

# GUIDE ON HOW TO OBTAIN DESIGN PROTECTION THROUGH THE HAGUE SYSTEM

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## INTRODUCTION

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The International Route of Design Protection under the Hague system can be followed by those who would like to obtain protection in countries and intergovernmental organizations that are members of the Hague Union through a single international application filed with the International Bureau of the World Intellectual Property Organization (WIPO). There are several reasons to prefer the international route, such as seeking for protection in multiple markets, especially if these are located in different regions, as part of an export strategy. Finally, there can be budgetary or time constraints for the registration and management of one's designs.

This Guide is intended for potential applicants for and holders of international registrations of designs under the Hague System. The purpose of this Guide is to answer to basic questions about the Hague system works and how to use for the protection of designs internationally, as well as how to benefit from the customized tools designed to assist potential users of the system in the filing of their applications and the management of their international registrations.

## BASIC FEATURES OF THE HAGUE SYSTEM

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The Hague System for international registration of industrial designs is constituted by two different international treaties, totally independent of each other, namely:

- the [Geneva Act \(1999\)](#), hereinafter referred to as the 1999 Act, which was adopted on July 2, 1999, and entered into force on December 23, 2003, and
- the [Hague Act \(1960\)](#), hereinafter referred to as the 1960 Act, which was adopted on November 28, 1960, and entered into force on August 1, 1984.

The application of the 1960 and 1999 Acts is supplemented by the [Common Regulations](#) and the [Administrative Instructions](#).

There are currently 74 individual countries and Member organisations (such as EU, OAPI) signed up to the Hague System, covering 91 countries. Egypt became party to the 1999 Act on August 27<sup>th</sup>, 2004.

Protection can be obtained only in those Contracting Parties which are party to the same Act. Therefore, for Egyptian design owners, only the member states and organisations party to the Geneva Act can be designated and protection

cannot be requested in respect of Contracting Parties bound only by the 1960 Act.

The Hague System cannot be used to protect an industrial design in a country which is not party to the Hague Agreement, or which is not a member State of an intergovernmental organization 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.

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#### WHO MAY USE THE HAGUE SYSTEM?

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The Hague System may be used only by a natural person or a legal entity which:

- a) Has a real and effective industrial or commercial establishment in Egypt, or
- b) is domiciled in Egypt, or
- c) is a national of Egypt.

In addition, an international application may be filed on the basis of habitual residence in Egypt.

The Contracting Party with respect to which the applicant fulfills the above conditions is referred to as the “applicant’s Contracting Party” under the 1999 Act.

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#### NO PRIOR NATIONAL APPLICATION OR REGISTRATION

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The filing of an international application does not require any prior national application or registration. Protection for an industrial design can therefore be applied for at the international level through the Hague Agreement **for the first time**.

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#### OVERVIEW OF THE PROCEDURE UNDER THE MADRID SYSTEM

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The first step to obtaining international design protection is to file an international application with WIPO. A Hague System application may be filed directly at the International Bureau in Geneva or at the office of a member state/organisation. An application may conveniently be filed online, which is easier, cheaper and faster than paper filing.

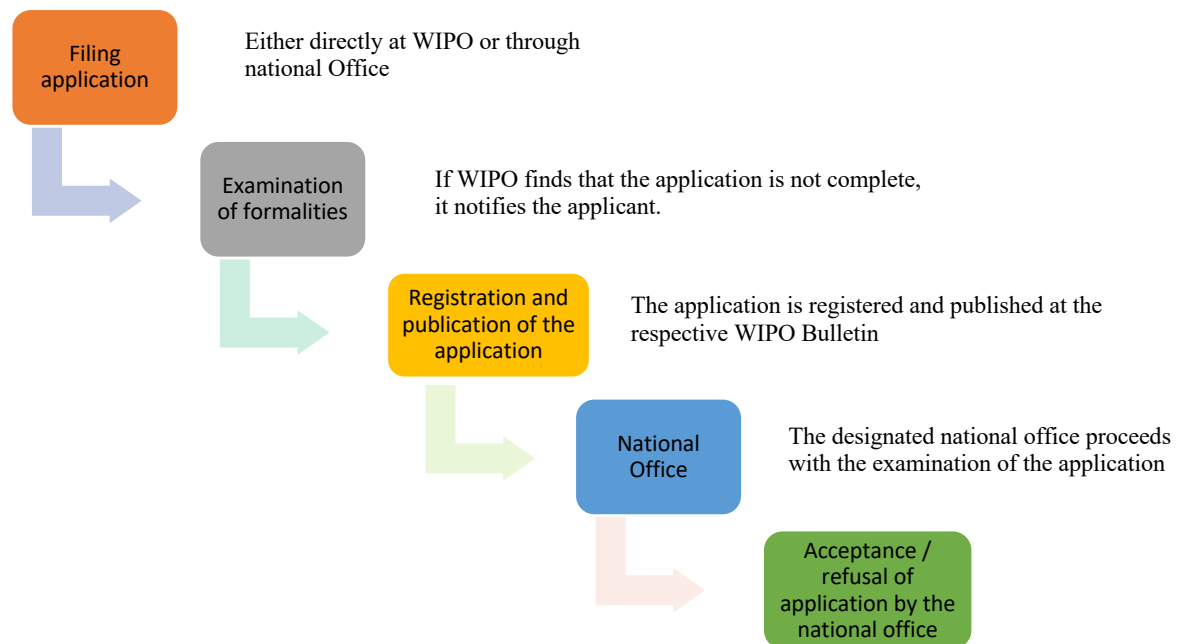
After submission, the application will be checked for compliance with formal requirements (e.g., designation of contracting parties, quality of reproductions), including payment of the required fees. The International Bureau does not appraise or concern itself in any way with the novelty of the design and it is therefore not entitled to reject an international application on this or any other substantive ground.

Non-payment will result in an irregularity notice. 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. When the application is filed through the E-filing interface on the WIPO website, the corrections required may be easily done through the E-filing Portfolio Manager.

Where an international application complies with the prescribed formal requirements, the International Bureau proceeds with its recording in the International Register and with the publication of the corresponding registration in the **International Designs Bulletin**. The publication takes place six months after the international registration date, electronically on the WIPO website and contains all relevant data concerning the international registration, including a reproduction of the industrial design.

The applicant may request immediate publication or that publication be deferred for a period which may not exceed 12 months (under the 1960 Act) or 30 months (under the 1999 Act) from the date of filing or, where priority is claimed, from the priority date. Thus, the applicant may time the publication to fit his/her business strategy, requesting publication only when it is the right moment to unveil the design on the market.

The official publication is the starting point for the intellectual property (IP) offices of the designated contracting parties to perform the substantive examination.



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## SUBSTANTIVE EXAMINATION BY THE OFFICE OF EACH DESIGNATED CONTRACTING PARTY; POSSIBILITY OF REFUSAL OF PROTECTION

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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 formal examination has already been carried out by the International Bureau.

IP Offices performing substantive examination are the following:

- Canada
- Hungary
- Israel
- Japan
- Kyrgyzstan
- Mexico
- Republic of Korea
- Republic of Moldova
- Romania
- Russian Federation
- Syrian Arab Republic
- USA
- Viet Nam

Each designated contracting party has the right to refuse protection within its own territory. Any refusal of protection must be notified to the International Bureau within six months from the publication of the international registration on the WIPO 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. Any refusal of protection shall have effect only throughout the territory of the Contracting Party whose Office has issued such a refusal.

In the event of notification of a refusal, the International Bureau will inform the applicant, or his agent if there is one. The applicant then has the same remedies as if the application was filed directly with the particular designated office. Responding to the notice of refusal does not involve the International Bureau. Appointment of a local attorney may be required.

On the other hand, where an Office finds no grounds for refusing protection, it may, before the expiry of the applicable refusal period, issue a statement of grant of protection. However, not sending such statement of grant of protection has no legal consequences, since the industrial designs that are the subject of the international registration are deemed to be automatically protected in that given jurisdiction.

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## STANDARD CONTENT OF AN INTERNATIONAL APPLICATION

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The international application must be filed in English, French or Spanish. An international application is normally sent directly to the International Bureau by the applicant, in which case either the eHague interface or the paper application form may be used. 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 national Office. In that case, only the paper form may be used.

An international application may include up to 100 different designs. All designs must, however, belong to the same class of the International Classification for Industrial Designs (the Locarno Classification). It must, in particular, contain a reproduction of the industrial designs concerned, together with the designation of the Contracting Parties where protection is sought.

A specially developed E-filing tutorial is designed to assist the applicant to use the E-filing Portfolio Manager.

[\(https://www.wipo.int/hague/en/how\\_to/efiling\\_tutorial/\)](https://www.wipo.int/hague/en/how_to/efiling_tutorial/)

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## FEES

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The international application is subject to the payment of the following fees:

- a basic fee (397 Swiss francs for one design; 19 Swiss francs for each additional design included in the same application);
- a publication fee (17 Swiss francs for each reproduction; 150 Swiss francs for each page on which one or more reproductions are shown);
- for each designated Contracting Party, either a standard fee or an individual fee. There is a big variation in the designation fee between member states and organisations (from 67 Swiss Francs for a design in the EU, to 682 Swiss Francs designation fee for Japan).

The amounts of the basic, complementary and supplementary fees are set out in the Schedule of Fees(<https://www.wipo.int/hague/en/fees/sched.htm>). There are four ways to submit the fees to WIPO: Current Account at WIPO, credit card (in certain cases), bank transfer, or postal transfer (within Europe only). WIPO does not accept payment by cash or check. Any checks received will be returned to the sender.

An automatic fee calculator is available on this website (<https://www.wipo.int/hague/en/fees/calculator.jsp>).

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## EFFECTS OF THE INTERNATIONAL REGISTRATION

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The 1999 Act provides for the recognition of, successively, two sets of effects to an international registration, namely, the effect as an application under the domestic law, and the effect as a grant of protection.

Firstly, as from the date of the international registration, **the international registration has at least the same effect** in each designated Contracting Party **as a regularly-filed application under the law of that Contracting Party**. Any Contracting Party that affords provisional protection to published national or regional applications must also afford that type of protection to published international registrations in which it is designated. Furthermore, where under the applicable law only the granted registrations are published, that Contracting Party may afford provisional protection to international registrations as from the publication date of the international registration in which it is designated.

Secondly, in each designated Contracting Party the Office of which has not notified a refusal of protection, **the international registration has the same effect as a grant of protection under the law of that Contracting Party**. The effect of protection starts to run, at the latest, from the date of expiry of the applicable refusal period (six or 12 months, as the case may be).

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.

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#### CHANGES IN THE INTERNATIONAL REGISTER; CANCELLATION; LICENSES

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

- a change in the name and address of the holder or his representative;
- a 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 included in the registration);
- a renunciation of all the industrial designs subject of the international registration, in respect of any or all of the designated Contracting Parties; and
- a limitation of some only of the industrial designs, in respect of any or all of the designated Contracting Parties.

Requests for such recordings must be presented to 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 Bulletin for the information of third parties.

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#### DURATION OF REGISTRATION; RENEWAL

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International registrations are valid for an initial period of five years. They can be renewed for one or more additional periods of five 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. In other words, the minimum duration of protection, subject to renewal, shall be at least 15 years and the maximum duration of protection in each designated Contracting Party corresponds to the maximum duration provided for by the law of that Contracting Party. In most states and organisations, it is 25 years.

Requests for renewals must be presented to the International Bureau, along with the payment of the corresponding renewal fees. International registrations may be renewed electronically through the electronic renewal interface (E-renewal) available on the WIPO website (<https://hague.wipo.int/renewal/IndexController?lang=EN>). It is possible to renew some or all of the designs, and for some or all of the designated states/organisations.

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#### ADVANTAGES AND DISADVANTAGES OF THE HAGUE SYSTEM

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The Hague System is characterized by simplicity and economy. By filing a single application centrally rather than having to file separate national applications, design owners originating from a Contracting Party may obtain protection for their designs without many a formalities and expenses.

In particular, design owners are relieved from the need to make a separate national application in each of the Contracting Parties in which they require protection, thereby avoiding the complexities arising from procedures which may differ from State to State. Thus, they do not have to file documentation in various languages, nor keep a watch on the deadlines for renewal of a whole series of national registrations, varying from one State to the other. There will be a saving in local attorney charges if no objections are raised by the offices of the designated states/organisations.

In addition, they avoid the need to pay fees in various currencies. Under the Hague Agreement, the same result can be obtained by means of a single international application, in one language, accompanied by the payment of a single set of fees, in one currency and with one Office (the International Bureau).

Moreover, by having a single international registration with effect in several Contracting Parties, the subsequent management of the protection obtained is also considerably facilitated. For instance, a change in ownership, or in the name or address of the holder, can be recorded in the International Register and have effect in all the designated Contracting Parties, by means of one simple procedural step.

The main problem with the Hague System is that there is no uniform drawings standard between the member states/organisations. Therefore, each country



still has different substantive drawing requirements and different drawing sets may be needed depending on which countries are designated. WIPO provides for some Guidance on Preparing and Providing Reproductions in Order to Forestall Possible Refusals on the Ground of Insufficient Disclosure of an Industrial Design by Examining Offices at the following link:

[https://www.wipo.int/export/sites/www/hague/en/how\\_to/pdf/guidance.pdf](https://www.wipo.int/export/sites/www/hague/en/how_to/pdf/guidance.pdf)

Finally, the Hague System lacks flexibility to add new markets, as export plans are developing. An applicant must designate all desired member states and organisations on filing of the international application, without any possibility to extend the effects of an international registration to a Contracting Party not covered by the international application by filing a subsequent designation.

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#### WIPO TOOLS AND ONLINE SERVICES ASSISTING IN THE FILING OF APPLICATIONS AND MANAGEMENT OF INTERNATIONAL REGISTRATIONS

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There are a number of useful customized tools designed by WIPO to assist the industrial designs applicants during each stage of their design's lifecycle.

When using the E-filing interface to file an international application, users will be automatically alerted of the declarations or specific requirements set by a given designated Contracting Party. Before filing, when preparing the international application, the following links may prove useful:

- Hague Member Profiles Database  
(<https://www.wipo.int/hague/memberprofiles/#/> )  
This e-service offers a portal to the practices and procedures of the Hague System members; declarations made by them and references to their national/regional legislation.
- Guidance on Preparing and Providing Reproductions in Order to Forestall Possible Refusals on the Ground of Insufficient Disclosure of an Industrial Design by Examining Offices  
([https://www.wipo.int/export/sites/www/hague/en/how\\_to/pdf/guidance.pdf](https://www.wipo.int/export/sites/www/hague/en/how_to/pdf/guidance.pdf) )

This information tool contains guidance to prepare reproductions of the design in view of the designation of certain Contracting Parties.

While WIPO does not check international applications for novelty of design, this is an essential requirement when seeking design protection. Designated contracting parties may issue a refusal based on lack of novelty. The following sources of information are available for anyone in need of information about the contents of the International Register, or about registered designs worldwide:



The International Designs Bulletin, updated weekly, is the official publication of Hague international registrations. It contains all data published since 2014 and search is possible by Bulletin issue number or international registration number.

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#### Global Design Database

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The Global Design Database (GDD) is the first stop when searching designs worldwide. It offers free-of-charge searches in over 13 million designs existing under the Hague System and in the national collections of participating offices, including China, the EU, Japan and the USA. From simple name or number searches to advanced queries and filters, the GDD offers large possibilities for an in-depth search.

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#### Hague Express Database

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The Hague Express Database, updated weekly, provides information on all Hague international registrations.

## **CONTACT INFORMATION**

**Trademarks and Industrial Designs Office  
Internal Trade Development Authority  
Ministry of Trade and Industry (ITDA)**

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