

## **Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs**

**Fifth Session**  
**Geneva, December 14 to 16, 2015**

### SUMMARY BY THE CHAIR

*approved by the Working Group*

1. The Working Group on the Legal Development of the Hague System for the International Registration of Industrial Designs (hereinafter referred to as “the Working Group”) met in Geneva from December 14 to 16, 2015.
2. The following members of the Hague Union were represented at the session: African Intellectual Property Organization (OAPI), Azerbaijan, Denmark, Egypt, Estonia, European Union, Finland, France, Germany, Greece, Hungary, Italy, Japan, Lithuania, Morocco, Norway, Oman, Poland, Republic of Korea, Republic of Moldova, Romania, Senegal, Spain, Switzerland, Turkey, Ukraine and the United States of America (27).
3. The following States were represented as observers: Algeria, Belarus, Canada, China, Colombia, Czech Republic, Indonesia, Kazakhstan, Madagascar, Mexico, Panama, Portugal, Russian Federation, Saudi Arabia, Turkmenistan, United Kingdom, Viet Nam, Yemen and Zimbabwe (19).
4. The Permanent Observer Mission of Palestine took part in the session as observer.
5. Representatives of the following non-governmental organizations (NGOs) took part in the session in an observer capacity: American Intellectual Property Law Association (AIPLA), Association of European Trademark Owners (MARQUES), Centre for International Intellectual Property Studies (CEIPI), European Communities Trade Mark Association (ECTA), European Law Students’ Association (ELSA International), International Association for the Protection of Intellectual Property (AIPPI) and International Federation of Intellectual Property Attorneys (FICPI) (7).

### **AGENDA ITEM 1: OPENING OF THE SESSION**

6. Mr. Francis Gurry, Director General of the World Intellectual Property Organization (WIPO), opened the session of the Working Group and welcomed the participants.

### **AGENDA ITEM 2: ELECTION OF THE CHAIR AND TWO VICE-CHAIRS**

7. Ms. Marie Kraus (Switzerland) was unanimously elected as Chair of the Working Group, and Ms. Eun Rim Choi (Republic of Korea) and Ms. Sengül Kultufan Bilgili (Turkey) were unanimously elected as Vice-Chairs.

8. Ms. Päivi Lähdesmäki (WIPO) acted as Secretary to the Working Group.

### **AGENDA ITEM 3: ADOPTION OF THE AGENDA**

9. The Working Group adopted the draft agenda (document H/LD/WG/5/1 Prov.) without modification.

### **AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE FOURTH SESSION OF THE WORKING GROUP ON THE LEGAL DEVELOPMENT OF THE HAGUE SYSTEM FOR THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

10. Discussions were based on document H/LD/WG/4/7 Prov.

11. The Working Group adopted the draft report (document H/LD/WG/4/7 Prov.) without modification.

### **AGENDA ITEM 5: PROPOSAL FOR AMENDMENTS TO RULE 5 OF THE COMMON REGULATIONS UNDER THE 1999 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT**

12. Discussions were based on document H/LD/WG/5/2.

13. Following the intervention made by the Delegation of the United States of America, the Secretariat made two alternative proposals for amendments, either adding a new paragraph to Rule 5 or a new subparagraph to Rule 12(3).

14. The Chair concluded that the Working Group considered favorably the submission of a proposal to amend the Common Regulations with respect to Rule 5, as contained in the Annex to document H/LD/WG/5/2, with addition of a new paragraph (5) to Rule 5 as set out in the Annex to the Summary by the Chair, for adoption, to the Assembly of the Hague Union, with the proposed date of entry into force of January 1, 2017.

### **AGENDA ITEM 6: PROPOSAL FOR A NEW RULE RELATING TO AMENDMENTS TO THE INDICATIONS CONCERNING THE IDENTITY OF THE CREATOR**

15. Discussions were based on document H/LD/WG/5/3.

16. Following the intervention made by one delegation, which expressed its discomfort with the proposal due to the constraints of the substantive examination carried out by its Office, the Chair noted that the discussion on the proposal could continue in the next session.

17. The Chair concluded that the Secretariat would prepare a revised document, taking into account the different positions expressed by the delegations, in order to further consider this proposal at the sixth session of the Working Group, which will take place from June 20 to 22, 2016.

#### **AGENDA ITEM 7: PROPOSAL FOR RECOMMENDATIONS RELATING TO THE DISCLOSURE OF AN INDUSTRIAL DESIGN IN AN INTERNATIONAL APPLICATION**

18. Discussions were based on document H/LD/WG/5/4.

19. All the delegations and representatives of user groups were in favor of establishing the proposed Guidance, and made comments on the proposed Guidance prepared by the Secretariat.

20. The Chair concluded that all the comments made by the delegations and representatives of user groups would be taken into account and further comments could be submitted to the Secretariat in writing by December 31, 2015. The Secretariat would prepare a revised Guidance and distribute it to all the Contracting Parties whose Office is an "Examining Office", as referred to in footnote 1 of document H/LD/WG/5/4, and also to the user groups, for comments. The final Guidance, prepared in consultation with the Examining Offices, would be published on the WIPO website. The list contained in the last page thereof would be updated as further Contracting Parties with an Examining Office join the Hague System.

#### **AGENDA ITEM 8: CONSIDERATIONS RELATING TO THE POSSIBLE INTRODUCTION OF SIMULTANEOUS LIMITATIONS IN INTERNATIONAL APPLICATIONS AND OTHER AMENDMENTS TO THE COMMON REGULATIONS UNDER THE 1999 ACT AND THE 1960 ACT OF THE HAGUE AGREEMENT**

21. Discussions were based on document H/LD/WG/5/5.

22. The Chair concluded that some delegations were in favor of introducing the concept of simultaneous limitations in international applications. However, the Chair noted that since there was not yet enough experience with refusals issued by Examining Offices, the discussion was premature in this session. Therefore, the need of this concept could be better assessed in the upcoming sessions.

#### **AGENDA ITEM 9: CONSIDERATIONS RELATING TO A POSSIBLE REVISION OF THE SCHEDULE OF FEES**

23. Discussions were based on document H/LD/WG/5/6.

24. Some delegations were in support of the proposed addition of subparagraph (b) to Rule 14(1) of the Common Regulations, but one delegation was not comfortable with the proposal. Regarding a possible revision of the Schedule of Fees, several delegations supported the idea that the fees be revised so as to allow the International Bureau to cover its expenses, suggesting alternative approaches to achieve this goal, but many indicated that they could not support the idea of a possible designation-tied basic fee.

25. The Chair concluded that the discussion on the proposed subparagraph (b) to Rule 14(1) would continue in the sixth session of the Working Group.

26. The Chair concluded that for the sixth session the Secretariat would prepare some scenarios for a revision of the Schedule of fees, which would be the basis for further discussions.

#### **AGENDA ITEM 10: OTHER MATTERS**

27. The Secretariat referred to comments made by some delegations requesting to include more granular data in the international registration, for example, concerning descriptions for designs. In this regard, the Secretariat informed the Working Group that it intended to issue a survey in order to assess what level of granularity would be beneficial for Offices.

#### **AGENDA ITEM 11: SUMMARY BY THE CHAIR**

28. The Working Group approved the Summary by the Chair, as contained in the present document.

#### **AGENDA ITEM 12: CLOSING OF THE SESSION**

29. The Chair closed the session on December 16, 2015.

[Annex follows]

**Common Regulations  
Under the 1999 Act and the 1960 Act  
of the Hague Agreement**

(as in force on [January 1, 2017])

*Rule 5*

~~*Irregularities in Postal and Delivery Services*~~ *Excuse of Delay in Meeting Time Limits*

[...]

(3) [Communication Sent Electronically] Failure by an interested party to meet a time limit for a communication addressed to the International Bureau and submitted by electronic means shall be excused if the interested party submits evidence showing, to the satisfaction of the International Bureau, that the time limit was not met because of failure in the electronic communication with the International Bureau, or which affects the locality of the interested party owing to extraordinary circumstances beyond the control of the interested party, and that the communication was effected not later than five days after the electronic communication service was resumed.

~~(34)~~ [Limitation on Excuse] Failure to meet a time limit shall be excused under this Rule only if the evidence referred to in paragraph (1), ~~or~~ (2) or (3) and the communication or, where applicable, a duplicate thereof are received by the International Bureau not later than six months after the expiry of the time limit.

(5) [Exception] This rule shall not apply to the payment of the second part of the individual designation fee through the International Bureau as referred to in Rule 12(3)(c).

[End of Annex and of document]