

Options to achieve trade mark rights in Europe for Asian companies and citizens:

I. National trade marks

German trade marks can be registered by all natural persons, legal entities and partnerships of all countries. If the person, legal entity or partnership does not have a real and effective industrial or commercial establishment or a domicile in Germany the trade mark has to be filed by a German representative.

II. Community Trade Mark (CTM)

Nationals of States which are

- parties to the Paris Convention or
- to the Agreement establishing the World Trade Organization or
- who are domiciled or have their seat or real and effective industrial or commercial establishments within the European Community or within a State which is party to the Paris Convention

may be proprietors of Community trade marks.

The Community trade mark is valid everywhere in the European Community.

Formalities and management of the registration can be kept simple:

- a single **application**;
- a single **language of procedure**;
- a single administrative **centre**;
- a single **file** to be managed.

This simplification results in considerably reduced costs as compared with the overall costs of national registration in all or many of the countries of the European Union.

III. International Registration

Advantages of an international registration:

- After registering a mark, or filing an application for registration, with the Office of origin, only one application has to be filed in one language (English, French or Spanish),
- fees have to be paid to one office,
- instead of filing separately in the trademark Offices of the various Contracting Parties in different languages, and paying a separate fee in each Office.

However, the Madrid system of international registration of marks may be used only by a natural person or a legal entity which has a

- real and effective industrial or commercial establishment in,
- or is domiciled in,
- or is a national of a country which is party to the Madrid Agreement or the Madrid Protocol,
- or who has such an establishment in, or is domiciled in, the territory of an intergovernmental organization which is a party to the Protocol, or is a national of a Member State of such an organization.

Several Asian countries are not party to the Madrid Agreement or the Madrid Protocol, such as India, Hong Kong, Indonesia, Malaysia, Thailand or the Philippines.

However, if e.g. an Indian company has also a real and effective industrial or commercial establishment in a country, which is party to the Madrid Agreement or the Madrid Protocol, such as Mongolia, this company can file a national trademark in Mongolia and based on this national registration and International Registration in one or more countries of the Madrid Union including the European Community.

But, if the Indian company has a real and effective industrial or commercial establishment in a country, which is only party to the Madrid Agreement, but not to the Madrid Protocol, such as Azerbaijan, Egypt or Kazakhstan, it is not possible to designate the European Community, since the European Community is only a party of the Madrid Protocol. However, it is possible to designate most of the European Countries as e.g. Germany, France, Italy, Spain, Austria and Portugal.

Members of the Madrid Union

Albania (A&P)	Liechtenstein (A&P)
Algeria (A)	Lithuania (P)
Antigua and Barbuda (P)	Luxembourg* (A&P)
Armenia (A&P)	Monaco (A&P)
Australia (P)	Mongolia (A&P)
Austria (A&P)	Montenegro (A&P)
Azerbaijan (A)	Morocco (A&P)
Bahrain (P)	Mozambique (A&P)
Belarus (A&P)	Namibia (A&P)
Belgium (A&P)	Netherlands:
Bhutan (A&P)	- Territory in Europe* (A&P)
Bosnia and Herzegovina (A)	- Antilles ** (P)
Botswana (P)	Norway (P)
Bulgaria (A&P)	Poland (A&P)
China (A&P)	Portugal (A&P)
Croatia (A&P)	Republic of Korea (P)
Cuba (A&P)	Republic of Moldova (A&P)
Cyprus (A&P)	Romania (A&P)
Czech Republic (A&P)	Russian Federation (A&P)
Democratic People's Republic of Korea (A&P)	San Marino (A)
Denmark (P)	Serbia (A&P)
Egypt (A)	Sierra Leone (A&P)
Estonia (P)	Singapore (P)
European Community (P)	Slovakia (A&P)
Finland (P)	Slovenia (A&P)
France (A&P)	Spain (A&P)
Georgia (P)	Sudan (A)
Germany (A&P)	Swaziland (A&P)
Greece (P)	Switzerland (A&P)
Hungary (A&P)	Syrian Arab Republic (A&P)
Iceland (P)	Tajikistan (A)
Iran (Islamic Republic of) (A&P)	The former Yugoslav Republic of Macedonia (A&P)
Ireland (P)	Turkey (P)
Italy (A&P)	Turkmenistan (P)
Japan (P)	Ukraine (A&P)
Kazakhstan (A)	United Kingdom (P)
Kenya (A&P)	United States of America (P)
Kyrgyzstan (A&P)	Uzbekistan (A&P)
Latvia (A&P)	Vietnam (A&P)
Lesotho (A&P)	Zambia (P)
Liberia (A)	

(A): indicates a party to the Agreement

(P): indicates a party to the Protocol