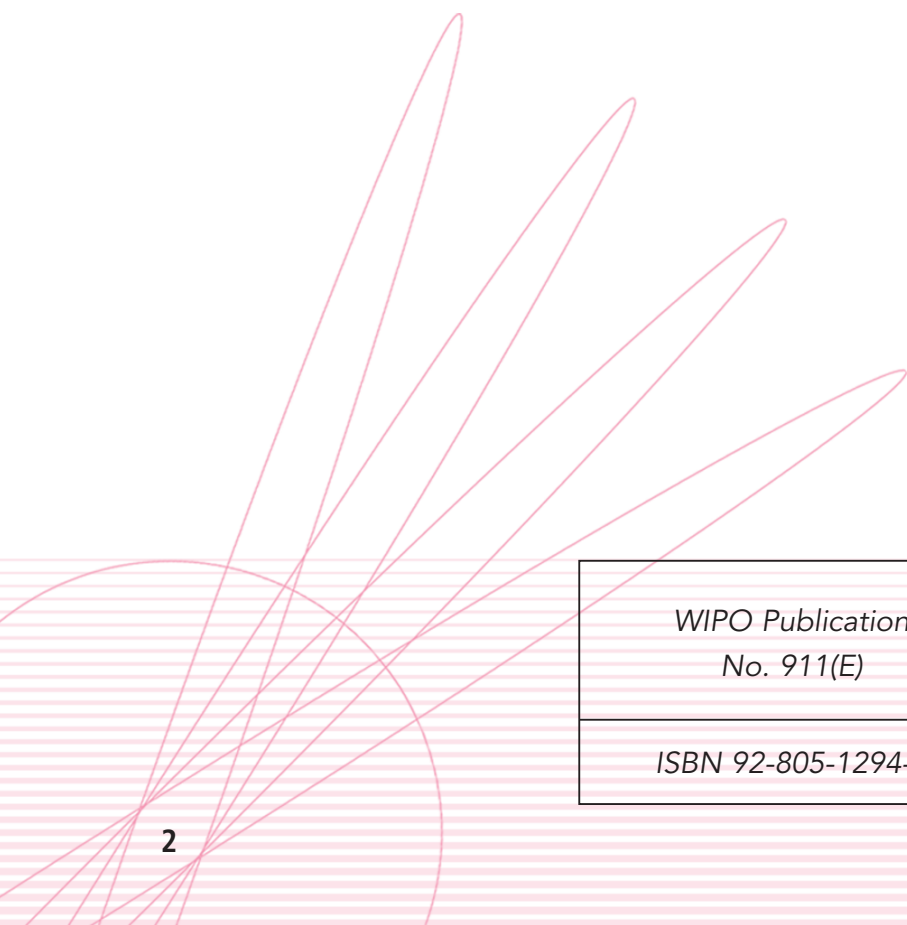
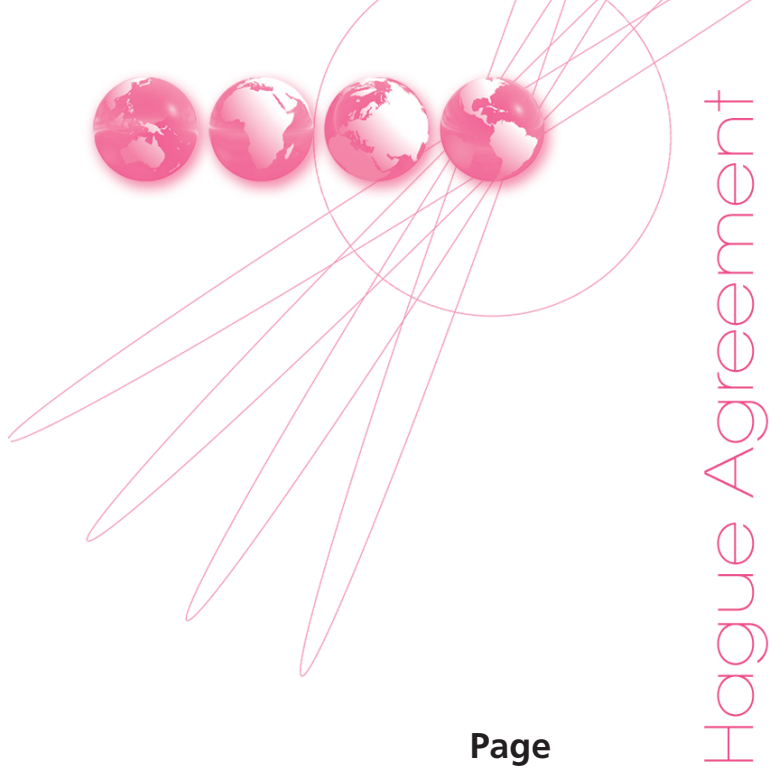


The Hague Agreement Concerning the
International Registration of Industrial Designs:
Main Features and Advantages





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Introduction

1. The Hague Agreement is an international registration system which offers the possibility of obtaining protection for industrial designs in a number of States and/or intergovernmental organizations (both referred to as “Contracting Parties”) by means of a *single* international application filed with the International Bureau of the World Intellectual Property Organization (WIPO).

2. Thus, under the Hague Agreement, 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 three international treaties:

- The London Act of June 2, 1934 (the “1934 Act”);
- The Hague Act of November 28, 1960 (the “1960 Act”);
- The Geneva Act of July 2, 1999 (the “1999 Act”).

4. These three Acts of the Hague Agreement are autonomous and totally independent of each other. Each of these Acts consists of a fully-fledged international treaty, so that a State may decide to become party to only one, to two, or to all three of the Acts. (A list of the Contracting Parties, together with an indication of the respective dates on which they became bound by the 1999 Act, the 1960 Act and/or the 1934 Act, is available on WIPO’s website (www.wipo.int) under the headings “Activities & Services/International Designs.”

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 one, at least, of the following conditions:



- (a) be a national of a Contracting Party, *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 fulfills 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.

8. A person who does not have the required entitlement in a Contracting Party is not in a position to file an international application under the Hague Agreement, and must necessarily, in order to obtain protection, file an application at the national (or regional) level, with the national (or regional) Office concerned.

Where Can Protection Be Obtained?

9. 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 and/or 1934 Act). On the other hand, such applicant is not entitled to request protection in respect of Contracting Parties bound *only* by the 1960 Act and/or the 1934 Act.

10. Likewise, if an applicant has claimed entitlement through a Contracting Party bound by both the 1999 Act and the 1960 Act, he may obtain protection in all the Contracting Parties bound by the 1960 Act and/or the 1999 Act, but not in any Contracting Party bound *exclusively* by the 1934 Act.

11. The Hague system cannot be used to protect an industrial design in a country which is not 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.

The International Application

No Prior National Application or Registration

12. An international application does not require any prior national application or registration. An industrial design can therefore be protected for the first time at the international level through the Hague Agreement.

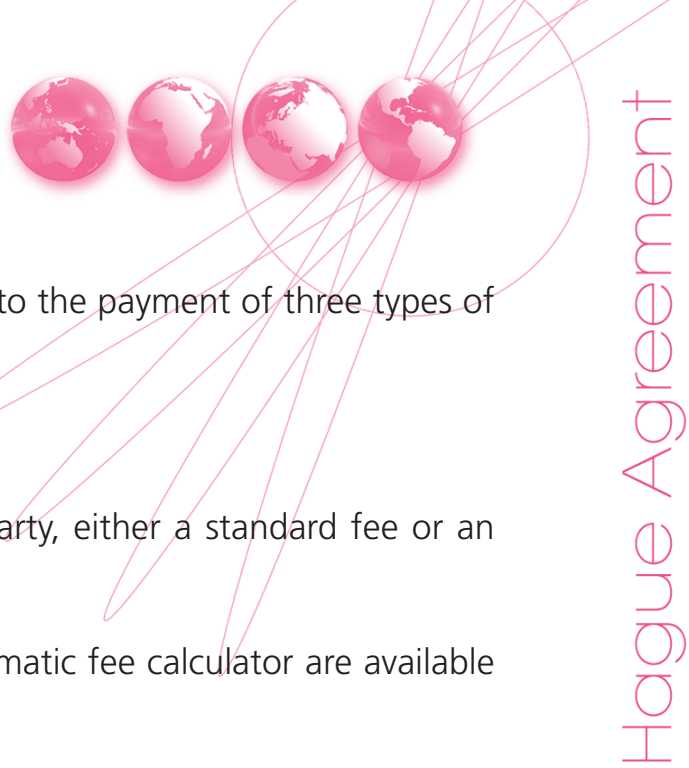
Contents of the Application

13. The international application must be filed in either English or French (at the applicant's option) on the official form provided by the International Bureau (available on WIPO's website).

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

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

16. 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.



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

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

18. A schedule of fees, as well as an automatic fee calculator are available on WIPO's website.

Transmitting the International Application to the International Bureau

19. The international application is normally sent directly to the International Bureau of WIPO by the applicant or his representative. Under the 1960 Act, however, a Contracting Party is entitled to require that, where it is considered to be the State of origin, the application be filed through its own Office.

Formal Examination by the International Bureau

20. 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.

21. Where an international application complies with the prescribed *formal* requirements, the International Bureau proceeds to its recording in the International Register and (unless deferment of publication has been requested) to the publication of the corresponding registration in the *International Designs Bulletin*. This publication takes place electronically on WIPO's website and contains all relevant data concerning the international registration, including a reproduction of the industrial design.

22. It must be stressed that 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

23. Upon publication of the Bulletin on the Internet, 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. 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.

24. Any refusal of protection must be notified to the International Bureau within six months from the publication of the international registration on WIPO's 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.

25. 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 to any extent involved in such procedure.



What are the Effects of the International Registration?

26. 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*.

27. This implies that in order to assess the scope of protection of an industrial design in a given designated Contracting Party, as well as to establish the competent authorities or the relevant sanctions in case of alleged infringement, the applicable law is that of the Contracting Party where protection has been obtained. For example, if an international registration designates Contracting Parties A, B and C (and no refusal of protection has been issued by these Contracting Parties), the protection of the industrial designs concerned is governed in Contracting Party A by the law of Contracting Party A, in Contracting Party B by the law of Contracting Party B, and so on.

28. 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

29. International registrations are effected for an initial period of 5 years. They may be renewed for an additional period of 5 years, in respect of each designated Contracting Party, up to the expiry of the total term of protection allowed by those Contracting Parties' respective laws.

30. Requests for renewals must be presented to the International Bureau, along with the payment of the corresponding renewal fees. 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

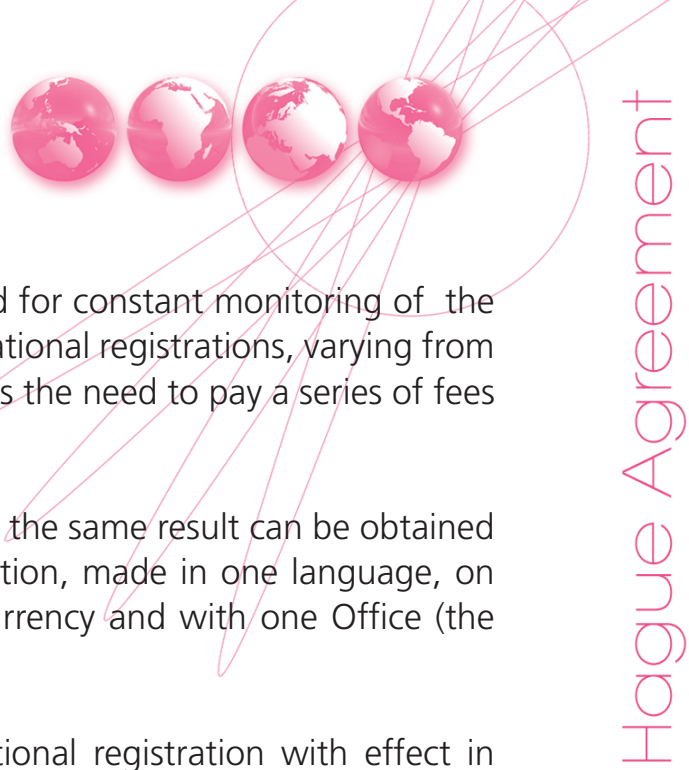
31. The following changes, which may affect an international registration, may be recorded in the International Register:

- (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.

32. 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 *International Designs Bulletin* for the information of third parties.

What are the Advantages of using the Hague System?

33. The Hague system of 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.



34. 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.

35. In effect, under the Hague Agreement, the same result can be obtained by means of a single international registration, made in one language, on payment of a single set of fees, in one currency and with one Office (the International Bureau).

36. 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

37. Additional information concerning the Hague system of international registration of designs is available on WIPO's website (www.wipo.int) under the heading "*Activities and Services/International Designs.*" As well as general information, this website also includes:

- the full text of the 1999 Act, the 1960 Act, the 1934 Act, the Common Regulations and the Administrative Instructions;
- the full text of the *Guide to the International Registration of Designs under the Hague Agreement*;
- a list of the Contracting Parties, together with an indication of the respective dates on which they became bound by the 1999 Act, the 1960 Act and/or the 1934 Act;

- the forms issued by the International Bureau, in MS Word and Adobe PDF versions;
- the current fees (including individual designation fees);
- annual statistics relating to international registrations.