

International Arrangements for Protection and Harmonization of Intellectual Property

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India

Practice Areas – IP 365°



COPYRIGHT



DESIGN



LITIGATION



PATENTS



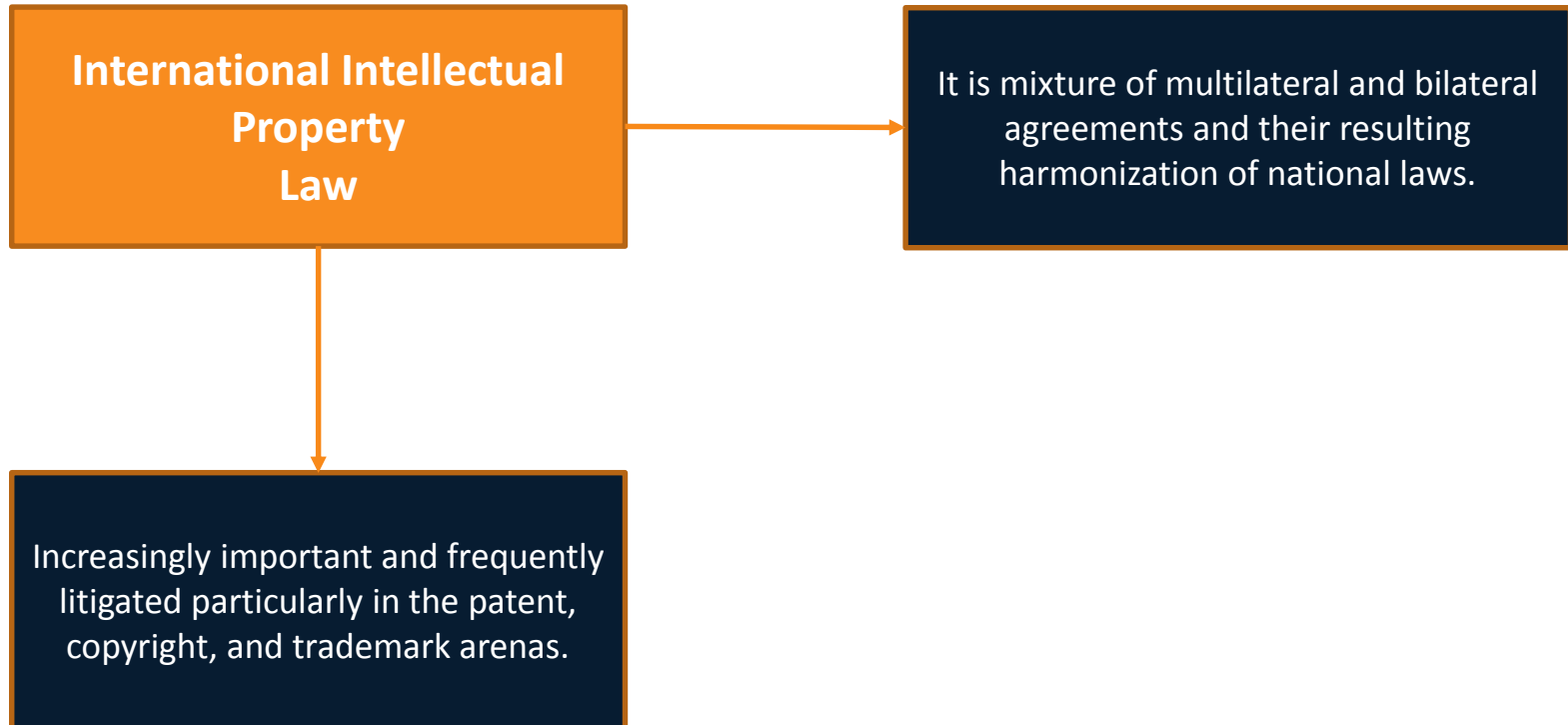
TRADEMARK

- ADVERTISING AND PRODUCT LIABILITY
- ALTERNATE DISPUTE RESOLUTION
- ART LAW
- BIODIVERSITY
- BRAND STRATEGY
- COMPETITION LAW
- CONTRACTUAL & COMMERCIAL IP
- CUSTOMS

- ENFORCEMENT
- ESSENTIALITY EVALUATION
- FASHION LAW
- FRANCHISING
- GEOGRAPHICAL INDICATIONS
- IT & E-COMMERCE LAWS
- LICENSING
- MEDIA AND ENTERTAINMENT LAWS

- PACKAGING AND LABELLING
- PLANT VARIETY
- REGULATORY
- SPORTS LAW
- START-UP LAW
- TRADE SECRETS
- WHITE COLLAR AND IP CRIME

INTRODUCTION



THE INTERNATIONAL INTELLECTUAL PROPERTY LAW OR ARRANGEMENTS

- General Treaties and Agreements
- Treaties on Classification
- Special Conventions in the Field of Related Rights

General Treaties and Agreements

- The Paris Convention for the Protection of Industrial Property, 1883
- Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS"),1995
- The Berne Convention for the Protection of Literary and Artistic Works,1886
- The Patent Cooperation Treaty (PCT),1970
- The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, 1977
- The Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to the Madrid Agreement,1891
- The Hague Agreement Concerning the International Deposit of Industrial Designs,1925
- The Trademark Law Treaty (TLT),1994
- Universal Copyright Convention,1925

Treaties on classification

- The Strasbourg Agreement, 1971
- The Nice Agreement, 1957
- The Vienna Agreement, 1973
- The Locarno Agreement, 1968

Special Conventions in the Field of Related Rights

The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (“the Rome Convention”), 1961

Other Special Conventions in the Field of Related Rights

- Phonograms Convention, 1971
- Satellites Convention, 1974

A. The Paris Convention for the Protection of Industrial Property, 1883

Concluded after a diplomatic conference in Paris in 1880

Applies to industrial property in the widest sense, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications and the repression of unfair competition.

Revised at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and was amended in 1979.

177 contracting
member countries

Signed in 1883 by 11
countries

The provisions of the Paris Convention may be sub-divided into four main categories: -

- substantive law-national treatment -
- right of priority
- common rules
- administrative framework

India Ratified the Paris Convention
on :September 7, 1998

B. Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS"), 1995

- Multilateral agreement administered by the World Trade Organisation ("WTO")
- Effect on 1 January 1995
- Need to establish minimum standards and an effective mechanism for enforcement as well as there was a need to encourage innovation, entrepreneurialism and the acquisition of technical skills in developing countries

The number of parties to the Agreement is 162 which includes all WTO members

Applies to :

- Copyright and related rights
- Trademarks including Service Marks
- Geographical Indications
- Industrial Designs
- Patent including plant Variety
- Layout designs of Integrated Circuits
- Trade Secret

Features:

- Standards
- Enforcement
- Dispute settlement

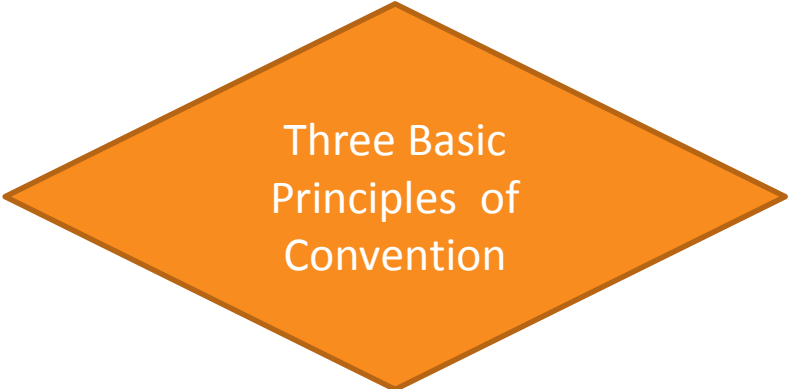
European Union Vs India- a dispute was raised by the United States of America and the European Union *for the grant of exclusive marketing rights for pharmaceutical and agricultural chemical products in India.*

The Panel ruled against India holding non-compliance of the obligations under Article 70(8)(a). After the dispute, India was left with no choice but to amend its Patents Act in 1999.


C. The Berne Convention for the Protection of Literary and Artistic Works, 1886

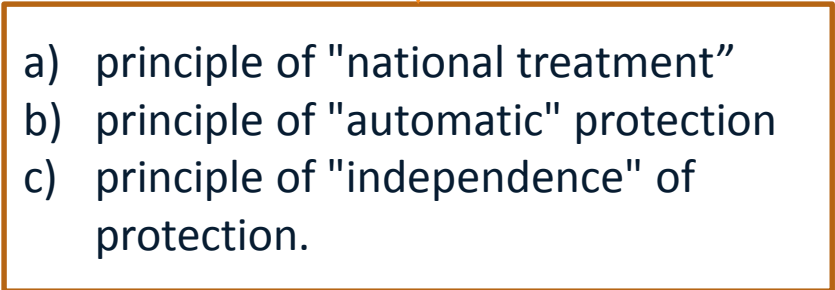
- Protection of works and the rights of their authors.
- Total Contracting Parties to the Berne Convention are 177.

The Berne Convention, concluded in 1886, was revised at Paris in 1896 and at Berlin in 1908, completed at Berne in 1914, revised at Rome in 1928, at Brussels in 1948, at Stockholm in 1967 and at Paris in 1971, and was amended in 1979.



Three Basic
Principles of
Convention



- 
- a) principle of "national treatment"
 - b) principle of "automatic" protection
 - c) principle of "independence" of protection.

D. The Patent Cooperation Treaty (PCT)

Signed on 19 June, 1970.

Came into force on 24 January 1978



initially with 18 contracting states

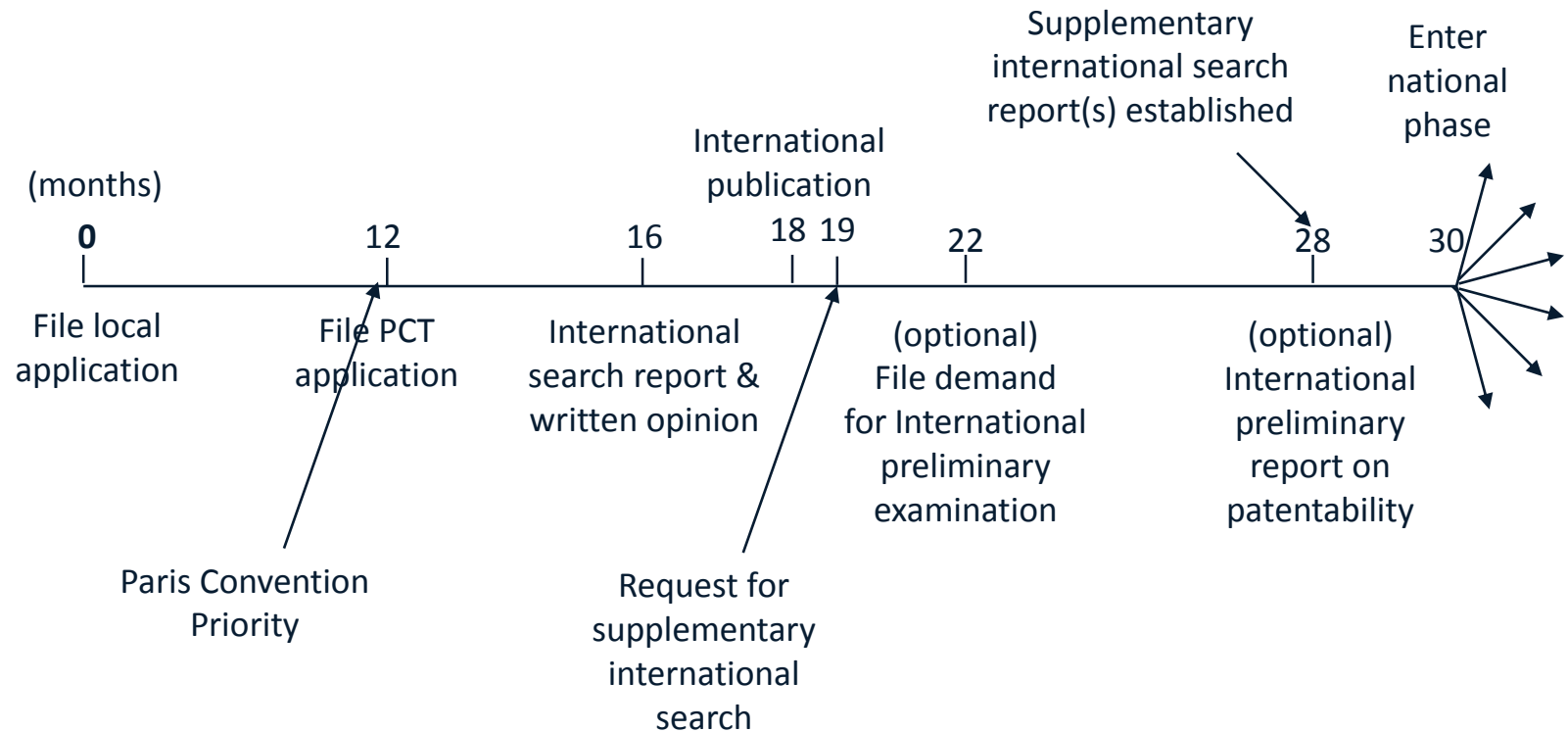
First international applications filed on 1 June 1978
Amended in 1979, and modified in 1984 and 2001

Total Contracting Parties : 152

Basic features of PCT system

- One application in one Language at one patent office
- International Examination
- International Publication – accessed anywhere
- No International grant
- National Phase in desired jurisdictions
 - Examination
 - National Grant

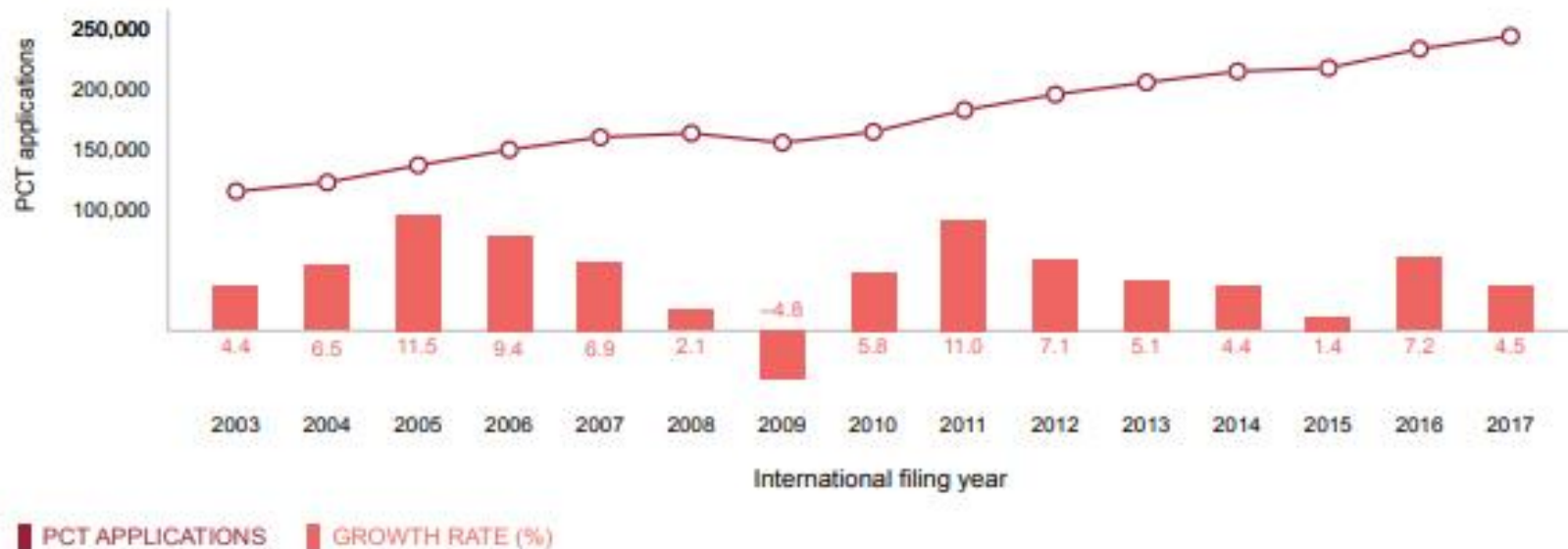
The PCT System



Global trends in PCT applications

The total number of PCT applications grew by 4.5% in 2017.

A1. Trend in filings of PCT applications, 2003–2017



Note: Data for 2017 are WIPO estimates.

Source: WIPO Statistics Database, March 2018.

Source: https://www.wipo.int/edocs/pubdocs/en/wipo_pub_901_2018.pdf

E. The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

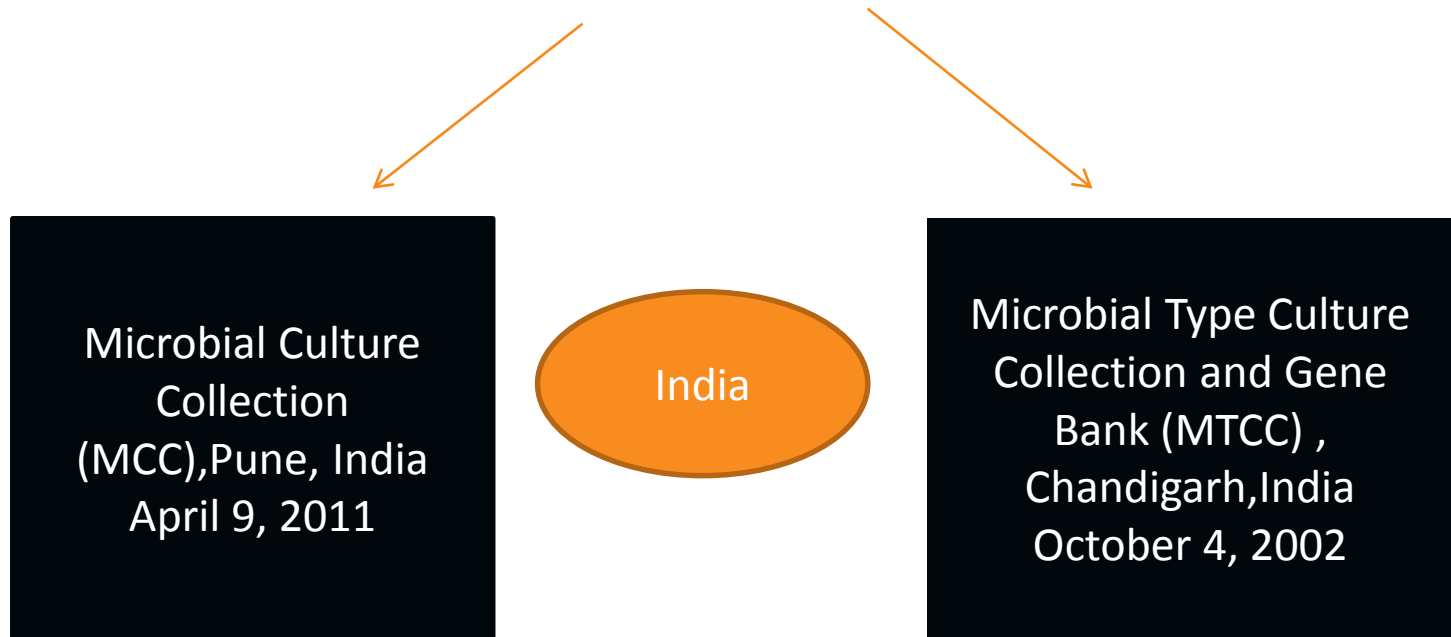
Adopted in 1977

Requirement to submit microorganisms to each and every national authority in which patent protection is sought no longer exists.

Open to States, party to the Paris Convention for the Protection of Industrial Property(1883).

Deposits made under the Budapest Treaty are effective evidence of viability

INTERNATIONAL DEPOSITARY AUTHORITIES UNDER ARTICLE 7 OF THE
BUDAPEST TREATY
Total 47 Authorities**



**Source: <https://www.wipo.int/export/sites/www/treaties/en/registration/budapest/pdf/idalist.pdf>

F. The Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to the Madrid Agreement



Madrid Agreement, concluded in 1891

+

Protocol relating to the Agreement concluded
in 1989

= The Madrid System for the International
Registration of Marks

Total Contracting Parties : 55

How the Madrid System works

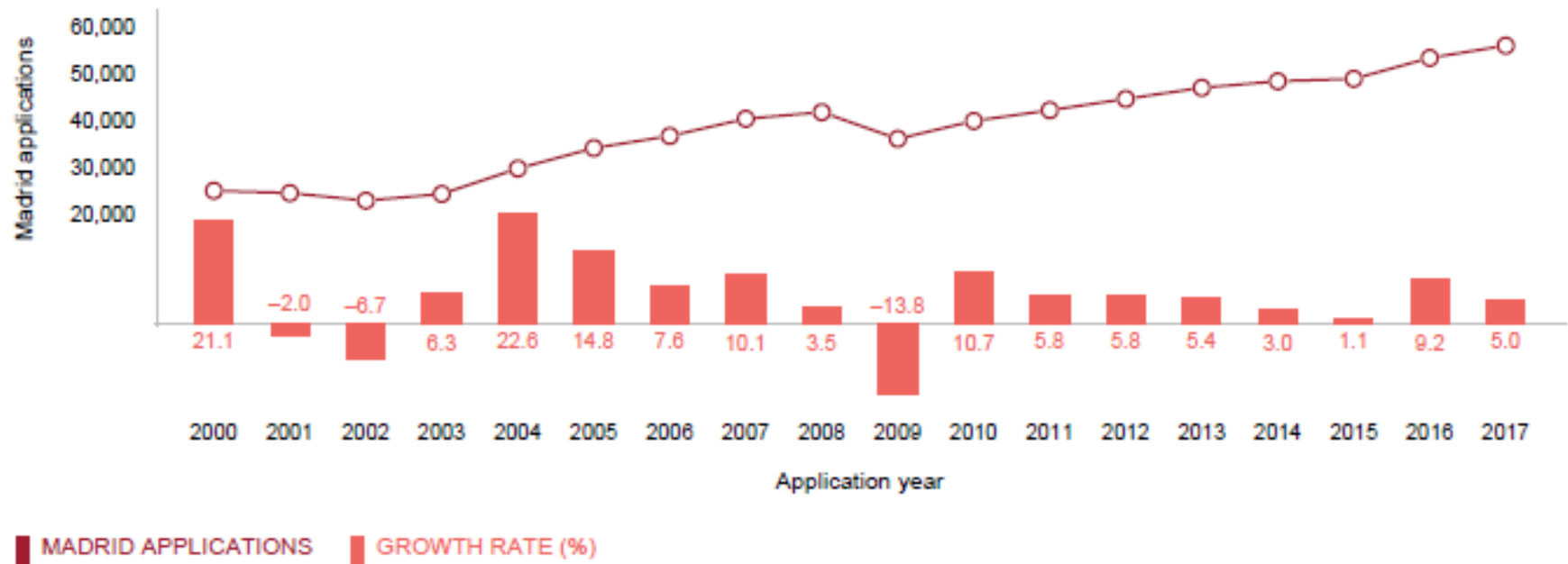
The International Trademark Registration Process



Madrid international applications

The 5% growth recorded in 2017 marks the eighth consecutive annual increase in Madrid applications.

A1. Trend in international applications, 2000–2017



Note: This figure presents the numbers and annual growth rates of international applications filed via the Madrid System. Data for 2017 are WIPO estimates.

Source: WIPO Statistics Database, March 2018.

G. The Hague Agreement Concerning the International Deposit of Industrial Designs

International registration
of industrial designs

First adopted in 1925

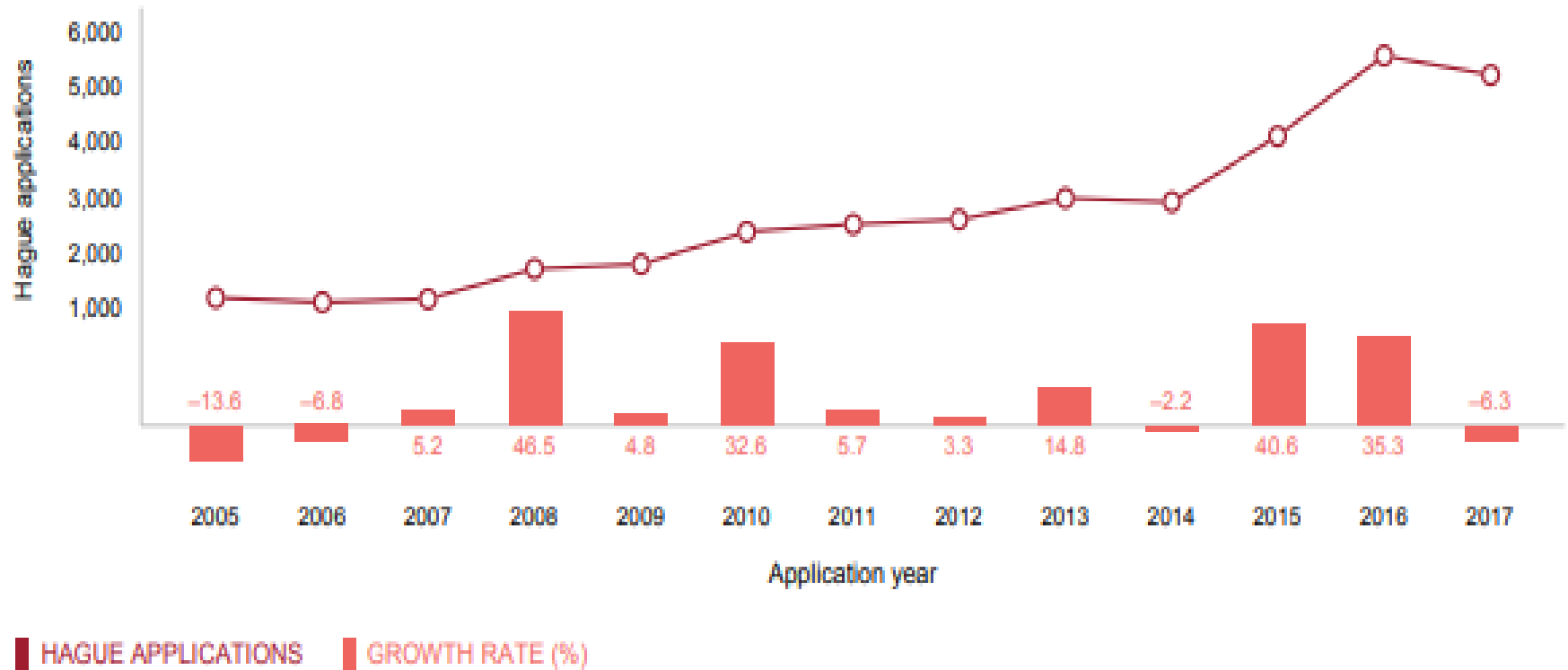
Term of protection is five years

Total Contracting Parties : 70

The two Acts of the Hague Agreement are currently in operation – the 1999 Act and the 1960 Act.

The total number of Hague international applications decreased by 6.3% in 2017, following two successive years of double-digit growth.

A1. Trend in international applications, 2005–2017



Source: WIPO Statistics Database, May 2018.

H. The Trademark Law Treaty (TLT)

To standardize and streamline national and regional trademark registration procedures.

Total Contracting Parties : 54

The TLT was concluded in 1994 and is open to States members of WIPO and to certain intergovernmental organizations

I. Universal Copyright Convention

Entered into force on 16
September 1955

Subject Matter:
Copyright and Related Rights
(Neighbouring Rights)

Host Institution:
United Nations Educational,
Scientific and Cultural
Organization (UNESCO)

Contracting
Parties/Signatories:102

To approach the aim of
universal membership and thus
to include countries with a need
for low protections.

The UCC is less important today
because most states, have since
joined *Berne*, and *TRIPS* also
mandates compliance
with *Berne's* higher obligations
and "no-formalities" rules.

Treaties on Classification

The Strasbourg Agreement
Concerning the International
Patent Classification, 1971

Total Contracting Parties : 62

The Nice Agreement
Concerning the International
Classification of Goods and
Services for the Purposes of the
Registration of Marks ,1957

Total Contracting Parties : 87

Vienna Agreement Establishing an
International Classification of the
Figurative Elements of Marks,
1973

Total Contracting Parties : 33

The Locarno Agreement
Establishing an International
Classification for Industrial
Designs, 1968

Total Contracting Parties : 56

Special Conventions in the Field of Related Rights

The Rome Convention, 1961 secures protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organizations.

- WIPO is responsible for the administration of the convention jointly with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Other Special Conventions in the Field of Related Rights

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded in Geneva in October 1971 and generally referred to as “the Phonograms Convention,

Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, concluded in Brussels in May 1974 and known briefly as “the Satellites Convention.”

Private Organizations

- FICPI
- AIPPI
- APAA
- AIPLA
- IBA
- LES
- IPO
- AUTM

THANK YOU

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