

Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs

Second Session
Geneva, November 5 to 7, 2012

REPORT

adopted by the Working Group

INTRODUCTION

1. The Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as “the Working Group”) met in Geneva from November 5 to 7, 2012.
2. The following members of the Hague Union were represented at the session: African Intellectual Property Organization (OAPI), Bosnia and Herzegovina, Denmark, Estonia, European Union (EU), Finland, France, Germany, Kyrgyzstan, Lithuania, Monaco, Morocco, Norway, Oman, Republic of Moldova, Romania, Serbia, Singapore, Spain, Suriname, Switzerland, the former Yugoslav Republic of Macedonia, Tunisia and Ukraine (24).
3. The following States were represented as observers: Barbados, China, Colombia, Czech Republic, Haiti, Japan, Mexico, Nigeria, Philippines, Russian Federation, Saudi Arabia, Thailand, United States of America and Viet Nam (14).
4. Representatives of the following non-governmental organizations (NGOs) took part in the session in an observer capacity: *Association des praticiens du droit des marques et des modèles* (APRAM), Association of European Trademark Owners (MARQUES), Centre for International Intellectual Property Studies (CEIPI), European Communities Trade Mark Association (ECTA) and IP Federation (5).
5. The list of participants is contained in Annex II to this document.

AGENDA ITEM 1: OPENING OF THE SESSION

6. Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO), opened the session of the Working Group and welcomed the participants.

7. Mr. Gurry first recalled that, in 2011, the number of international design registrations had grown by 6.6 per cent over the previous year. Thus far, the number of international applications received by the International Bureau of WIPO (hereinafter referred to as “the International Bureau”) in 2012 represented a three per cent increase compared to the same period the previous year. Mr. Gurry observed that the Hague system was becoming increasingly significant.

8. Mr. Gurry then welcomed three new Contracting Parties to the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as “the 1999 Act”), namely, Montenegro, Tajikistan and Tunisia. He explained that, with the accession of Tunisia to the 1999 Act, there were no longer any Contracting States bound only by the 1934 Act.

9. Mr. Gurry emphasized that the ultimate goal was to achieve a single-treaty system, based on the 1999 Act. He encouraged those Contracting States to the 1934 Act which had not yet submitted their consent to the termination of that Act, namely, Benin, Côte d’Ivoire, Egypt, Morocco, Senegal and Suriname, to do so.

10. Mr. Gurry noted that the membership of the 1999 Act was about to grow tremendously in the coming years. He mentioned that a bill implementing the 1999 Act had been submitted to the Congress of the United States of America. In addition, positive indications had been received from China, Japan and the Republic of Korea concerning their accession to the 1999 Act. Finally, the Intellectual Property Rights Action Plan of the Association of Southeast Asian Nations (ASEAN) foresaw the accession of at least seven of its member States to the 1999 Act by 2015.

11. Mr. Gurry stressed that it was important to ensure that the administration of the Hague system was able to absorb the expected growth of the Hague system, and to ensure that the new features resulting from the needs of Offices carrying out novelty examination were implemented as smoothly as possible. A responsive regulatory framework was needed in that regard. During this second session, the regulatory framework of the information technology (hereinafter referred to as “IT”) based administration of the Hague system would be examined, in order to ensure that the system remained effective and user-friendly as it grew in terms of size and coverage.

AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS

12. Mr. Mikael Francke Ravn (Denmark) was unanimously elected as Chair of the Working Group, and Mrs. Jacqueline Taylord Heliang (OAPI) and Mr. Nafaa Boutiti (Tunisia) were elected as Vice-Chairs.

13. Ms. Päivi Lähdesmäki (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

14. The Working Group adopted the draft agenda (document H/LD/WG/2/1 Prov.) without modification.

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE AD HOC WORKING GROUP ON THE LEGAL DEVELOPMENT OF THE HAGUE SYSTEM FOR THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

15. Discussion was based on document H/LD/WG/1/6 Prov.
16. The Working Group adopted the draft report (document H/LD/WG/1/6 Prov.) without modification.

AGENDA ITEM 5: PROPOSAL FOR ESTABLISHMENT OF MODEL INTERNATIONAL FORMS UNDER THE 1999 ACT OF THE HAGUE AGREEMENT

17. Discussion was based on document H/LD/WG/2/2.
18. During this second session, the Working Group was invited to consider the feasibility of the establishment of a standard form. It was necessary that the Offices of the Contracting Parties having made the declaration under Article 16(2), or of prospective Contracting Parties that would foresee making the said declaration, should accept the standard form as established. The Secretariat emphasized that the establishment of a standard form was in the interest of the holders of international registrations originating from all the Contracting Parties.
19. The Delegations of Denmark and OAPI deemed the establishment of a standard form to be feasible. The Delegation of OAPI, however, stated that the form should include all the necessary elements concerning the change of ownership.
20. In reply to a question by the Delegation of Spain, the Secretariat recalled that, under the Madrid system, it was not possible for the Office of a designated Contracting Party to require evidence concerning a change in ownership recorded in the International Register. Regarding discussions taking place in the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (hereinafter referred to as "the SCT"), the Secretariat confirmed that, although the draft Regulations of the Design Law Treaty (hereinafter referred to as "the DLT") made a reference to an uncertified certificate of transfer and transfer document, no such forms had been elaborated in the SCT. The Secretariat explained that the latter might be qualified as a standard short contract.
21. In reply to a request for clarification by the Delegation of Suriname, the Secretariat explained that, in accordance with Rule 21(1)(a) and (b) of the Common Regulations, official form DM/2, entitled "Request for the Recording of a Change in Ownership", could be presented to the International Bureau by the holder or by the new owner, provided that the request was signed either by the holder, or by the new owner and accompanied by an attestation from the competent authority of the holder's Contracting Party attesting to the fact that the new owner appeared to be the successor in title of the holder. Once the formalities as contained in form DM/2 were completed, the International Bureau would record the change in ownership in the International Register. Following the publication of the change in ownership in the *International Designs Bulletin* (hereinafter referred to as "the Bulletin"), the Office of a designated Contracting Party having made a declaration under Article 16(2) of the 1999 Act could require the submission of the statements or documents specified in that declaration.

PROPOSED STANDARD FORM

Items 1 to 5

22. No comments were made concerning those items.

Item 6

23. The Delegation of OAPI observed that its legislation required the signatures of both the transferor and the transferee. Item 6 “Signature(s) or seal(s)” could be interpreted as giving a choice between the signature and the seal. Such a document, without a signature, would not comply with OAPI legislation.

24. The Representative of MARQUES, supported by the Representative of APRAM, raised a concern about the requirement of two signatures. From the point of view of the practitioners, it could be difficult to obtain the signatures of both parties once the transaction had occurred.

25. The Representative of CEIPI suggested clarifying item 6 with a footnote specifying that the choice between the signature and the seal depended on the applicable law.

26. In reply to a question by the Representative of MARQUES, the Secretariat recalled that the official DM/2 form for requesting the recording of a change in ownership in the International Register already existed. The standard form had been created to act as the highest common denominator of the requirements under the national/regional laws concerning a change in ownership. The aim of the standard form was not to raise the level of requirements but only to deal with a specific case where a national/regional Office required such supporting statements or documents. With regard to the requirement of a signature or a seal under the national/regional laws, the Secretariat observed that a footnote could be added to the form.

27. The Delegation of Tunisia suggested using “and/or” in item 6 instead of “or”. Given that more Contracting Parties would probably make the declaration in the future, the Delegation expressed doubt about adding a footnote to the form, which would make the form complicated.

28. In reply to a question by the Representative of APRAM, the Secretariat explained that the standard form would be available in the three working languages of the Hague system. The Secretariat observed that more information was needed from those current and prospective Contracting Parties which had made or intended to make a declaration under Article 16(2).

29. The Delegation of Denmark, observing that the proposed standard form fulfilled the requirements before its Office, confirmed its support for the form.

Item 7

30. No comments were made on that item.

31. The Chair concluded that the Working Group agreed on the feasibility of the establishment of a standard form. The Chair noted that the Working Group invited the International Bureau to review the contents of the proposed standard form, taking into account comments made at the current session of the Working Group, notably concerning the issues of languages and required signatures. The Chair encouraged the delegations to assist the International Bureau in that task by sending further comments in due course.

32. The Chair concluded that the International Bureau would submit a new proposal for a standard form for comments at the next session of the Working Group.

AGENDA ITEM 6: ISSUES RELATING TO THE LEGISLATIVE IMPLICATIONS OF THE INTRODUCTION OF SOME INFORMATION TECHNOLOGY-BASED INNOVATIONS IN THE ADMINISTRATION OF THE HAGUE SYSTEM

33. The Secretariat made presentations on the new E-filing platform and the planned online communication services.

34. The Delegation of Norway explained that the first information relating to an international registration received by its Office was the payment of the designation fee transferred by the International Bureau. Every Saturday, information was automatically downloaded to the Office's database from the International Bureau's FTP server. On the following Monday, the Office checked the correspondence of the international registrations published in the Bulletin with the fees received. Finally, the Office republished the relevant information in its official Gazette.

35. In reply to an inquiry made by the Delegation of Morocco, the Secretariat indicated that the new E-filing platform would be in English, French and Spanish and available to anyone with access to the WIPO web site. The Secretariat recalled that the ability to apply for an international registration was subject to the entitlement of the applicant.

36. In reply to an inquiry made by the Delegation of Switzerland, the Secretariat confirmed that, in a second phase, the E-filing Portfolio Manager would also give access to the irregularity letters issued by the International Bureau.

37. In reply to a question by the Delegation of the Russian Federation, the Secretariat stressed that Hague and Madrid systems were different, since, under the Hague system, the filing of an international application through the national Office was an exception. Hence, there was no need for an interface for Offices. Finally, the Secretariat indicated that there were currently no proposals to extend the language regime of the Hague system.

38. In reply to the Representative of APRAM, the Secretariat explained that the new E-filing platform would automatically convert reproductions to a compliant format. The applicant could then view the transformed reproductions and either accept or refuse them.

LEGAL ASPECTS RELATING TO E-FILING AND THE INTRODUCTION OF THE HAGUE PORTFOLIO MANAGER

39. Discussion was based on document H/LD/WG/2/3.

Amendment to Rule 1(1)(vi)

40. Upon invitation by the Chair, the Secretariat explained that the proposed addition to the said Rule referred to an electronic interface to be made available on the web site of the Organization.

41. No comments were made on the proposed amendment to Rule 1(1)(vi).

42. The Chair concluded that the Working Group deemed it desirable to amend Rule 1(1)(vi), as provided in the draft contained in Annex I to document H/LD/WG/2/3.

Amendment to Section 202

43. Upon invitation by the Chair, the Secretariat explained that, following the introduction of the new E-filing with user accounts, the holder of the account would use his user name and password to identify himself. In the future, after the introduction of the Hague Portfolio Manager

(hereinafter referred to as “ the HPM”), the authentication of any communication through the user account would be carried out by using the said user name and password. The proposed minor addition to Section 202 referred to communications through user accounts.

44. In reply to a question by the Delegation of France, the Secretariat stated that a secure Hague system was a matter of the utmost importance to the International Bureau. In that context, the Secretariat underlined that the IT Modernization Program of the Hague system was currently being implemented, with a view to a technical migration to a modern technology that could provide a secured, service-oriented and integrated platform.

45. In reply to a question by the Delegation of Suriname, the Secretariat confirmed that users of the Hague system would always have the possibility of filing paper applications.

46. The Chair concluded that the Working Group deemed it desirable to amend Section 202, as provided in the draft contained in Annex II to document H/LD/WG/2/3.

47. Upon invitation by the Chair, the Secretariat recalled that, in the event that a representative was indicated as signatory in the E-filing, it was mandatory to submit a power of attorney. A power of attorney in PDF format was considered acceptable by the International Bureau. It was proposed that the same practice should continue in respect of electronic communications through the HPM.

48. The Delegation of Norway confirmed that its Office had a similar approach. An electronic interface for filing national applications had been made available to users. The applicant or his representative was identified through the use of a confidential number, such as the social security number or the number of the company or firm.

49. The Delegation of the United States of America indicated that its Office also provided an electronic interface, which was associated with personal records. The interface offered both a private and a public version. The private version was associated with a customer number. The public version did not give access to national applications that were not yet published.

Amendment to Rule 5

50. Upon invitation by the Chair, the Secretariat explained that, once communications between users and the International Bureau took place on the HPM user account, there might be a need for a safeguard, for example, in the event that an applicant/holder failed to meet a time limit owing to the fact that the HPM was not available on the web site of the Organization.

51. The Chair invited the Working Group to comment on the desirability of amending Rule 5, as provided in the draft contained in Annex I to document H/LD/WG/2/3. The Chair also invited the delegations to share experiences at the national level of situations where a failure to meet a deadline might be excused, as well as examples of extraordinary events.

52. The Delegation of Japan indicated that its Office had an electronic application tool which went down due to a major earthquake in 2011. On that occasion, the Government of Japan had taken steps in order to allow for special treatment, such as the extension of time limits for the prescribed procedures. At the request of the applicant, the Office had decided whether or not the special treatment should be applied. In cases where doubt had existed, the Office had required additional documentation in support of the fact that the individual concerned had been affected by the disaster. If, because of the disaster, the individual could not submit the required document via an electronic tool, submission was allowed through other media, such as floppy disks, CDs, DVDs or USB memory sticks.

53. The Representative of MARQUES indicated that a problem with a service provider was more likely to occur than a natural disaster and it might be that the communication problem was neither the responsibility of the International Bureau nor of the submitting party.

54. The Delegation of Barbados indicated that according to its national legislation, if a person could prove that he was unable to meet a time limit because of an interruption in the mail service, the Director of the Office might extend the time limit, before or after its expiration.

55. In reply to a comment made by the Representative of MARQUES, the Secretariat explained that sometimes it would be very complicated, or even impossible, to find out the cause of the interruption. Therefore, proposed Rule 5 only dealt with extraordinary events.

56. The Delegation of the United States of America indicated that recently a hurricane had prevented some applicants from meeting the time limits before its Office. The approach taken had been similar to that adopted by the Office of Japan. The Delegation indicated that the terms in the proposed Rule were well chosen.

57. The Delegation of Spain indicated that its national legislation provided for two scenarios, firstly, "*force majeure*", such as a natural disaster, and secondly, failure to meet a time limit despite due care on the part of the applicant. The Delegation remarked that the wording proposed seemed to mix those two approaches.

58. The Delegation of Denmark stated that, in his opinion, it was very difficult to predict events that could have an impact on communications. The Delegation stressed that the wording should not be narrowed down too much. Furthermore, the question was whether an interruption in electronic communication should be treated differently from one affecting communications by postal or delivery services.

59. The Chair concluded that the International Bureau would review the proposal concerning Rule 5, as provided in the draft contained in Annex I to document H/LD/WG/2/3, taking into account the comments made at the current session of the Working Group. The Chair asked the delegations to assist the International Bureau in that task by sharing their experience and submitting their observations to the International Bureau in due course.

New Section 205

60. Upon invitation by the Chair, the Secretariat stated that proposed new Section 205 related to communications through user accounts.

61. In reply to a question by the Delegation of Switzerland, the Secretariat confirmed that irregularity letters would not be sent by email, but that an email alert to the effect that a new communication was available in the account could be programmed.

62. The Delegation of the United States of America suggested that since practitioners often worked in collaboration, it would be interesting if the platform supported multiple users.

63. In reply to a question by the Representative of ECTA, the Secretariat recalled that the idea of the HPM was to avoid an exchange of emails. All communications would take place through the user account. When a user sent a communication through the account, he would receive a printable acknowledgement of receipt. The HPM would also allow account holders to see the status of their applications.

64. The Chair concluded that the Working Group deemed it desirable to add a new Section 205 to the Administrative Instructions for the Application of the Hague Agreement, as provided in the draft contained in Annex II to document H/LD/WG/2/3.

FUTURE DEVELOPMENTS OF THE HAGUE SYSTEM

Moving Image Files

65. The Delegation of Norway indicated that its law allowing moving images had come into force before the technical solutions had been implemented. Since the publication was in PDF format, the Office required a description in cases in which it was not possible to understand the still picture. The Delegation expressed its interest in having input from the user groups.

66. The Representative of MARQUES suggested that, firstly, the scope of protection should be defined and, secondly, it was important to provide an acceptable moving image file.

67. The Delegation of Germany indicated that the issue of moving image files had been discussed in its country. Currently, most Offices offered the possibility of electronic filing and some file formats, such as GIF or MOV, were easy to handle. The Delegation of Germany, supported by the Delegation of Spain, proposed maintaining that topic on the agenda of the Working Group.

68. The Delegation of Spain pointed out that the fact that that possibility did not exist before national Offices did not prevent the Working Group from addressing the issue, since as soon as a technical solution was found, moving image files would be possible.

69. The Secretariat recalled that the Hague system did not deal with substantive law and that, therefore, the protection of a moving image would be subject to the provisions of national/regional laws. The Secretariat asked the delegations about the readiness of their Offices to handle and accept such registrations.

70. The Chair invited the delegations to send information on their national/regional laws concerning moving images to the Secretariat. The Chair further observed that, if need be, the Secretariat could send out a questionnaire as suggested by the Representative of CEIPI.

71. The Chair concluded that the issue of moving image files should be included in the future work of the Working Group.

Digital Access Service

72. Upon invitation by the Chair, the Secretariat explained that the Digital Access Service (hereinafter referred to as "DAS") was a service for submitting priority documents. In addition, the future introduction of the Hague Office Portal (hereinafter referred to as "HOP") could be a solution for the distribution of the documents referred to in Rules 7(5)(f) and (g) of the Common Regulations to the Offices concerned.

73. The Delegation of Japan inquired about the types of documents or statements intended for distribution through HOP. The Delegation stated that digital format certificates were not deemed to be original and true documents under its current system. The Delegation further asked whether it would be possible for an Office requiring the original documents to continue to obtain those documents in paper format from the holders of international registrations.

74. The Secretariat indicated that the issue in question had been highlighted with a view to offering the Offices the option of electronic distribution of documents. The Secretariat took note of the comments made by the Delegation of Japan and indicated that it might be premature to begin considering that complex issue since the introduction of the HOP would take some time.

75. The Chair noted that the Working Group was not ready, at the time of the current session, to discuss means of transmission of certain types of documents or statements, as prescribed by Rule 7(5)(f) and (g) of the Common Regulations.

AGENDA ITEM 7: MISCELLANEOUS AMENDMENTS TO THE COMMON REGULATIONS UNDER THE 1999 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT

76. Discussion was based on document H/LD/WG/2/4.

77. In reply to a question by the Delegation of Morocco, the Secretariat confirmed that Rule 26(1) only concerned information on the international registration to be made available by the International Bureau, whereas Rule 16 concerned the payment of publication fees to be made by the applicant or the holder. Therefore the proposed amendments did not concern the procedures before an Office.

78. The Chair concluded that the Working Group considered favorably the submission, in due course, of a proposal to amend the Common Regulations with respect to Rule 16(3) to (5) and Rule 26(1), as provided in the Annex to document H/LD/WG/2/4, to the Assembly of the Hague Union for adoption.

AGENDA ITEM 8: SITUATION OF THE 1934 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT

79. Discussion was based on document H/LD/WG/2/5.

80. The Delegation of Morocco indicated that, in its country, proceedings for accession to the 1999 Act and for the communication of consent to the termination of the 1934 Act had begun.

81. The Delegation of the United States of America stated that a bill had been submitted for adoption by Congress and once the legislative process had ended, its country could become a party to the 1999 Act within one year.

82. The Chair noted that in Morocco the proceedings for accession to the Geneva (1999) Act of the Hague Agreement and for the communication of consent to the termination of the London (1934) Act were under way. The Chair also noted the state of play regarding the possible accession to the Geneva (1999) Act of the Hague Agreement of the United States of America.

AGENDA ITEM 9: OTHER MATTERS

PUBLIC AVAILABILITY OF INFORMATION ON THE AMENDMENTS TO AN INTERNATIONAL REGISTRATION RESULTING FROM A PROCEDURE BEFORE THE OFFICE OF A DESIGNATED CONTRACTING PARTY

83. Discussion was based on document H/LD/WG/2/6.

84. The Delegation of Japan strongly supported the proposal by the International Bureau. The Delegation pointed out that amendments to the design made in a procedure before an Office were not recorded in the International Register. As a result, the contents of the international registration as recorded in the International Register could differ from those of the design right finally established in a designated Contracting Party. Consequently, if third parties or an examining Office tried to accomplish a thorough search for the design right, he had to search the national publications of the design. In addition, in the case of a law suit, the holder had to request a certificated copy of the amended international registration as recorded in the national register. The Delegation underlined that that issue had been identified by the users in its country as a problem. The Delegation proposed that, as an ideal mechanism, the contents of an international registration as amended in a designated Contracting Party should be recorded in the International Register.

85. The Delegation of Norway expressed its support for the statement by the Delegation of Japan. The Delegation indicated that the users in its country had expressed a wish to develop the Hague Express Database in line with the Madrid system ROMARIN database. From the Office's point of view, the Delegation was interested in solutions where indication of priority, color and class was connected to each design in an international registration published in the Bulletin.

86. The Secretariat acknowledged that, it might sometimes be difficult for an Office to associate given information with the relevant designs. That was another issue which should be developed in the future. That would, however, require a more fundamental change in the IT architecture, as it entailed the recording of various types of information on an individual design basis.

87. The Delegation of Switzerland supported the statements made by the Delegations of Japan and Norway and favored the introduction of such a mechanism. The Delegation explained that its Office only published national registrations. However, the Delegation stated its readiness to cooperate and to send the necessary data to the International Bureau.

88. The Delegation of Spain supported the introduction of such a mechanism to the Hague system, as it would improve the transparency of the system.

89. With regard to the proposal by the Delegation of Japan, the Secretariat observed that the establishment of a mechanism allowing the contents of an international registration as amended in a designated Contracting Party to be recorded in the International Register went beyond the scope of the initial proposal. However, the Secretariat said that the proposal was worth exploring, as it could be the way forward to develop the Hague system.

90. The Chair noted that the Working Group wanted the International Bureau to explore further the possible introduction into the Hague system of a mechanism to make publicly available information on the amendments to an international registration having taken place in a procedure by the Office of a designated Contracting Party. In that respect, comments made at the current session of the Working Group would be taken into account. The Chair concluded that that topic would be discussed at the next session of the Working Group and encouraged delegations to assist the International Bureau in that respect by sending further comments in due course.

PROPOSAL BY THE DELEGATION OF NORWAY

91. Discussion was based on document H/LD/WG/2/7.

92. Upon invitation by the Chair, the Delegation of Norway introduced document H/LD/WG/2/7. The Delegation explained that the renunciation of an international registration during the deferment period was not published. Without further information on the fate of the international registration except the payment of the designation fee, the Office was left with pending case files. The Delegation proposed that only the registration number should be published under a new category in the Bulletin, at the expiry of the deferment period.

93. The Delegation of Japan expressed its support for the proposal by the Delegation of Norway. The Delegation observed that the same problem arose when the international registration was cancelled because the publication fee had not been paid or the reproductions were not submitted when the international application was accompanied by a specimen. The Delegation also pointed out that, in some instances, applicants even requested that the filing of an international application should be kept secret. Therefore, publication in the Bulletin could be problematic. The Delegation deemed a notification of the renunciation or cancellation directly to

the Office concerned to be preferable to a notification through publication. In addition, the Delegation noted that the Office concerned should be notified by the International Bureau of any subsequent change, such as a change in ownership or correction, recorded in the International Register during the deferment period.

94. The Delegation of Denmark supported the statements by the Delegations of Norway and Japan. The Delegation proposed that the Secretariat should prepare a paper on that issue, to be discussed at the next session of the Working Group.

95. The Delegation of the United States of America supported the statements of the Delegations of Norway, Japan and Denmark. The Delegation pointed out that the issue seemed to be complex and expressed its support for the proposal by the Delegation of Denmark that the issue should be further examined.

96. The Secretariat remarked that, in the future, HOP would be a convenient vehicle for the distribution of information to the Offices. The Secretariat noted that the Working Group had indicated very clearly that it requested the Secretariat to pursue the development of a technical solution regarding the availability of information of interest at the Office level. The Secretariat promised to analyze the issue but could not prejudge the outcome of such an analysis.

97. The Chair concluded that the Working Group requested the International Bureau to prepare a document analyzing possible ways of informing the designated Offices of events having taken place during the deferment period in respect of an international registration. In that regard, the comments made at the current session of the Working Group would be taken into account.

AGENDA ITEM 10: SUMMARY BY THE CHAIR

98. The Working Group approved the Summary by the Chair as contained in Annex I to the present document.

AGENDA ITEM 11: CLOSING OF THE SESSION

99. The Chair closed the session on November 7, 2012.

[Annexes follow]



H/LD/WG/2/8
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Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs

**Second Session
Geneva, November 5 to 7, 2012**

SUMMARY BY THE CHAIR

approved by the Working Group

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2. The following members of the Hague Union were represented at the session: African Intellectual Property Organization (OAPI), Bosnia and Herzegovina, Denmark, Estonia, European Union (EU), Finland, France, Germany, Kyrgyzstan, Lithuania, Monaco, Morocco, Norway, Oman, Republic of Moldova, Romania, Serbia, Singapore, Spain, Suriname, Switzerland, the former Yugoslav Republic of Macedonia, Tunisia and Ukraine (24).
3. The following States were represented as observers: Barbados, China, Colombia, Czech Republic, Haiti, Japan, Mexico, Nigeria, Philippines, Russian Federation, Saudi Arabia, Thailand, United States of America and Viet Nam (14).
4. Representatives of the following non-governmental organizations (NGOs) took part in the session in an observer capacity: *Association des praticiens du droit des marques et des modèles* (APRAM), Association of European Trademark Owners (MARQUES), Centre for International Intellectual Property Studies (CEIPI), European Communities Trade Mark Association (ECTA) and IP Federation (5).

AGENDA ITEM 1: OPENING OF THE SESSION

5. Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO), opened the session of the Working Group and welcomed the participants.

AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS

6. Mr. Mikael Francke Ravn (Denmark) was unanimously elected as Chair of the Working Group, and Mrs. Jacqueline Taylord Heliang (African Intellectual Property Organization (OAPI)) and Mr. Nafaa Boutiti (Tunisia) were elected as Vice-Chairs.

7. Ms. Päivi Lähdesmäki (WIPO) acted as Secretary to the Working Group.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

8. The Working Group adopted the draft agenda (document H/LD/WG/2/1 Prov.) without modification.

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE *AD HOC* WORKING GROUP ON THE LEGAL DEVELOPMENT OF THE HAGUE SYSTEM FOR THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

9. Discussion was based on document H/LD/WG/1/6 Prov.

10. The Working Group adopted the draft report (document H/LD/WG/1/6 Prov.) without modification.

AGENDA ITEM 5: PROPOSAL FOR ESTABLISHMENT OF MODEL INTERNATIONAL FORMS UNDER THE 1999 ACT OF THE HAGUE AGREEMENT

11. Discussion was based on document H/LD/WG/2/2.

12. The Chair concluded that the Working Group agreed on the feasibility of a standard form. The Chair noted that the Working Group invited the International Bureau to review the contents of the proposed standard form taking into account comments made at the present session of the Working Group, notably on the issues of languages and required signature. The Chair encouraged delegations to assist the International Bureau in this task by sending further comments in due course.

13. The Chair concluded that the International Bureau will submit for comments a new proposal for a standard form at the next session of the Working Group.

AGENDA ITEM 6: ISSUES RELATING TO THE LEGISLATIVE IMPLICATIONS OF THE INTRODUCTION OF SOME INFORMATION TECHNOLOGY-BASED INNOVATIONS IN THE ADMINISTRATION OF THE HAGUE SYSTEM

14. Discussion was based on document H/LD/WG/2/3.

15. The Chair concluded that the Working Group considered it desirable to amend Rule 1(1)(vi), as provided in the draft contained in Annex I to document H/LD/WG/2/3.

16. The Chair concluded that the Working Group considered it desirable to amend Section 202, as provided in the draft contained in Annex II to document H/LD/WG/2/3.

17. The Chair concluded that the International Bureau will review the proposal concerning Rule 5, as provided in the draft contained in Annex I to document H/LD/WG/2/3, taking into account comments made at the present session of the Working Group. The Chair asked the delegations to assist the International Bureau in this task by sharing their experience and submitting their observations to the International Bureau in due course.

18. The Chair concluded that the Working Group considered it desirable to add a new Section 205 to the Administrative Instructions, as provided in the draft contained in Annex II to document H/LD/WG/2/3.

19. The Chair concluded that the issue of moving image files should be included in the future work of the Working Group.

20. The Chair noted that the Working Group was not ready to discuss, at the present session, means of transmission of certain types of documents or statements, as prescribed by Rule 7(5)(f) and (g) of the Common Regulations.

AGENDA ITEM 7: MISCELLANEOUS AMENDMENTS TO THE COMMON REGULATIONS UNDER THE 1999 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT

21. Discussion was based on document H/LD/WG/2/4.

22. The Chair concluded that the Working Group considered favorably the submission, in due course, of a proposal to amend the Common Regulations with respect to Rule 16(3) to (5) and Rule 26(1), as provided in the Annex to document H/LD/WG/2/4, to the Assembly of the Hague Union for adoption.

AGENDA ITEM 8: SITUATION OF THE 1934 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT

23. Discussion was based on document H/LD/WG/2/5.

24. The Working Group took note of the information provided in the document.

25. The Chair noted that in Morocco the proceedings for an accession to the Geneva (1999) Act of the Hague Agreement and for the communication of the consent to the termination of the London (1934) Act were under way. The Chair also noted the state of play regarding a possible accession to the Geneva (1999) Act of the Hague Agreement in the United States of America.

AGENDA ITEM 9: OTHER MATTERS

26. Discussion was based on document H/LD/WG/2/6.

27. The Chair noted that the Working Group wanted the International Bureau to further explore the possible introduction in the Hague system of a mechanism to make publicly available information on the amendments to an international registration having taken place in a procedure by the Office of a designated Contracting Party. In that respect,

comments made at the present session of the Working Group will be taken into account. The Chair concluded that this topic will be discussed at the next session of the Working Group and encouraged delegations to assist the International Bureau in this respect by sending further comments in due course.

28. Discussion was based on document H/LD/WG/2/7.

29. The Chair concluded that the Working Group requested the International Bureau to prepare a document analyzing possible ways of informing the designated Offices of events having taken place during the deferment period in respect of an international registration. In this regard, the comments made at the present session of the Working Group will be taken into account.

AGENDA ITEM 10: SUMMARY BY THE CHAIR

30. The Working Group approved the Summary by the Chair, as contained in the present document.

AGENDA ITEM 11: CLOSING OF THE SESSION

31. The Chair closed the session on November 7, 2012.

[Annex II follows]



H/LD/WG/2/INF/1
ORIGINAL: FRANCAIS/ANGLAIS
DATE: 5 NOVEMBRE 2012 / NOVEMBER 5, 2012

**Groupe de travail sur le développement juridique du système de
La Haye concernant l'enregistrement international des dessins et
modèles industriels**

**Deuxième session
Genève, 5 – 7 novembre 2012**

**Working Group on the Legal Development of the Hague System for
the International Registration of Industrial Designs**

**Second Session
Geneva, November 5 to 7, 2012**

**LISTE DES PARTICIPANTS
LIST OF PARTICIPANTS**

*établie par le Secrétariat
prepared by the Secretariat*

I. MEMBRES/MEMBERS

(dans l'ordre alphabétique des noms français des États)
(in the alphabetical order of the names in French of the States)

ALLEMAGNE/GERMANY

Isabell KAPPL (Ms.), Local Court Judge, Federal Ministry of Justice, Berlin

Marcus KÜHNE, Head, Section 3.4.1, Designs Unit, German Patent and Trade Mark Office (DPMA), Jena

Heinjoerg HERRMANN, Counsellor, Permanent Mission, Geneva

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

Marija ZELENKA (Ms.), Industrial Design Expert, Institute for Intellectual Property of Bosnia and Herzegovina, Mostar

DANEMARK/DENMARK

Mikael Francke RAVN, Chief Legal Adviser, Danish Patent and Trademark Office, Taastrup

Torben Engholm KRISTENSEN, Special Legal Adviser, Danish Patent and Trademark Office, Taastrup

ESPAGNE/SPAIN

Raquel SAMPEDRO CALLE (Sra.), Jefe, Área Jurídica y Patente Europea y PCT, Departamento de Patentes e Información Tecnológica, Oficina Española de Patentes y Marcas (OEPM), Ministerio de Industria, Energía y Turismo, Madrid

Xavier BELLMONT ROLDÁN, Consejero, Misión Permanente, Ginebra

ESTONIE/ESTONIA

Liina PUU (Mrs.), Trademark Department, The Estonian Patent Office, Tallinn

EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE/THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Dalila JARMOVA (Mrs.), Head, Trademark Department, State Office of Industrial Property (SOIP), Skopje

Slobodanka TRAJKOVSKA (Mrs.), Head, Industrial Designs Department, State Office of Industrial Property (SOIP), Skopje

FINLANDE/FINLAND

Olli TEERIKANGAS, Senior Legal Officer, Trademarks and Designs, National Board of Patents and Registration of Finland, Helsinki

FRANCE

Olivier HOARAU, chargé de mission, Affaires européennes et internationales, Institut national de la propriété industrielle (INPI), Paris

KIRGHIZISTAN/KYRGYZSTAN

Gulnaz KAPAROVA (Mrs.), Expert, State Intellectual Property Service of the Kyrgyz Republic (Kyrgyzpatent), Bishkek

LITUANIE/LITHUANIA

Digna ZINKEVIČIENĖ (Ms.), Head, Trademarks and Designs Division, State Patent Bureau of the Republic of Lithuania, Vilnius

MAROC/MOROCCO

Ilham BENNANI (Mme), chef de Département, Unité de l'innovation technologique, Office marocain de la propriété industrielle et commerciale (OMPIC), Casablanca

MONACO

Gille REALINI, deuxième secrétaire, Mission permanente, Genève

NORVÈGE/NORWAY

Marie RASMUSSEN (Mrs.), Head, Design Section, Design and Trademark Department, Norwegian Industrial Property Office (NIPO), Oslo

Sabrina FREGOSI MAAØ (Ms.), Senior Executive Officer, Design Section, Design and Trademark Department, Norwegian Industrial Property Office (NIPO), Oslo

OMAN

Ali Hamed Saif AL MAMARI, Legal Auditor, Ministry of Commerce and Industry, Muscat

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (OAPI)/AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

Jacqueline Taylord HELIANG (Mme), cadre juriste, Service des signes distinctifs, Yaoundé

RÉPUBLIQUE DE MOLDOVA/REPUBLIC OF MOLDOVA

Alexandru ȘAITAN, Head, Industrial Designs Division, State Agency on Intellectual Property (AGEPI), Kishinev

ROUMANIE/ROMANIA

Alice POSTAVARU (Ms.), Head, Designs Division, State Office for Inventions and Trademarks (OSIM), Bucharest

Liliana BADEA (Ms.), Head, Designs Examination Bureau, State Office for Inventions and Trademarks (OSIM), Bucharest

SERBIE/SERBIA

Katarina ČAVOR (Mrs.), Counsellor, Sector for Distinctive Signs, Intellectual Property Office of the Republic of Serbia, Belgrade

SINGAPOUR/SINGAPORE

Maslina Bte MALIK (Ms.), Senior Assistant Director, Registry of Designs, Intellectual Property Office of Singapore (IPOS), Singapore

SUISSE/SWITZERLAND

Beat SCHIESSER, chef, Service des designs, Division des brevets, Institut fédéral de la propriété intellectuelle (IPI), Berne

Marie KRAUS (Mme), conseillère juridique, Division du droit et des affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

SURINAME

Olivia VAN KALLEN (Ms.), Head Policy Advisor, Bureau of Intellectual Property, Ministry of Justice and Police, Paramaribo

TUNISIE/TUNISIA

Nafaa BOUTITI, chef de service, chargé des brevets, Direction de la propriété industrielle et du registre central du commerce, Institut national de la normalisation et de la propriété industrielle (INNORPI), Tunis

UKRAINE

Inna SHATOVA (Ms.), Deputy Head, Industrial Property Division, State Intellectual Property Service of Ukraine (SIPS), Kyiv

Iuliia TKACHENKO (Ms.), Head, Examination of Applications for Industrial Designs Division, Ukrainian Institute of Industrial Property (UKRPATENT), Kyiv

UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

Arnaud FOLLIARD-MONGUIRAL, IP Litigations Service, Office for the Harmonization in the Internal Market (Trade Marks and Designs) (OHIM), Alicante

Martin SCHLÖTELBURG, Legal Advisor, Designs Service, Office for the Harmonization in the Internal Market (Trade Marks and Designs) (OHIM), Alicante

Delphine LIDA (Mrs.), Counsellor, Permanent Delegation, Geneva

II. OBSERVATEURS/OBSERVERS

ARABIE SAOUDITE/SAUDI ARABIA

Abdullah H. ALGHAMDI, Director, Legal Support Directorate, General Directorate of Industrial Property, King Abdulaziz City for Science and Technology (KACST), Riyadh

Mohammed Saad AL-YAHYA, Deputy Director, Technical Affairs, General Directorate of Industrial Property, King Abdulaziz City for Science and Technology (KACST), Riyadh

BARBADE/BARBADOS

Deborah BECKLES (Ms.), Deputy Registrar, Corporate Affairs and Intellectual Property Office, Bridgetown

CHINE/CHINA

LIU Yue (Ms.), Deputy Director, Design Examination Department, State Intellectual Property Office (SIPO), Beijing

YAO Xin, Department of Legal Affairs, State Intellectual Property Office (SIPO), Beijing

COLOMBIE/COLOMBIA

Juan Camilo SARETZKI-FORERO, First Secretary, Permanent Mission, Geneva

Maria Pía ONATE (Ms.), Intern, Permanent Mission, Geneva

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

David GERK, Patent Attorney, Office of Policy and External Affairs, United States Patent and Trademark Office (USPTO), Department of Commerce, Alexandria

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Vladimir OPLACHKO, Head of Division, International Cooperation Department, Federal Service for Intellectual Property, Patents and Trademarks (ROSPATENT), Moscow

Anna ROGOLEVA (Ms.), Counsellor, Law Department, Federal Service for Intellectual Property, Patents and Trademarks (ROSPATENT), Moscow

HAÏTI/HAITI

Pierre Mary Guy ST-AMOUR, conseiller, Mission permanente, Genève

JAPON/JAPAN

Hideo YOSHIDA, Deputy Director, Design Division, Trademark, Design and Administrative Affairs Department, Japan Patent Office (JPO), Tokyo

Kunihiko FUSHIMI, First Secretary, Permanent Mission, Geneva

MEXIQUE/MEXICO

Fabián SALAZAR GARCÍA, Director, División de Patentes, Instituto Mexicano de la Propiedad Industrial (IMPI), Ciudad de México

NIGÉRIA/NIGERIA

Shafiu Adamu YAURI, Principal Assistant Registrar of Trademarks, Registry of Trademarks, Patents and Designs, Federal Ministry of Commerce and Industry, Abuja

PHILIPPINES

Amelita AMON (Ms.), Intellectual Property Rights Examiner V, Bureau of Patents, Intellectual Property Office of the Philippines (IPOPIL), Taguig City

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Evžen MARTÍNEK, International Department, Industrial Property Office, Prague

Jan WALTER, Third Secretary, Permanent Mission, Geneva

THAÏLANDE/THAILAND

Usanee SIRIREUNG (Mrs.), Director, Design Patent Office, Department of Intellectual Property, Ministry of Commerce, Bangkok

VIET NAM

HOANG Van Tan, Deputy Director General, National Office of Intellectual Property (NOIP), Hanoi

LE Ngoc Lam, Director, Industrial Design Division, National Office of Intellectual Property (NOIP), Hanoi

NGUYEN Thi Thanh Ha (Ms.), Director, Policy and Legislation Division, National Office of Intellectual Property (NOIP), Hanoi

VU Thi Thuy Lien (Ms.), Official, International Cooperation Division, National Office of Intellectual Property (NOIP), Hanoi

III. ORGANISATIONS NON GOUVERNEMENTALES/NON-GOVERNMENTAL ORGANIZATIONS

Association communautaire du droit des marques (ECTA)/European Communities Trade Mark Association (ECTA)

Keith Hodkinson, Member, Design Committee, London

Association des praticiens du droit des marques et des modèles (APRAM)

Bertrand GEOFFRAY, Président, Paris

Camille CHOPPIN (Mme), Genève

Association des propriétaires européens de marques de commerce (MARQUES)/Association of European Trademark Owners (MARQUES)

Robert STUTZ, Representative, Bern

Centre d'études internationales de la propriété intellectuelle (CEIPI)/Centre for International Intellectual Property Studies (CEIPI)

François CURCHOD, chargé de mission, Genolier

IP Federation

Robert KNIGHT, Secretary, London

IV. BUREAU/OFFICERS

Président/Chair: Mikael Francke RAVN (Danemark/Denmark)

Vice-présidents/Vice-Chairs: Nafaa BOUTITI (Tunisie/Tunisia)

Jacqueline Taylord HELIANG (Mme) (OAPI)

Secrétaire/Secretary: Päivi LÄHDESMÄKI (Mme/Mrs.) (OMPI/WIPO)

V. SECRÉTARIAT DE L'ORGANISATION MONDIALE DE LA PROPRIÉTÉ
INTELLECTUELLE (OMPI)/SECRETARIAT OF THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION (WIPO)

Francis GURRY, Directeur général/Director General

WANG Binying (Mme/Mrs.), vice-directrice générale/Deputy Director General

Grégoire BISSON, directeur, Service d'enregistrement de La Haye, Secteur des marques et des dessins et modèles/Director, The Hague Registry, Brands and Designs Sector

Neil WILSON, directeur, Division de l'appui fonctionnel, Secteur des marques et des dessins et modèles/Director, Functional Support Division, Brands and Designs Sector

Päivi LÄHDESMÄKI (Mme/Mrs.), chef, Section juridique, Service d'enregistrement de La Haye, Secteur des marques et des dessins et modèles/Head, Legal Section, The Hague Registry, Brands and Designs Sector

Patrick CARTANT, chef, Service des opérations, Service d'enregistrement de La Haye, Secteur des marques et des dessins et modèles/Head, Operations Service, The Hague Registry, Brands and Designs Sector

Hiroshi OKUTOMI, juriste, Section juridique, Service d'enregistrement de La Haye, Secteur des marques et des dessins et modèles/Legal Officer, Legal Section, The Hague Registry, Brands and Designs Sector

Jean-François OUELLETTE, stagiaire, Section juridique, Service d'enregistrement de La Haye, Secteur des marques et des dessins et modèles/Intern, Legal Section, The Hague Registry, Brands and Designs Sector

[End of Annex II and of document]