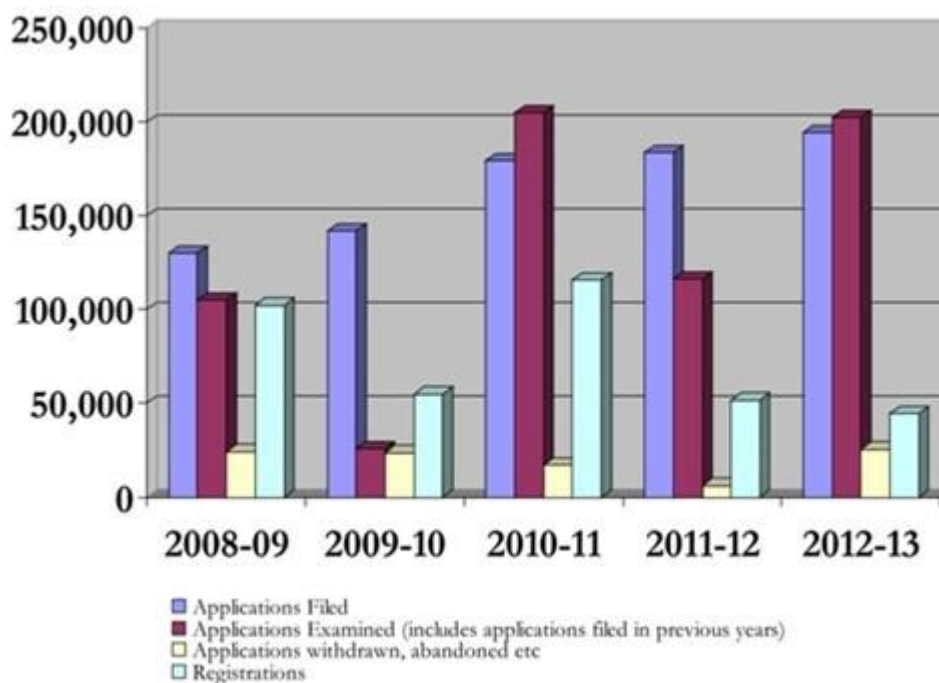

INDIA'S ACCESSION TO THE MADRID PROTOCOL - IS THE TRADE MARK OFFICE READY?

In theory, both Indian and foreign trade mark owners will benefit when the Madrid Protocol takes effect in India on 8 July 2013 (see our previous [Alert](#), for further details). There are continuing concerns, however, as to whether they will in practice. Despite recent assurances of the Controller General of Trade Marks' (CG), practitioners are concerned that the Trade Mark Office will not be able to comply with the strict timelines required by the Protocol and, at the same time, deal with the current and ever-increasing, backlog of applications.

The delays currently occurring at the Trade Mark Registry are legendary. Although applications filed in recent years (i.e. within the last three to five years) are being examined quickly, they are likely to remain pending for years if objections are raised by the Examiner. Many old applications are also still pending. The data below, taken from the CG's recent presentation, demonstrates the problem.



Practitioners are concerned that diversion of the Trade Mark Office's already very limited resources to Madrid Protocol compliance will lead to further increases in the current backlog. The Trade Mark Office is currently functioning with staff levels 50% lower than those approved. On average, cancellation actions and contested oppositions are taking up to six years to be decided, and in several instances the initial 'notice' was not served for more than three years. The Trade Mark Registry has, from time to time, initiated a number of special projects to clear the backlog, but each has resulted in no more than a short-term fix.

While there is no denying that, in principle, accession to the Madrid Protocol will benefit both Indian and foreign trade mark owners, we consider that the Ministry of Commerce and Industry's decision to implement the Protocol at this stage is premature. What is needed is a proper implementation plan, worked out in consultation with stakeholders, to ensure that the Trade Mark Office is able to provide a timely, accurate and efficient service.

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