

Interim Measures of Related Provisions after China's Accession to the Hague Agreement Concerning the International Registration of Industrial Designs (Announcement No.511 of the China National Intellectual Property Administration)

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(Translation for Reference Purpose Only)

Article 1 As from 5 May 2022, any Chinese entity or individual may, in accordance with Article 19(2) of the *Patent Law of the People's Republic of China* (hereinafter referred to as "the Patent Law"), and the *Hague Agreement Concerning the International Registration of Industrial Designs* (1999 Act)(hereinafter referred to as "the Hague Agreement"), file an application for international registration of industrial design.

An applicant may directly file an application for international registration of industrial design with the International Bureau of World Intellectual Property Organization (hereinafter referred to as "the International Bureau"), or file an application for international registration of industrial design in English with the International Bureau through the China National Intellectual Property Administration (hereinafter referred to as "the CNIPA").

If the application for international registration of industrial design is filed through the CNIPA, the relevant documents shall be submitted in paper or electronic form in accordance with the Hague Agreement and the related stipulations of the CNIPA.

The relevant fees prescribed by the Hague Agreement shall be paid directly to the International Bureau by the applicant.

Article 2 The international application designating China with its date of international registration determined in accordance with the Hague Agreement (hereinafter referred to as "international application") shall be deemed as an application filed with the CNIPA. The date of the international registration shall be deemed as the filing date referred in Article 28 of the Patent Law.

Article 3 The CNIPA shall process and examine the international application in accordance with the Patent Law, the Implementing Regulations of the Patent Law, the *Guidelines for Patent Examination*, and this Announcement.

Since the entry into force of this Announcement, the CNIPA shall assign a national application number to and examine each international application, and notify the International Bureau of the examination result.

Where it is found after examination that there is no cause for rejection of the international application, the CNIPA shall make a statement of grant of protection and notify the International Bureau.

Where it is found after examination that the international application is not in conformity with the provisions of the Patent Law and the Implementing Regulations of the Patent Law, the CNIPA shall send a notification of refusal to the International Bureau.

Article 4 If the international application published by the International Bureau includes a description showing the main characteristics of the design, it shall be deemed that a brief description has been submitted under relevant provisions.

Article 5 The applicant for an international application shall file observations in Chinese when responding to office actions. The revision of the international application shall be made in English.

Article 6 The CNIPA does not charge any priority fee for international applications. If the applicant claiming priority fails to submit a copy of the earlier application documents when filing the international application, the copy shall be submitted to the CNIPA within three months from the date of the international publication of the application.

If the applicant recorded in the copy of the earlier application documents is inconsistent with the applicant of the later application, the applicant shall submit the relevant certifying documents to the CNIPA within three months from the date of the international publication of the application.

If the applicant fails to, within the prescribed time limit, submit a copy of the earlier application documents or the relevant certifying documents, it shall be deemed that no priority claim has been filed. Rule 6 of the Implementing Regulations of the Patent Law shall not apply to international applications in which no priority claim is deemed to have been filed.

Article 7 The applicant of an international application shall respond to the notification of refusal, request for reexamination, or handle other matters relating to patent, in accordance with the provision of Article 18(1) of the Patent Law, unless otherwise prescribed by the Implementing Regulations of the Patent Law.

Article 8 The applicant of an international application may file a divisional application with the CNIPA within two months from the date of the international publication of the application.

The divisional application in response to an office action shall be filed within no later than two months from the publication date of the original application in China. If the applicant fails to meet the above time limit, or the original application has been rejected, or the original application is deemed to have been withdrawn and the right has not been restored, no divisional application shall be filed in general.

Article 9 If an applicant considers that the design contained in the international application falls under the circumstances listed in Article 24 (2) or (3) of the Patent Law, it shall make a statement when filing the international application, and submit the relevant certifying documents with descriptions to the CNIPA within two months from the date of the international publication. If no statement is made or no certifying document is submitted, Article 24 of the Patent Law shall not apply to the application.

Article 10 An applicant who pays relevant fees for an international application shall pay them in full using the national application number or the international registration number in

accordance with the stipulations of the International Bureau and the CNIPA. The payment standard for the individual designation fee for international applications is implemented in accordance with the *Announcement on Annual Fee of Design Patent and Individual Designation Fee by the CNIPA*.

Article 11 The applicant or patentee of an international application requesting a change in the ownership shall submit the certifying documents to the CNIPA in addition to going through the relevant formalities with the International Bureau. The certifying documents in a foreign language shall be accompanied by a Chinese translation of the catalogs of those documents. If the applicant or patentee fails to submit certifying documents or the certifying documents submitted are unqualified, the CNIPA shall notify the International Bureau that the change in the ownership does not take effect in China.

Article 12 After an announcement is made on the grant of the patent right, the applicant of the international application may request the CNIPA to issue a copy of the Patent Register as the certificate for protection in China.

Article 13 During the examination of an international application upon request for invalidation, the CNIPA may serve relevant documents to the patentee with no domicile in the Chinese mainland via mail, fax, e-mail, bulletin, and the like. If the documents are served via bulletin, at the expiration of one month from the issuance date of the bulletin, the documents shall be deemed to have been served.

Article 14 An applicant who is dissatisfied with the decision made by the CNIPA under this Announcement, may file an administrative reconsideration application, a reexamination request, or initiate administrative litigation in accordance with the related laws and regulations.

Article 15 An applicant for an international application shall file a request for other legal formalities and matters other than those stipulated in this Announcement in accordance with the provisions of the Hague Agreement, the Patent Law, the Implementing Regulations of the Patent Law, and the *Guidelines for Patent Examination*.

Article 16 This Announcement shall enter into force on January 11, 2023. The *Interim Measures of Related Provisions after China's Accession to the Hague Agreement Concerning the International Registration of Industrial Designs* (Announcement No. 481 of the CNIPA) which entered into force on 5 May 2022 are abolished on the same date.