



知产资讯



China Officially Announces its Accession to the Hague Agreement

At the beginning of Chinese Tiger Year, China submitted to the World Intellectual Property Organization (WIPO) its instrument of accession to the Hague Agreement Concerning the International application of Industrial Designs (hereinafter referred to as the “Hague Agreement” or “Hague System”). The Geneva Act 1999 (1999 Act) will enter into force in China from May 5, 2022, with the exception of Hong Kong and Macao. The 1999 Act covers 68 Contracting Parties, including two intergovernmental organizations - the European Union and the African Intellectual Property Organization.

In simple terms, the Hague Agreement offers the possibility of obtaining protection for industrial designs (“designs”) in several Contracting Parties by means of a single international application filed with the International Bureau of WIPO in Geneva, Switzerland. Thus, under the Hague System, one international application replaces a whole series of applications which would otherwise have to be filed with different national offices. The Hague System is administered by the International Bureau of WIPO. The International Bureau maintains the International Register and publishes the International Designs Bulletin (I.D.B.).

In 2020, China amended its *Patent Law* to extend the term of protection for design patents up to 15 years. This amendment is seen as an important step towards China’s accession to the Hague Agreement. In fact, prior to China's accession to the Hague Agreement, many Chinese companies have filed a number of international design applications using the Hague system in accordance with the provisions of the Hague Agreement. According to WIPO’s statistics, China was ranked as the TOP 7 source country for applications under the Hague Agreement in 2020. The growing demand for the Chinese companies to protect their designs overseas is exactly why Chinese government has decided to formally join the Hague Agreement.

From May 5, 2022, China will become a signatory of the Hague Agreement. However, attention should be paid by design owners who seek international protection of designs that declarations can be made by Contracting Parties to accommodate their domestic laws, regulations or requirements.

For example, China, Japan, Korea, Mexico, Russia and the United States require that the applicant provide a sufficient number of views for each design in an international application; China and Vietnam require a brief specification of a design; China, the United States, Russia, Mexico and Vietnam have special requirements on the unity of designs; the United States and Vietnam require claims in an international application; China, Canada, Japan, Korea, Russia and the United States require a substantive examination for an international application of a design; the United States, Russia, Mexico and Vietnam do not allow deferment of the publication.

Although the formal examination requirements for an International application filed through the Hague system in the International Bureau are modest, there is still considerable diversity in the special declarations and examination practices of the Contracting Parties. The design owners who seek the international protection of designs through the Hague system need to consider the impact of the substantive laws, regulations or requirements of the designated Contracting Parties on their international application.

While the Patent Law of China has been amended to accommodate the Hague Agreement, the detailed requirements, in the forms of revised Rules for the *Implementing Regulations of the Patent Law of China* and the *Patent Examination Guidelines*, have not been finalized by the State Council and the CNIPA. In our experience, an international application designating China should still comply with all requirements of relevant Chinese law and regulations.

The Hague System undoubtedly provides a key for the design owners to seek international protection. With China's accession to the Hague Agreement, the foreign design owners seeking design protection in China as well as the Chinese design owners seeking design protection overseas will be bound to make full use of the opportunities brought by the Hague Agreement to gain an advantageous position in the global competition. In the meanwhile, we will keep an eye on the upcoming rules and detailed regulations from the State Council and the CNIPA and timely inform you of any developments regarding this matter.

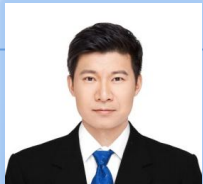
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