

The Hague System for the International Registration of Industrial Designs

Main Features and Advantages



WIPO | HAGUE

The International
Design System

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Introduction

1. The Hague Agreement provides a mechanism for acquiring, maintaining and managing design rights in countries and intergovernmental organizations that are members of the Hague Union through a single international application filed with the International Bureau of the World Intellectual Property Organization (WIPO) that results in a single international registration with individual effect in each of the Contracting Parties (States or intergovernmental organizations) designated therein.
2. Thus, the Hague Agreement allows users to save time and money by enabling them to easily and swiftly acquire design protection in multiple markets, as a single international application replaces a whole series of applications which, otherwise, should have been effected with different national (or regional) Offices.
3. The Hague Agreement is constituted by two international treaties:
 - The Geneva Act of July 2, 1999 (the “1999 Act”);
 - The Hague Act of November 28, 1960 (the “1960 Act”).
4. The 1999 and the 1960 Acts of the Hague Agreement are autonomous and totally independent of each other. In recent years, membership to the 1999 Act has overtaken that of the 1960 Act (a list of the Contracting Parties, together with an indication of the respective dates on which they became bound by the 1999 Act or the 1960 Act is available on the WIPO website (www.wipo.int/hague/en)).

Who May Use the Hague System?

5. The possibility of filing an international application under the Hague Agreement is not open to everyone. To be entitled to file such an application, an applicant must satisfy at least one of the following conditions:
 - a. be a national of a Contracting Party or a member State of an intergovernmental organization which is a Contracting Party, such as the European Union or the African Intellectual Property Organization, *or*
 - b. have a domicile in the territory of a Contracting Party, *or*
 - c. have a real and effective industrial or commercial establishment in the territory of a Contracting Party.
6. In addition, but only under the 1999 Act, an international application may be filed on the basis of habitual residence in a Contracting Party.
7. The Contracting Party with respect to which the applicant fulfils the above condition is referred to as the “State of origin” under the 1960 Act and the “applicant’s Contracting Party” under the 1999 Act.

Where Can Protection Be Obtained?

8. Protection can be obtained only in those Contracting Parties which are party to the same Act as the Contracting Party through which the applicant has the necessary entitlement (*i.e.*, nationality, domicile, habitual residence or establishment). For example, if an applicant has claimed entitlement through a Contracting Party bound *exclusively* by the 1999 Act, he may request protection in those Contracting Parties which are bound by the 1999 Act (whether or not they are also bound by the 1960 Act). On the other hand, such applicant is not entitled to request protection in respect of Contracting Parties bound *only* by the 1960 Act.
9. The Hague System cannot be used to protect an industrial design in a country which is not party to the Hague Agreement, or which is not a member State of an intergovernmental organization party to the Hague Agreement. In order to protect a design in such a country, the applicant has no choice but to file a national (or regional) application.

10. If an intergovernmental organization party to the Hague Agreement is designated in an international application, the protection covers the territories of all its member States.

The International Application

Standard Contents of the Application

11. The international application must be filed in English, French or Spanish (at the applicant's option) and electronically through the electronic filing interface (E-filing) available on the WIPO website (wipo.int/hague/en) or on the official form (available on the WIPO website). No prior national or regional application or registration is required.

12. An international application may include up to 100 different designs. All designs must, however, belong to the same class of the *International Classification for Industrial Designs* (the Locarno Classification).

13. It must, in particular, contain a reproduction of the industrial designs concerned, together with the designation of the Contracting Parties where protection is sought.

14. The applicant may request that publication of the designs be deferred for a period which cannot exceed 12 months (under the 1960 Act) or 30 months (under the 1999 Act) from the filing date or, where priority is claimed, from the priority date.

15. An international application is subject to the payment of three types of fees (in Swiss francs), namely:

- a basic fee;
- a publication fee;
- for each designated Contracting Party, either a standard fee or an individual fee.

16. A schedule of fees, as well as an automatic fee calculator, is available on the WIPO website (www.wipo.int/hague/en/fees).

Specific Contents Required by Certain Contracting Parties and Information Relevant to Each of Contracting Parties

17. The declarations made by certain Contracting Parties to the 1999 Act may also have an impact on the elements included and choices made in an international application that designates them. At times, considerations relating to their substantive law may also need to be borne in mind.

18. When using the E-filing interface to file an international application, users will be automatically informed by the System of the specific requirements set by a given designated Contracting Party. Alternatively, the following links may prove useful:

- *Member Pages* – These give access to the list of declarations made by each Contracting Party to the Hague System and certain information concerning their national/regional procedures (<http://www.wipo.int/hague/en/members/index.html>)
- *Frequently Asked Questions (FAQs)* – To get more specific information on the designation of Contracting Parties (<http://www.wipo.int/hague/en/faqs.html>)
- *Guidance on Preparing and Providing Reproductions in Order to Forestall Possible Refusals on the Ground of Insufficient Disclosure of an Industrial Design by Examining Offices* – To prepare reproductions of the design in view of the designation of certain Contracting Parties (http://www.wipo.int/export/sites/www/hague/en/how_to/pdf/guidance.pdf)

Filing the International Application

19. The E-filing interface on WIPO's website will remind applicants to take into account the following considerations.

20. Direct or Indirect filing:

- a. Direct filing with the International Bureau:
 - the applicant is recommended to check if the law of the applicant's Contracting Party requires security clearance procedures to be carried by national Office, which can entail indirect filing;
- b. Indirect filing (through the Office of the applicant's Contracting Party):
 - Indirect filing is admitted, if the applicant's Contracting Party has not notified the International Bureau that international applications may not be filed through its Office;
 - If indirect filing is allowed, the Office of a Contracting Party may require that the applicant pay a transmittal fee to it, for its own benefit, in respect of any international application filed through it.

21. In the case of direct filing, the international application may be filed, at the option of the applicant, either online (E-filing) or on paper:

- a. E-filing is easier, cheaper and faster method to file international application thanks to its simplicity and modern features. A specially developed E-filing tutorial is designed to assist the applicant to use the E-filing Portfolio Manager (www.wipo.int/hague/en/how_to/efiling_tutorial/index.html);
- b. In case of paper application, the applicant shall fill in the application form (www.wipo.int/hague/en/forms) and send it by mail or by facsimile. Submission by email is not accepted.

Formal Examination by the International Bureau

22. Upon receipt of an international application, the International Bureau checks that it complies with the prescribed *formal* requirements, such as those relating to the quality of the reproductions of the industrial designs and the payment of the required fees. The applicant is informed of any defects, which must be corrected within the prescribed time limit of three months, failing which the international application is considered abandoned.

23. Where an international application complies with the prescribed formal requirements, the International Bureau proceeds with its recording in the International Register and with the publication of the corresponding registration in the *International Designs Bulletin*. The publication takes place six months after the international registration date, unless the applicant requested immediate publication or deferment of publication in the international application. The publication takes place electronically on the WIPO website and contains all relevant data concerning the international registration, including a reproduction of the industrial design.

24. The International Bureau does not appraise or concern itself in any way with the novelty of the design and it is therefore not entitled to reject an international application on this, or any other, substantive ground (substantive examination falls within the exclusive competence of the Office of each designated Contracting Party).

Substantive Examination by the Office of Each Designated Contracting Party: Possibility of Notifying a Refusal of Protection

25. Upon publication of the Bulletin on the WIPO website, each Office must identify the international registrations in which it has been designated, in order to proceed with the substantive examination provided by its domestic legislation, if any. In fact, one of the main features of the Hague System lies in the possibility for the Office of each designated Contracting Party to refuse protection, in its territory, to an industrial design which does not fulfil the substantive conditions of protection provided for by its domestic legislation. Such refusal, however, may not be issued on the grounds of non-compliance with formal requirements, since such requirements are to be considered as already been satisfied following the examination carried out by the International Bureau.

26. Any refusal of protection must be notified to the International Bureau within six months from the publication of the international registration on the WIPO website. Under the 1999 Act, however, any Contracting Party whose Office is an Examining Office, or whose law provides for the possibility of opposition, may declare that the refusal period of six months is replaced by a period of 12 months. Any refusal of protection shall have effect only throughout the territory of the Contracting Party whose Office has issued such a refusal.

27. In the event of a refusal, the applicant has the same remedies as he would have had if he had filed the design in question directly with the Office which has issued the refusal. The ensuing procedure takes place solely at the national level; an appeal against a refusal must be submitted by the holder to the competent authority of the country concerned, within the time-limit and in accordance with the conditions set out in the corresponding domestic legislation. The International Bureau is not involved in such procedure.

28. A refusal may be withdrawn, totally or partially. Such a withdrawal may also take the form of a statement to the effect that protection is granted to the industrial designs, or some of the industrial designs, that are the subject of the international registration.

29. On the other hand, where an Office finds no grounds for refusing protection, it may, before the expiry of the applicable refusal period, issue a statement of grant of protection.

What Are the Effects of the International Registration?

30. If no refusal is notified by a given designated Contracting Party within the prescribed time limit (or if such refusal has subsequently been withdrawn), the international registration has the effect as a grant of protection in that Contracting Party, *under the law of that Contracting Party*.

31. It must therefore be stressed that the Hague System is merely an agreement for *international procedure*. Any substantive aspect of the protection is entirely a matter for the domestic legislation of each designated Contracting Party.

Duration of Protection

32. International registrations are affected for an initial period of five years. They may be renewed for an additional period of five years. In respect of each designated Contracting Party, the minimum duration of protection shall be at least 15 years, subject to renewal, and up to the expiry of the total term of protection allowed by those Contracting Parties' respective laws.

33. Requests for renewals must be presented to the International Bureau, along with the payment of the corresponding renewal fees. International registrations may be renewed electronically through the electronic renewal interface (E-renewal) available on the WIPO website (www.wipo.int/hague/en). Renewals may be made for all or some of the industrial designs included in the international registration and for all or some of the designated Contracting Parties.

Changes in the International Register

34. The following changes, which may affect an international registration, may be recorded in the International Register:

- a. change in name and address of the holder;
- b. change in the ownership of the international registration (in respect of all or some of the designated Contracting Parties and/or in respect of all or some of the industrial designs);
- c. renunciation of all the industrial designs, in respect of any or all of the designated Contracting Parties; and
- d. limitation of some only of the industrial designs, in respect of any or all of the designated Contracting Parties.

35. A request for the recording of such changes must be presented to the International Bureau on the relevant official form and must be accompanied by the prescribed fees. Information concerning such changes is recorded in the International Register and is published in the Bulletin for the information of third parties.

What Are the Advantages of Using the Hague System?

36. The Hague System for the International Registration of Industrial Designs arose from a need for simplicity and economy. In effect, it enables design owners from a Contracting Party to obtain protection for their designs with a minimum of formalities and expense. In particular, they are relieved of the need to make a separate national application in each of the Contracting Parties, in which they seek protection, thus avoiding the complications arising from procedures and languages which differ from one State to another.

37. The Hague System also avoids the need for constant monitoring of the deadline for renewal of a whole series of national registrations, varying from one State to the other. In addition, it avoids the need to pay a series of fees in various currencies.

38. In effect, under the Hague Agreement, by means of a single international application, made in one language, on payment of a single set of fees, in one currency (Swiss francs) and with one Office (the International Bureau), the applicant receives a bundle of national rights.

39. Moreover, by having a single international registration with effect in several Contracting Parties, the subsequent management of the international registration is considerably facilitated. For instance, a change in the name or address of the holder, or a change in ownership for only some or all of the designated Contracting Parties, can be recorded in the International Register and have effect by means of one simple procedural step carried out through the International Bureau.

Further Information about the Hague System

40. Additional information and tools concerning the Hague System for the International Registration of Industrial Designs are available on the WIPO website (www.wipo.int/hague/en/).



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WIPO Publication No.911E
ISBN 978-92-805-2852-7