



The Hague System for the International Registration of Industrial Designs

The Hague system is the international application and registration procedure for designs and offers a very attractive and efficient way of obtaining design protection in multiple states with the filing of just a single application.

Widespread use of the Hague system was previously limited due to the absence of some major states from the system. However, recent expansion of the Hague system to include China and Brazil, and in the last 10 years also the US & Japan, means that a single application can now lead to design protection in the China, US, Japan, Republic of Korea, UK, Brazil and the European Union, as well as over 50 other states around the world.

Advantages of the Hague System

Using the Hague system, a single application is filed at the International Bureau at WIPO, designating the states in which protection is sought. Designation fees are payable and vary depending on the designated states. However, large costs are saved by avoiding having to use local agents to file separate applications in multiple states.

The application is first examined by WIPO for formal requirements and then published and sent to each of the offices of the designated states. The offices have six or 12 months (depending on the office) to raise any objections to the international registration. As long as the international application meets the requirements of WIPO and the requirements of the offices of the designated states, registered design protection will be granted without ever needing to incur the costs of using a local agent.

Up to 100 designs can be included in an international application, provided that each design belongs to the same Locarno class of products (which are relatively broad). The fees for a multiple design application are substantially less than those for an equivalent number of single design applications, though it should be noted that whilst multiple design applications may be allowed at the International level, in some states (notably the US and China) they are not, which may then require division at the national level.

The Hague system also conveniently offers centralised management of international design registrations and centralised payment of renewal fees.

Considerations

Although the Hague system provides a centralised application procedure, legal requirements for industrial designs are not standardised across all states. For example, some states, such as USA, China and Japan, have specific drawing requirements that must be adhered to in order to avoid a refusal. The drawings to be included in an international application will therefore need to be carefully considered to ensure that they meet the requirements of all the designated states.

If a national office of a designated state issues a first refusal on an application, then a local agent will be required to further prosecute the application.

Filing a design application directly at a national office can sometimes lead to grant quicker than using the Hague system. For example, a UK or EU design application filed directly at the UKIPO or EUIPO is typically registered within a few weeks, whereas an international application could extend the wait to a year. If design protection is required quickly in certain states, then it may be suitable to use a combination of direct national filings and an international application. This hybrid approach can also help avoid issues in relation to uneven drawings requirements in some countries of the world.

It is also worth noting that some member states of the Hague system do not allow for deferred publication or only allow it for a shorter period. If an international application designates one of these states, then international publication can only be deferred for as long as the period allowed for by that state (or, if a state does not allow for deferred publication, 12 months from filing the international application), regardless of the identity of the other designated states.

Conclusion

The recent addition of the China, and in the last 10 years USA and Japan, has made the Hague system much more attractive. However, the lack of harmonisation of design law across the world means that careful consideration of each international application is required in order to take full advantage of its benefits, and it may not be appropriate for all member states where design protection is required.

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