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## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### **Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; International Design Applications (Hague Agreement)**

**Agency:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of an information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0075 (International Design Applications (Hague Agreement)). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email:* InformationCollection@uspto.gov. Include “0651-0075 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Rafael Bacares, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-3276; or by email to Rafael.Bacares@uspto.gov with “0651-0075 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

## **SUPPLEMENTARY INFORMATION**

### **I. Abstract**

The Patent Law Treaties Implementation Act of 2012 (PLTIA) amends the patent laws to implement the provisions of the Geneva Act of the Hague Agreement Concerning International Registration of Industrial Designs (hereinafter “Hague Agreement”) in title 1, and the Patent Law Treaty (PLT) in title 2. The Hague Agreement is an international agreement that enables an applicant to file a single international design application which may have the effect of an application for protection for the design(s) in countries and/or intergovernmental organizations that are Parties to the Hague Agreement (the “Contracting Parties”) designated in the applications. The United States is a Contracting Party to the Hague Agreement, which took effect with respect to the United States on May

13, 2015. The Hague Agreement is administered by the International Bureau (IB) of World Intellectual Property Organization (WIPO) located in Geneva, Switzerland.

This collection covers information filed by U.S. applicants for the prosecution of international design applications “indirectly” through the United States Patent and Trademark Office (USPTO), which will forward the applications to the IB or “directly” with the IB. The IB ascertains whether the international design application complies with formal requirements, registers the international design in the International register, and publishes the international registration in the International Designs Bulletin. The international registration contains all of the data of the international application, any reproduction of the industrial design, date of the international registration, number of the international registration, and relevant class of the International Classification.

The IB will provide a copy of the publication of the international registration to each Contracting party designated by the applicant. A designated Contracting Party may perform a substantive examination of the design application. The USPTO will perform a substantive examination for patentability of the international design application, as in the case of regular U.S. design applications. The industrial design or designs will be eligible for protection in all the Contracting Parties designated by applicants.

In addition, this collection covers the various fees related to the processing of International design applications, such as the: (1) basic fee; (2) standard designation fee(s); (3) individual designation fee(s); and (4) publication fee. Also, an additional fee is required where the applications contain a description that exceeds 100 words, and a transmittal fee is required for international design applications filed through an office of indirect filing. The fees required by the IB may be paid either directly to the IB or through

the USPTO as an office of indirect filing in the amounts specified on the WIPO Web site. If applicants want to pay the required fees through USPTO as an office of indirect filing, the fees must be paid no later than the date of payment of the transmittal fee. The fees will then be forwarded to the IB.

The Hague Agreement enables applicants from Contracting Parties to obtain protection of their designs with minimal formalities and expenses in multiple countries and/or regions. The Hague Agreement is administered by the IB, which simplifies the management of an industrial design registration. For example, through the IB, applicants can record changes of their representatives or changes in ownership, and renew their international registration.

## **II. Method of Collection**

Most of the items in this information collection can either be submitted electronically through Electronic Filing System-Web (EFS-Web) or mailed to the USPTO.

## **III. Data**

*OMB Number:* 0651-0075

*Form Numbers:* WIPO DM = WIPO Dessins et Modeles (design representations); PTOL = Patent Trademark Office Legal

- WIPO DM/1 (Application for International Registration – entitled Hague Agreement Concerning The International Registration of Industrial Design)
- PTOL-85 Part B (Hague): (Issue Fee to USPTO for an International Design Application)
- WIPO DM/1/I Annex: (Declaration on Inventorship for Purposes of Designation of the United States)

- WIPO DM/1/I Annex: (Substitute Statement in Lieu of a Declaration of Inventorship for the Purpose of Designating the United States)
- WIPO DM/1/III Annex: (Information On Eligibility For Protection)
- WIPO DM/1/IV Annex: (Reduction of United States Individual Designation Fee)
- WIPO DM/1/V Annex: (Supporting Document(s) Concerning Priority Claim To The Korean Intellectual Property Office (KIPO))
- PTO-1595: (Assignment Cover Sheet)

*Type of Review:* Revision of a currently approved information collection.

*Affected Public:* Private sector; individuals and households.

*Estimated Number of Respondents:* 1,406 respondents per year.

*Estimated Number of Responses:* 1,706 responses per year.

*Estimated Time per Response:* The USPTO estimates that it will take the public between 15 minutes (0.25 hours) and 6 hours to complete a response, depending upon the complexity of the situation. This includes the time to gather the necessary information, prepare the appropriate documents, and submit the completed request to the USPTO.

*Estimated Total Response Burden Hours:* 2,301 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$1,279,400.

**Table 1: Total Estimated Hourly Burden for Private Sector Respondents**

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses	Estimated Time for Response (Hours)	Estimated Annual Burden Hours	Rate <sup>1</sup> (\$/hour)	Estimated Annual Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)

<sup>1</sup> 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPPLA). <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey> The hourly rate of \$400.

1	Application for International Registration (WIPO DM/1)	151	151	6	906	\$400	\$362,400
2	Claim and Reproductions (Drawings)	Same as line 1	151	4	604	\$400	\$241,600
3	Transmittal Letter	Same as line 1	5	2	10	\$400	\$4,000
4	Appointment of a Representative (WIPO) (WIPO DM/7) filed indirectly through the USPTO	Same as line 1	62	0.25 (15 minutes)	16	\$400	\$6,400
5	Petition to Excuse a Failure to Comply with a Time Limit	Same as line 1	1	4	4	\$400	\$1,600
6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16	Same as line 1	1	4	4	\$400	\$1,600
7	Petition to Review a Filing Date	Same as line 1	2	4	8	\$400	\$3,200
8	Fee Authorization	Same as line 1	10	.25 (15 minutes)	3	\$400	\$1,200
9	Petitions to the Commissioner	Same as line 1	4	4	16	\$400	\$6,400
10	Declaration on Inventorship for Purposes of Designation of the United States (WIPO DM/1/I Annex) filed	Same as line 1	30	0.50 (30 minutes)	15	\$400	\$6,000

	indirectly through the USPTO						
11	Substitute Statement in Lieu of a Declaration of Inventorship for the Purposes of Designating the United States (WIPO DM/1/I Annex) filed indirectly through the USPTO	Same as line 1	2	0.50 (30 minutes)	1	\$400	\$400
12	Information On Eligibility For Protection (WIPO DM/1/III Annex) filed indirectly through the USPTO	Same as line 1	3	1	3	\$400	\$1,200
13	Supporting Document(s) Concerning Priority Claim To The Korean Intellectual Property Office (KIPO) (WIPO DM/1/V (Annex) filed indirectly through the USPTO	Same as line 1	5	.5 (30 minutes)	3	\$400	\$1,200
14	Issue Fee to USPTO for an International Design Application	1,219	1,219	.5 (30 minutes)	610	\$400	\$244,000
	<b>Totals</b>	<b>1,370</b>	<b>1,646</b>	<b>----</b>	<b>2,203</b>	<b>----</b>	<b>\$881,200</b>

**Table 2: Total Estimated Hourly Burden for Individual and Household Respondents**

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (a)	Estimated Time for Response (Hours) (b)	Estimated Annual Burden Hours (a) x (b) = (c)	Rate <sup>2</sup> (\$/hour) (d)	Estimated Annual Respondent Cost Burden (c) x (d) = (e)
1	Application for International Registration (Micro-Entity)	6	6	6	36	\$400	\$14,400
2	Claim and Reproductions (Drawings)	Same as line 1	6	4	24	\$400	\$9,600
3	Transmittal Letter	Same as line 1	1	2	2	\$400	\$800
4	Appointment of a Representative (WIPO DM/7) filed indirectly through the USPTO	Same as line 1	2	0.25 (15 minutes)	1	\$400	\$400
5	Petition to Excuse a Failure to Comply with a Time Limit	Same as line 1	1	4	4	\$400	\$1,600
6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16	Same as line 1	1	4	4	\$400	\$1,600
7	Petition to Review a Filing Date	Same as line 1	1	4	4	\$400	\$1,600
8	Fee Authorization	Same as line 1	1	0.25 (15 minutes)	1	\$400	\$400
9	Petitions to the Commissioner	Same as line 1	1	0.25 (15 minutes)	1	\$400	\$400
11	Declaration on Inventorship for Purposes of Designation of the United States (WIPO DM/1/I Annex) filed indirectly through the USPTO	Same as line 1	3	0.50 (30 minutes)	2	\$400	\$800
12	Substitute Statement in Lieu of a Declaration of	Same as line 1	1	0.50 (30 minutes)	1	\$400	\$400

<sup>2</sup> 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPLA). <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey> The hourly rate of \$400.

	Inventorship for the Purposes of Designating the United States (WIPO DM/1/I Annex) filed indirectly through the USPTO						
14	Issue Fee to UPSTO for an International Design Application	30	30	0.50 (30 minutes)	15	\$400	\$6,000
15	Reduction of United States Individual Designation Fee (WIPO DM/1/IV Annex) filed indirectly through the USPTO	Same as line 1	6	0.50 (30 minutes)	3	\$400	\$1,200
	<b>Totals</b>	<b>36</b>	<b>60</b>	<b>----</b>	<b>98</b>	<b>----</b>	<b>\$39,200</b>

*Estimated Total Annual (Non-hour) Respondent Cost Burden: \$3,389,280.*

There are no maintenance, operation, capital start-up, or recordkeeping costs associated with this information collection. However, this information collection does have annual (non-hour) costs in the form of filing fees, drawing costs, and postage fees.

The total estimated filing fee costs for this information collection is \$3,376,872, detailed in Table 3 below.

**Table 3: Filing Fees**

Item No.	Item	Estimated Annual Response (a)	Filing Fee Amount (b)	Total Filing Fee Cost (a) x (b) = (c)
1	Application for International Registration (electronic) – Average Fee per registration to WIPO (USPTO collects and transmits it to WIPO)	157	\$2,131	\$334,567
1	Application for International Registration (electronic) – Designation Fee (first part) for the U.S. (collecting for WIPO) (regular entity)	10	\$960	\$9,600
1	Application for International Registration (electronic) – Designation Fee (first part) for the	11	\$480	\$5,280

	U.S. (collecting for WIPO) (small entity)			
1	Application for International Registration (electronic) – Designation Fee (first part) for the U.S. (collecting for WIPO) (micro entity)	6	\$240	\$1,440
1	Application for International Registration submitted to WIPO – Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (regular entity)	1,651	\$960	\$1,584,960
1	Application for International Registration submitted to WIPO – Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (small entity)	527	\$480	\$252,960
1	Application for International Registration submitted to WIPO – Designation Fee (first part) for the U.S. (Transmitting to the USPTO by WIPO) (micro entity)	138	\$240	\$33,120
1	Application for International Registration (electronic) – Transmittal Fee (set by and collected by USPTO) (regular entity)	89	\$120	\$10,680
1	Application for International Registration (electronic) – Transmittal Fee (set by and collected by USPTO) (small entity)	62	\$ 60	\$3,720
1	Application for International Registration (electronic) – Transmittal Fee (set by and collected by USPTO) (micro entity)	6	\$ 30	\$180
5	Petition to Excuse a Failure to Comply with a Time Limit (regular entity)	1	\$2,000	\$2,000
5	Petition to Excuse a Failure to Comply with a Time Limit (small entity)	1	\$1,000	\$1,000
5	Petition to Excuse a Failure to Comply with a Time Limit (micro entity)	1	\$500	\$500
6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (regular entity)	1	\$180	\$180
6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (small entity)	1	\$90	\$90

6	Petition to Convert to a Design Application under 35 U.S.C. Chapter 16 (micro entity)	1	\$45	\$45
7	Petition to Review a Filing Date (regular entity)	1	\$400	\$400
7	Petition to Review a Filing Date (small entity)	1	\$200	\$200
7	Petition to Review a Filing Date (micro entity)	1	\$100	\$100
9	Petitions to Commissioner (regular entity)	3	\$400	\$1,200
9	Petitions to Commissioner (small entity)	1	\$200	\$200
9	Petitions to Commissioner (micro entity)	1	\$100	\$100
14	Issue Fee to UPSTO for an International Design Application (regular entity)	972	\$700	\$680,400
14	Issue Fee to UPSTO for an International Design Application (small entity)	247	\$350	\$86,450
14	Issue Fee to UPSTO for an International Design Application (micro entity)	30	\$175	\$5,250
14	Application for International Registration submitted to WIPO – Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (regular entity)	420	\$700	\$294,000
14	Application for International Registration submitted to WIPO – Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (small entity)	155	\$350	\$54,250
14	Application for International Registration submitted to WIPO – Issue Fee (Second part) for the U.S. (Transmitting to the USPTO by WIPO) (micro-entity)	80	\$175	\$14,000
	Total			\$3,376,872

The USPTO estimates that around 20% (31) of the respondents that file international design applications through the USPTO as an office of indirect filing designate the United States for design protection. The costs for preparing the drawings

associated with these applications are estimated to be \$400 per application. Overall the costs associated with submitting these drawing are estimated to be \$12,400.

Although the USPTO prefers that the items in this information collection be submitted electronically, the items may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.05. The USPTO estimates that 1 paper submission will be mailed annually.

The USPTO estimates that the total annual (non-hour) respondent cost burden for this information collection in the forms of filling fees, drawing costs, and postage costs is estimated to be approximately \$3,389,280 per year (\$3,376,872 in filling fees, \$12,400 in drawing costs, and \$8 in postage costs).

*Respondents's Obligation:* Required to obtain or retain benefits.

#### **IV. Request for Comments**

The USPTO is soliciting public comments to:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personal identifying information in a comment, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask in your comment to withhold personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy

Information Collections Officer

Office of the Chief Administrative Officer

United States Patent and Trademark Office

**BILLING CODE 3510-16-P**

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