



## WORLD INTELLECTUAL PROPERTY ORGANIZATION

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### **HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

#### **Amendment to the Common Regulations and the Schedule of Fees**

1. At its twenty-sixth (10<sup>th</sup> extraordinary) session, which took place in Geneva from September 22 to September 30, 2008, the Assembly of the Hague Union adopted an amendment to the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement, in the form of new Rule 18*bis*, along with certain amendments consequential to same. The Assembly also adopted a number of amendments to the footnotes contained in the Schedule of Fees annexed to the Common Regulations.

2. The amendments will come into effect on January 1, 2009.

#### New Rule 18*bis* – Statement of Grant of Protection

3. New Rule 18*bis* aims at improving, for users of the Hague system, the scope of information regarding the fate of international industrial design registrations in designated Contracting Parties.

4. In effect, the new rule provides for a defined regulatory framework, which does not currently exist, for the optional notification of statements of grant of protection in situations where, within the applicable refusal period, offices of designated Contracting Parties have decided to grant protection to an industrial design and, additionally, in cases where offices of designated Contracting Parties have communicated a notification of refusal that has been subsequently (totally or partially) withdrawn.

5. The new rule will apply to all Contracting Parties, regardless of whether they are bound only by the 1999 Act, only by the 1960 Act, or by both the 1999 and the 1960 Acts.

6. The new rule does not introduce any new procedure, as such. In fact, under the umbrella of Article 12(4) of the 1999 Act, the International Bureau already receives statements of grant of protection from at least one office<sup>1</sup>, which it duly records in the International Register, publishes in the *International Designs Bulletin* and communicates to holders. Furthermore, for those offices that may be willing to issue statements of grant of protection, the facility will continue to be entirely optional.

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<sup>1</sup> The Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM).

### Consequential Amendments

7. Following the adoption of new Rule 18*bis*, the following consequential amendments were adopted:

(a) Rule 22, paragraph (2): the reference to “Rules 18 and 19” in the second sentence of that paragraph is replaced by the reference to “Rules 18 to 19”;

(b) Rule 26, subparagraph (1)(ii): the reference to refusals “recorded under Rule 18(5)” in the first sentence of that subparagraph is deleted and replaced, at the end of that subparagraph, by the reference to “and other communications recorded under Rules 18(5) and 18*bis*(3)”;

(c) Rule 30, subparagraph (2)(j): the reference to “Rule 18” in the first sentence of that subparagraph is replaced by the reference to “Rules 18 and 18*bis*”, and the phrase “or a statement of grant of protection” is added at the end of that subparagraph;

(d) Rule 31, subparagraph (2)(c)(ii): the phrase “or a statement of grant of protection referred to under Rule 18*bis*” is added at the end of that subparagraph.

### Amendments of the Footnotes Under Items 1, 2, 3 and 4 of Section I of the Schedule of Fees – Extension of the Fee Reduction Scheme to Certain Intergovernmental Organizations

8. It will be recalled that in order to improve the ability of design creators from Least Developed Countries (LDCs)<sup>2</sup> to benefit from the Hague system, a fee reduction scheme has been in effect since January 1, 2008. The scheme provides for a reduction to 10% of the regular amounts of all the fees prescribed in the Schedule of Fees (rounded to the nearest full figure) for applications filed by applicants whose sole entitlement to file an international application is a connection with an LDC. The scheme was implemented by means of a footnote to items 1, 2, 3 and 4 of Section I of the Schedule of Fees.

9. At its twenty-sixth session, the Assembly of the Hague Union adopted an amendment of those footnotes. The aim of the amendment is to extend the scope of the fee reduction scheme so as to include within its ambit also certain intergovernmental organizations, the majority of whose members are LDCs.

10. When the extended fee reduction scheme comes into effect on January 1, 2009, in addition to applying to international applications filed by applicants whose sole entitlement is a connection with an LDC (see paragraph 8, above), it will apply also to an international application filed by an applicant whose sole entitlement to file an international application is a connection with *an intergovernmental organization, the majority of whose member States are LDCs*.

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<sup>2</sup> The listing of countries as “least developed” is established by the General Assembly of the United Nations on the recommendation of the Economic and Social Council (ECOSOC) and on the advice of the Committee for Development Policy (CDP). This list may be consulted on the UN website at the following url: [www.un.org/special-rep/ohrlls/ldc/list.htm](http://www.un.org/special-rep/ohrlls/ldc/list.htm) and on the WIPO website at the following url: [www.wipo.int/ldcs/en/country](http://www.wipo.int/ldcs/en/country)

11. Where an international application is filed by an applicant whose entitlement is not solely a connection with such an intergovernmental organization, the reduction will also apply *provided that any other entitlement of the applicant is a connection with a Contracting Party which is an LDC or, if not an LDC, is a member State of that intergovernmental organization and the international application is governed exclusively by the 1999 Act.*

Amendment of the Recommendation Concerning Individual Fees – Extension of the Fee Reduction Scheme to Certain Intergovernmental Organizations

12. It will be recalled that at the time of the adoption of the fee reduction scheme, the Assembly of the Hague Union also adopted a recommendation which is reflected in a footnote to item 5 of Section I of the Schedule of Fees. The intention of that recommendation was to encourage Contracting Parties that make, or have made, a declaration for individual fees under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations, to indicate in that declaration, or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with an LDC, that the individual fee is reduced to 10% of the fixed amount, rounded to the nearest full figure.

13. At its twenty-sixth session, the Assembly of the Hague Union decided to expand the scope of that recommendation so as to include also applicants whose sole entitlement is a connection with an intergovernmental organization the majority of whose member States are LDCs, along with the same qualification for applicants whose entitlement is not solely a connection with such an intergovernmental organization, as described in paragraph 11 above. Accordingly, the Assembly adopted an amendment to the recommendation, to that effect.

Annex and Further Information

14. The text of new Rule 18*bis*, along with the amended text of Rules 22, 26, 30 and 31, are reproduced in Annex I. The amended text of the footnotes under items 1, 2, 3 and 4 of Section I of the Schedule of Fees, along with the amended text of the recommendation as reflected in the footnote to item 5 of Section I of the Schedule of Fees, are reproduced in Annex II.

15. For those who seek a more detailed presentation of the new rule and the amendments referred to above, the Hague Assembly documents H/A/26/1 and H/A/26/1 Add. may be accessed at the following url: [http://www.wipo.int/meetings/en/details.jsp?meeting\\_id=16024](http://www.wipo.int/meetings/en/details.jsp?meeting_id=16024).

December 1, 2008

ANNEX I

**Common Regulations Under  
the 1999 Act, the 1960 Act and the 1934 Act  
of the Hague Agreement**

(as in force on January 1, 2009)

TABLE OF CONTENTS

[...]

*CHAPTER 3*

*REFUSALS AND INVALIDATIONS*

[...]

*Rule 18bis*

*Statement of Grant of Protection*

(1) [*Statement of Grant of Protection Where No Notification of Provisional Refusal Has Been Communicated*] (a) An Office which has not communicated a notification of refusal may, within the period applicable under Rule 18(1)(a) or (b), send to the International Bureau a statement to the effect that protection is granted to the industrial designs that are the subject of the international registration in the Contracting Party concerned, it being understood that, where Rule 12(3) applies, the grant of protection will be subject to the payment of the second part of the individual designation fee.

- (b) The statement shall indicate
  - (i) the Office making the statement,
  - (ii) the number of the international registration, and
  - (iii) the date of the statement.

(2) [*Statement of Grant of Protection Following a Refusal*] (a) An Office which has communicated a notification of refusal and which has decided to either partially or totally withdraw such refusal, may, instead of notifying a withdrawal of refusal in accordance with Rule 18(4)(a), send to the International Bureau a statement to the effect that protection is granted to the industrial designs, or some of the industrial designs, as the case may be, that are the subject of the international registration in the Contracting Party concerned, it being understood that, where Rule 12(3) applies, the grant of protection will be subject to the payment of the second part of the individual designation fee.

- (b) The statement shall indicate
  - (i) the Office making the notification,
  - (ii) the number of the international registration,
  - (iii) where the statement does not relate to all the industrial designs that are the subject of the international registration, those to which it relates or does not relate, and
  - (iv) the date of the statement.

(3) [*Recording, Information to the Holder and Transmittal of Copies*] The International Bureau shall record any statement received under this Rule in the International Register, inform the holder accordingly and, where the statement was communicated, or can be reproduced, in the form of a specific document, transmit a copy of that document to the holder.

[...]

#### CHAPTER 4

##### CHANGES AND CORRECTIONS

[...]

###### Rule 22

###### *Corrections in the International Register*

[...]

(2) [*Refusal of Effects of Correction*] The Office of any designated Contracting Party shall have the right to declare in a notification to the International Bureau that it refuses to recognize the effects of the correction. Rules 18 to 19 shall apply *mutatis mutandis*.

[...]

#### CHAPTER 6

##### BULLETIN

###### Rule 26

###### *Bulletin*

(1) [*Information Concerning International Registrations*] The International Bureau shall publish in the Bulletin relevant data concerning

- (i) international registrations, in accordance with Rule 17;
- (ii) refusals, with an indication as to whether there is a possibility of review or appeal, but without the grounds for refusal, and other communications recorded under Rules 18(5) and 18*bis*(3);
- (iii) invalidations recorded under Rule 20(2);
- (iv) changes in ownership, changes of name or address of the holder, renunciations and limitations recorded under Rule 21;
- (v) corrections effected under Rule 22;
- (vi) renewals recorded under Rule 25(1);
- (vii) international registrations which have not been renewed.

[...]

CHAPTER 8

*INTERNATIONAL APPLICATIONS GOVERNED EXCLUSIVELY OR PARTLY BY THE  
1934 ACT AND INTERNATIONAL REGISTRATIONS RESULTING THEREFROM*

*Rule 30*

*Applicability of These Regulations to International Applications Governed Exclusively  
by the 1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [Exceptions]

[...]

(j) Notwithstanding Rules 18 and 18*bis*, the effects of an international registration resulting from an international application governed exclusively by the 1934 Act may not be the subject of a notification of refusal of protection or of a statement of grant of protection.

[...]

*Rule 31*

*Applicability of These Regulations to International Applications Governed Partly  
by the 1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [*Exceptions*]

[...]

(c) With respect to Contracting Parties designated under the 1934 Act in an international application referred to in paragraph (1), or in an international registration resulting therefrom,

[...]

(ii) the effects of the international registration concerned may not be the subject of a notification of refusal of protection referred to in Rule 18 or of a statement of grant of protection referred to under Rule 18*bis*;

[...]

[Annex II follows]

## ANNEX II

### SCHEDULE OF FEES (as in force on January 1, 2009)

*Swiss francs*

I.	<i>International Applications Governed Exclusively or Partly by the 1960 Act or by the 1999 Act</i>	
1.	Basic fee*	
1.1	For one design	397
1.2	For each additional design included in the same international application	19
2.	Publication fee*	
2.1	For each reproduction to be published	17
2.2	For each page, in addition to the first, on which one or more reproductions are shown (where the reproductions are submitted on paper)	150
3.	Additional fee where the description exceeds 100 words per word exceeding 100 words*	2

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\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country (LDC), in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are LDCs, the fees intended for the International Bureau are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). The reduction also applies in respect of an international application filed by an applicant whose entitlement is not solely a connection with such an intergovernmental organization, provided that any other entitlement of the applicant is a connection with a Contracting Party which is an LDC or, if not an LDC, is a member State of that intergovernmental organization and the international application is governed exclusively by the 1999 Act. If there are several applicants, each must fulfill the said criteria.

Where such fee reduction applies, the basic fee is fixed at 40 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application), the publication fee is fixed at 2 Swiss francs for each reproduction and 15 Swiss francs for each page, in addition to the first, on which one or more reproductions are shown, and the additional fee where the description exceeds 100 words is fixed at 1 Swiss franc per group of five words exceeding 100 words.

*Swiss francs*

4.	Standard designation fee**	
4.1	Where level one applies	
	4.1.1 For one design	42
	4.1.2 For each additional design included in the same international application	2
4.2	Where level two applies:	
	4.2.1 For one design	60
	4.2.2 For each additional design included in the same international application	20
4.3	Where level three applies:	
	4.3.1 For one design	90
	4.3.2 For each additional design included in the same international application	50

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For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country (LDC), in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are LDCs, the standard fees are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). The reduction also applies in respect of an international application filed by an applicant whose entitlement is not solely a connection with such an intergovernmental organization, provided that any other entitlement of the applicant is a connection with a Contracting Party which is an LDC or, if not an LDC, is a member State of that intergovernmental organization and the international application is governed exclusively by the 1999 Act. If there are several applicants, each must fulfill the said criteria.

Where such reduction applies, the standard designation fee is fixed at 4 Swiss francs (for one design) and 1 Swiss franc (for each additional design included in the same international application) under level one, 6 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application) under level two, and 9 Swiss francs (for one design) and 5 Swiss francs (for each additional design included in the same international application) under level three.



5. Individual designation fee (the amount of the individual designation fee is fixed by each Contracting Party concerned)<sup>♦</sup>

[...]

[End of Annex II]

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♦ [WIPO Note]: Recommendation adopted by the Assembly of the Hague Union:  
“Contracting Parties that make, or that have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are Least Developed Countries, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure). Those Contracting Parties are further encouraged to indicate that the reduction also applies in respect of an international application filed by an applicant whose entitlement is not solely a connection with such an intergovernmental organization, provided that any other entitlement of the applicant is a connection with a Contracting Party which is a Least Developed Country or, if not a Least Developed Country, is a member State of that intergovernmental organization and the international application is governed exclusively by the 1999 Act.”