

PUBLICATION

U.S. Institutes New International Design Applications

Authors: David Franklin Sawrie

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In February 2015, the United States completed steps to become a member of the Hague Agreement Concerning the International Registration of Industrial Designs (Hague Agreement). The Hague Agreement went into effect for the United States on March 13, 2015, and implements a design patent application system analogous to Patent Cooperation Treaty practice. Under the new regime, an applicant may file a single International Design Application (IDA) to pursue protection in multiple countries that are parties to the Hague Agreement. A United States applicant may file an IDA with the USPTO directly or with the World Intellectual Property Organization.

The Hague Agreement provides new benefits for United States design patent applicants. For example, an IDA may include up to 100 different designs. An applicant may submit design representations in the form of photographs versus traditional line drawings. As an additional benefit, the United States design patent term is extended from 14 years to 15 years.

For IDAs designating the United States, the USPTO will still conduct substantive examination of design patent applications. This approach may present tension with Hague Agreement regulations. For example, it is unclear whether substantive examination will favor traditional line drawings over photographic representations. Despite the opportunity to submit multiple designs in an IDA (up to 100), the USPTO will only allow one design claim per issued patent. Even with this potential conflict, the Hague Agreement provides an exciting and cost effective avenue to seek international patent protection for industrial designs in multiple countries through a single application.

If you have questions regarding how the Hague Agreement may affect your business or other questions about your company's intellectual property, contact the author of this alert, David Sawrie, or a member of the Firm's Intellectual Property group.