, promotes the protection of intellectual property rights, including Copyright, Trademarks, Geographical Indications, Patents, and Communal Intellectual Property, with special themes launched every year. In 2025, the theme is the years of Copyright and Industrial Design. Previously, there were the themes of the Year of Trademarks, the Year of Patents, and the Year of Communal Intellectual Property. Why is it impossible that in the coming years there will be thematic years for the International Trademark? Various challenges must be addressed, as international trademark protection is crucial for businesses seeking to expand into global markets. By considering protection through the Madrid System for cross-border trademark protection, namely international trademark protection that extends beyond territorial protection, it is a significant step towards achieving trademark protection that is more legally certain and fair in the global market.

<sup>43</sup> ‘Deep Interview with Mr. Agung Indrianto (Trademark Examination Coordinator) at Directorate Trademark and Geographical Indication, Directorate General IP, Jakarta’.

<sup>44</sup> ‘Deep Interview with Mr. Ida Bagus Danu, Mr. Yuda from the Intellectual Property Department in Bali Regional Office of the Ministry of Law of the Republic Indonesia, Denpasar’, 2025.

<sup>45</sup> Hamka Daniati and Sutrisno, ‘No Title’, *Op.Cit*, 47.

## CONCLUSION

The Madrid System, which consists of two international agreements: the Madrid Agreement of 1981 and the Madrid Protocol of 1989, can be proposed as a procedural and coordinated international trademark registration mechanism. This mechanism, without harming the territorial principle of first registration in the country of origin, maintains national sovereignty. The state is still the highest authority for enacting, enforcing, and applying laws within its jurisdiction. It is a direct manifestation of state sovereignty in trade law, in which the state grants an exclusive trademark right to its owner. The Madrid System simplifies administrative procedures and expands access to global market protection across jurisdictions. The simple procedures in the Madrid System, facilitated by WIPO, are seen as a solution for national trademark protection in several target countries and offer benefits to its member countries. As a member, Indonesia has already adopted the system through the Trademark Law and Geographical Indication, meaning that, normatively, it also offers benefits for Indonesian trademark owners, as it does in the Madrid System. The advantages of this simple procedure are centralised in a single application, a single set of fees in a single currency (Swiss Francs), and a single language (English, French, Spanish). The benefit implication is that it improves administrative efficiency, reduces operational costs, minimises transaction costs, eliminates administrative obstacles to international trademark protection, and opens access to international protection for Indonesian trademark owners in the global market. This system is more efficient than the one-by-one national registration used in the Paris route. However, in practice, relatively few Indonesian trademark owners utilise international trademark registration applications. The contributing factors and challenges include a lack of public awareness and understanding of the benefits and procedures for international trademark registration. Although more efficient than conventional systems, registration fees remain high for many companies, particularly MSMEs. Limited English language proficiency in completing the registration form presents obstacles for domestic applicants. Further, a crucial challenge is that the failure of a basic application in Indonesia within the first five years could invalidate all international protection; the risk of a “Central Attack” may exist. Suboptimal coordination between institutions and the absence of measurable policy indicators also hampers the effective implementation of the Madrid Protocol. Therefore, the government's role is needed. Firstly, to strengthen national registration in support of international trademark registration, and secondly, to enhance understanding of the benefits of trademark protection in global jurisdictions through an effective socialisation program.

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