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The International
Design System

Hague System for the International Registration of Industrial Designs

International Symposium on the Protection of
Industrial Designs

Santiago
November 16 and 17, 2011

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Head, International Designs Registry

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- Introduction: Why protect designs internationally
- The Hague Agreement: Basic facts and figures
- The Hague Agreement: Basic principles and procedures
- Advantages of the Hague Agreement
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Protecting Designs Internationally: Why?

World IP Day 2011: “Designing the Future”

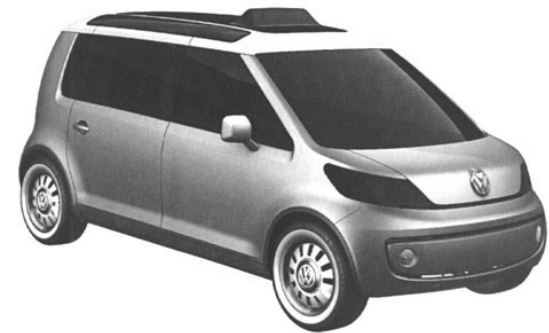
- Excerpt from WIPO Director General Francis Gurry’s message

“...Industrial design provides the means to differentiate between mass-produced objects, drawing us to one product rather than another, making one brand more successful than another. Behind every new design is a desire to break new ground, to improve and to enhance consumer experience. Good design makes products easier, more comfortable and safer to use.

Design is where form meets function. It determines the look and feel of the products we use each day... Design marries the practical with the pleasing. It brings style to innovation.”

Design and Competitiveness

- Design drives consumers' choice, even when there's other factors (price, performance...) involved



The Importance of Design Rights

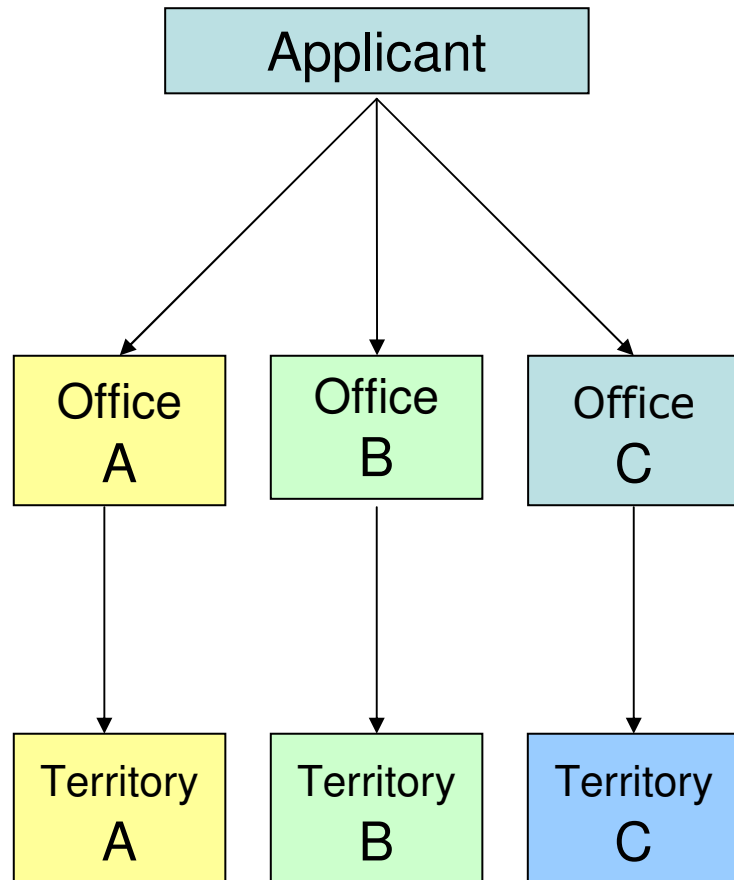
- Good design is a creative/R&D process
- That process is an investment
- The outcome (design) is an asset
- That asset is relatively easy to copy
- That asset needs to be protected →



® : Why It Is Important

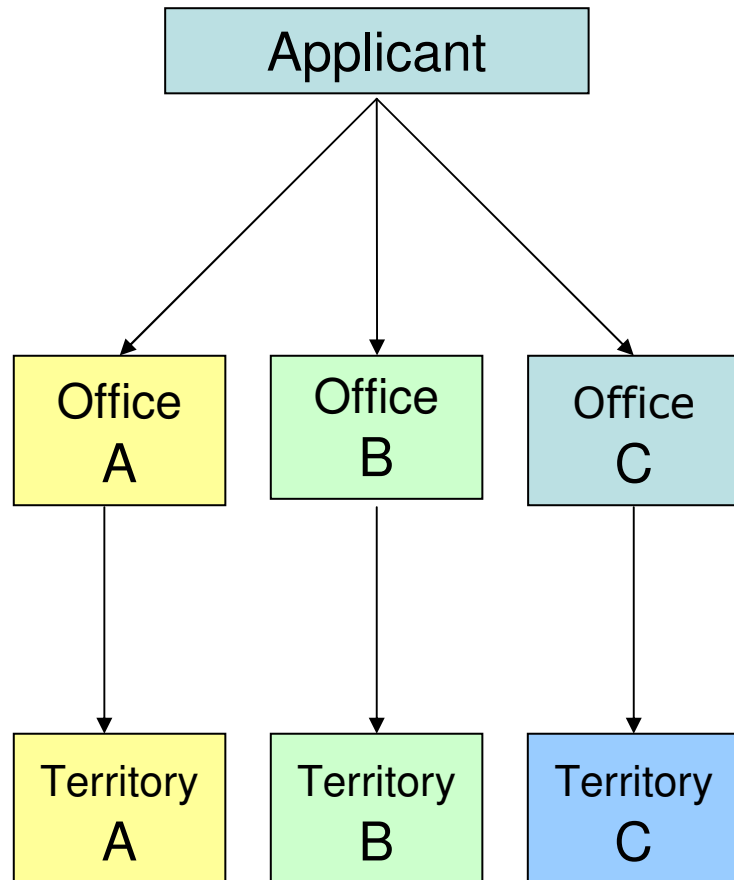
- Copyright or unfair competition may not be available
- Registration Rights Are a Mighty Tool
 - « Cease and desist » letters
 - IP brigade crack-downs
 - Interlocutory injunctions
 - Custom seizure

The Bad News About Int'l Protection...



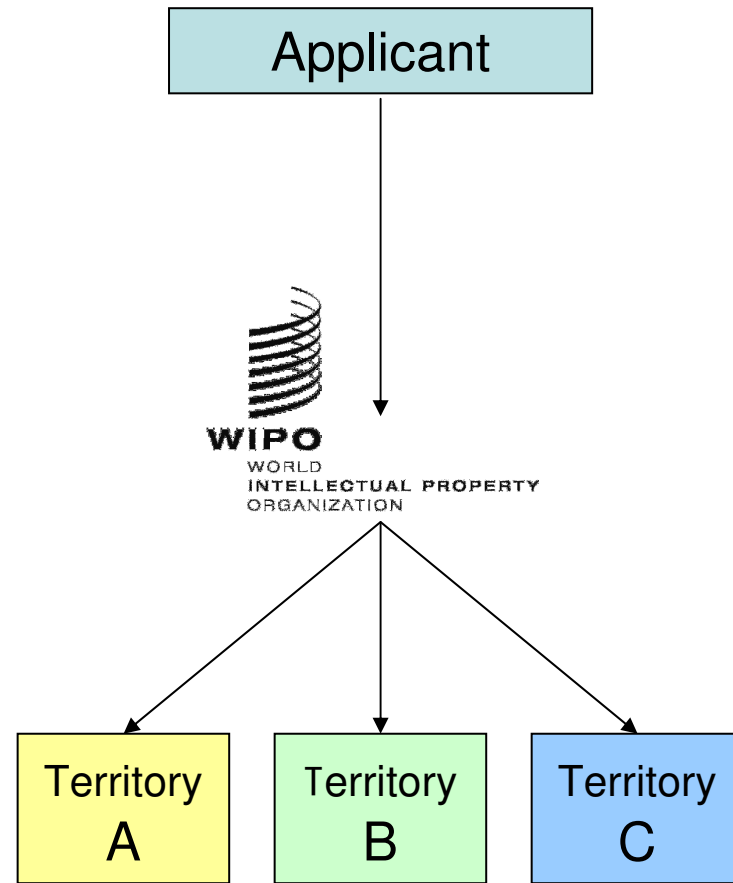
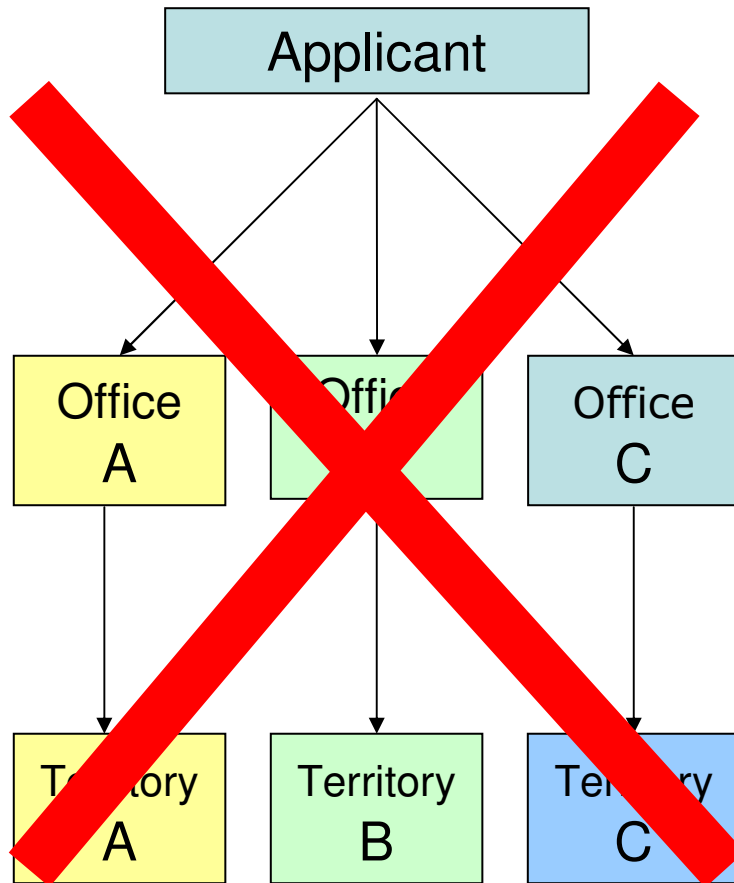
- « Territoriality of rights »
- Seek title for each market
 - many offices
 - many languages
 - many formalities
 - many currencies
 - many registrations to manage
- Cumbersome and expensive

The Bad News About Int'l Protection...



- « Territoriality of rights »
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The Good News about Int'l Protection: The Hague System



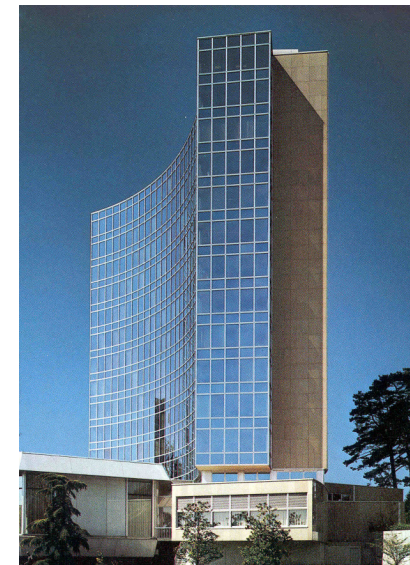
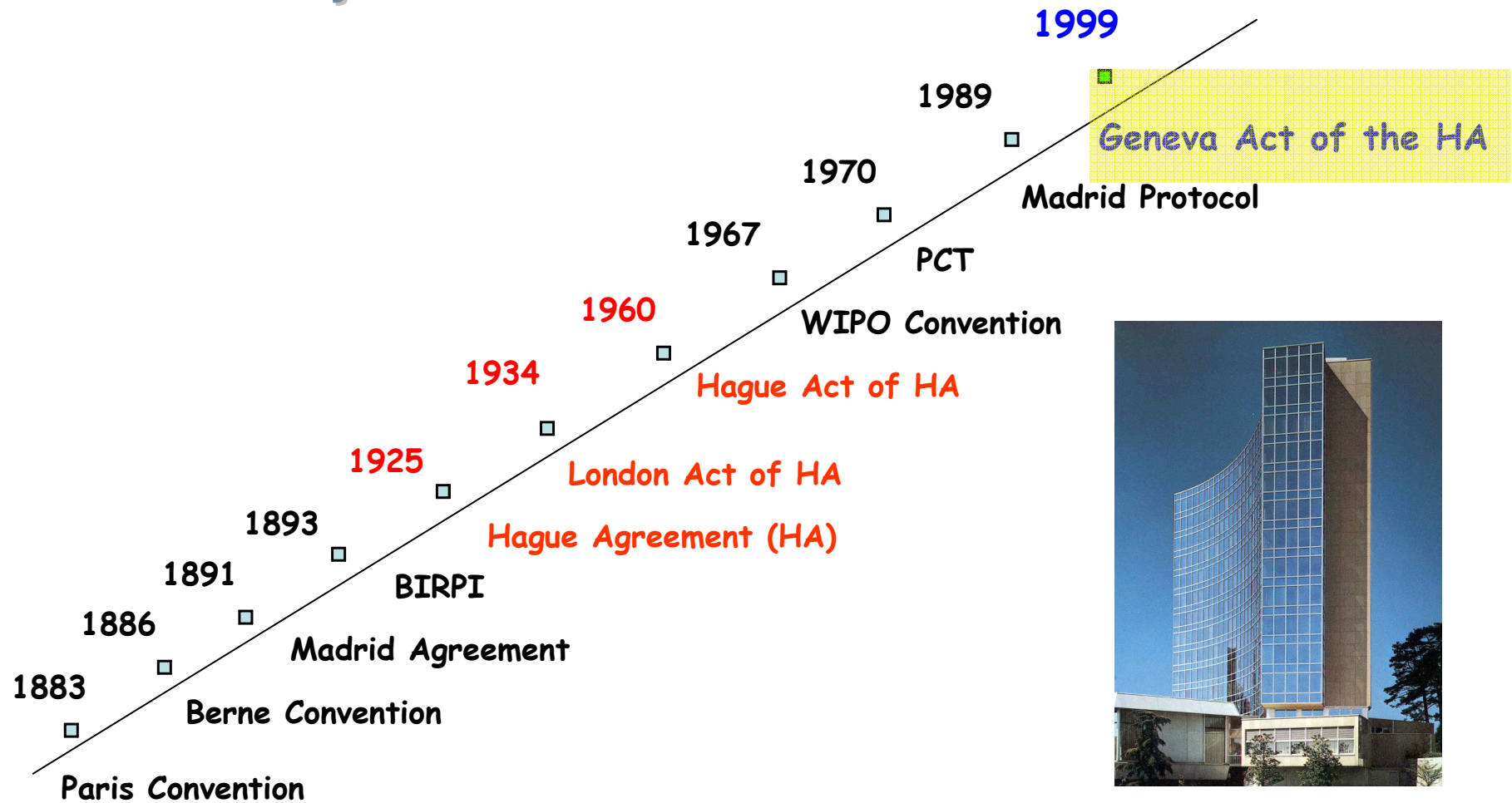


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Hague System - Basic Facts and Some Figures

Hague System and other major events from 1883



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The Hague System: What it is, and What it is Not

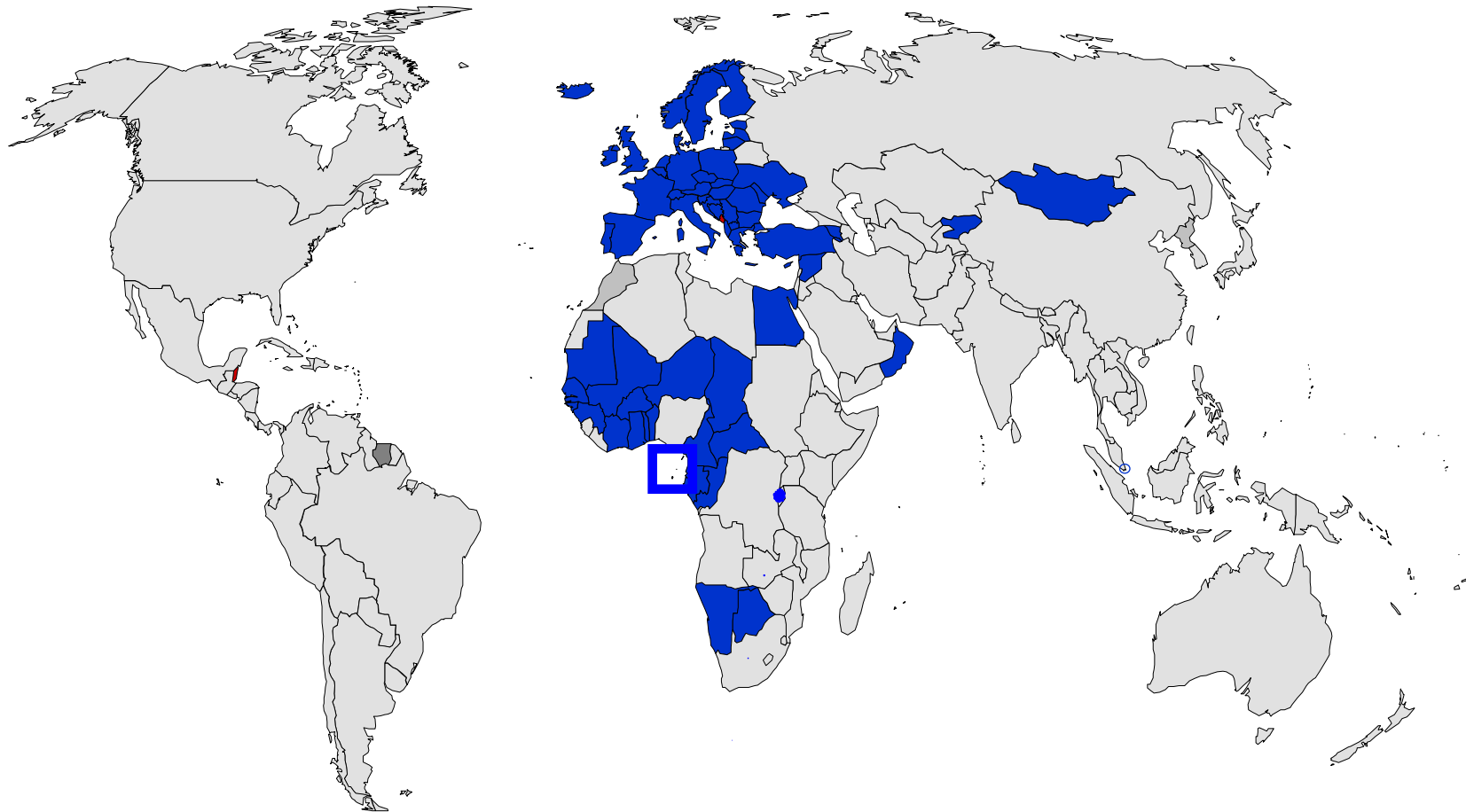
- It's a procedural agreement for the centralized acquisition and maintenance of rights
- it does **not** determine:
 - the conditions for protection;
 - the procedure in case of objection to protection
 - the rights which result from protection
- Such issues are governed by the law of each Member

Legal Framework

- **Geneva Act (1999)** - operational since April 2004
 - Introduced flexibility to accommodate novelty examination systems
 - Regulations and Administrative Instructions
- **National Law**

Geneva Act Membership

June 9, 2011



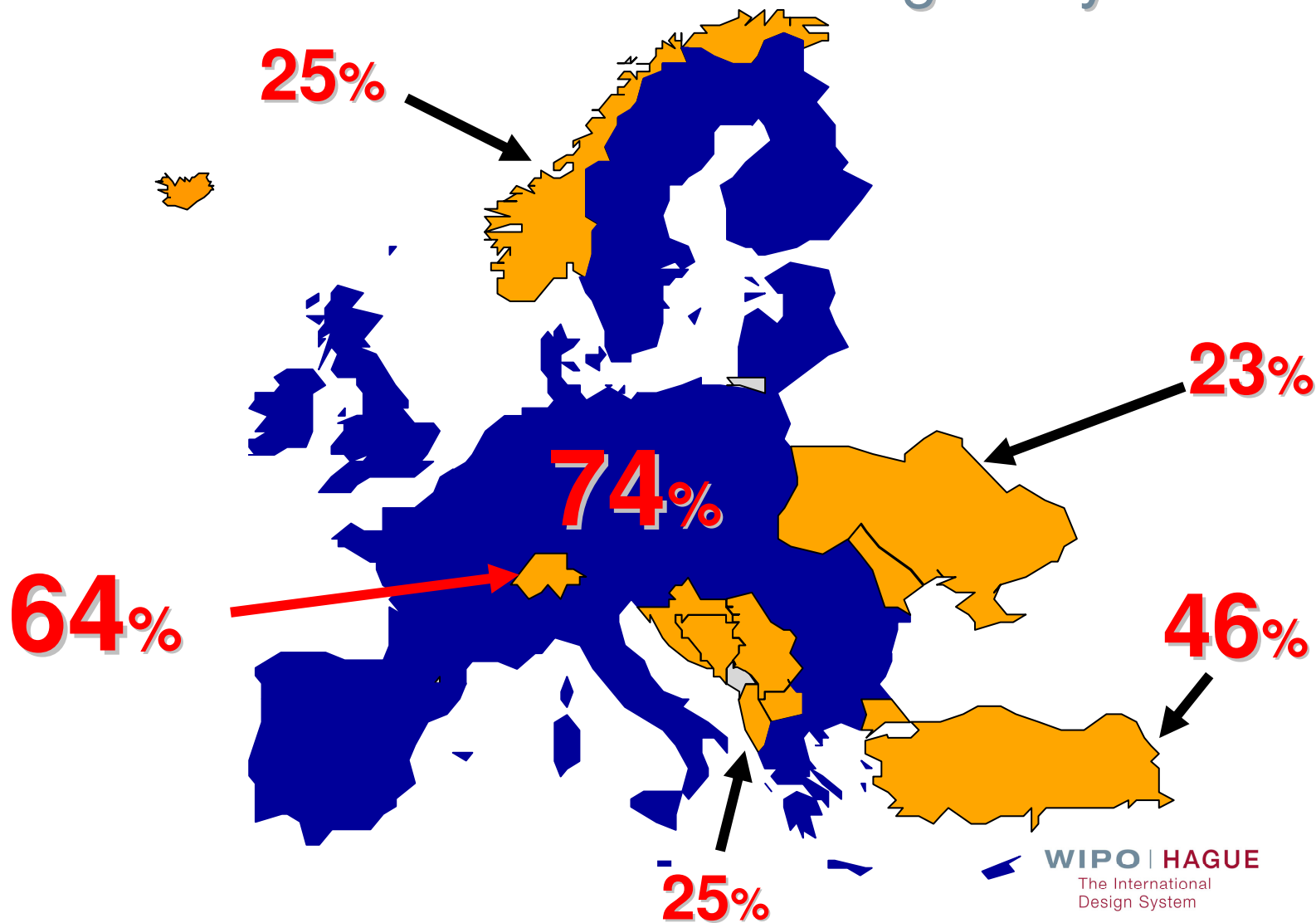
42 Members (including EU and OAPI = 69 States covered)

Geneva Act: Big Potential for Expansion

- USA – Bill is there, needs industry push
 - China – actively studying it
 - Japan – will join if China, US or Korea joins
 - **Korea – accession announced for October 2012**
-
- But there's already a critical mass of territories available!
 - 81% of Hague Registrations in 2010 cover at least 2

Filing Strategies by Hague System Users

Designation Rate of Each Contracting Party



Some Statistics and Figures

- Equivalent of over 10M design registrations since 1928
- Some 108,000 designs « active » today
- 11,238 designs recorded in 2010 (+27 %)
- 10-15% expected growth in 2011
- **About 8% of 2010 filings made by US companies**
 - Backdoor entitlement: Keep it in mind !

Future developments

- Weekly publication of the International Designs Bulletin as from January 2012
- Improvement of the e-filing interface through creating user accounts in 2012
- Improvement of the layout of the International Designs Bulletin in 2012
- Working Group on the Legal Development of the Hague System (next meeting in November 2012)



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Basics Principles and Procedures

Who can use the System?

Hague is a “closed” system

Applicant needs a **connection** to a Contracting Party

- nationality
- domicile
- real and effective industrial or commercial establishment
- habitual residence

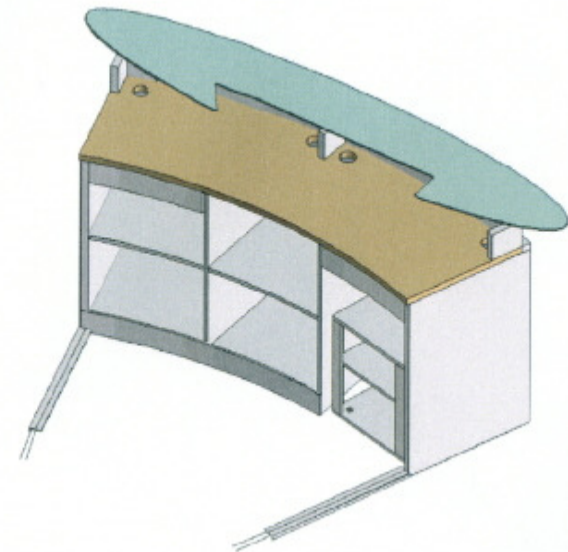
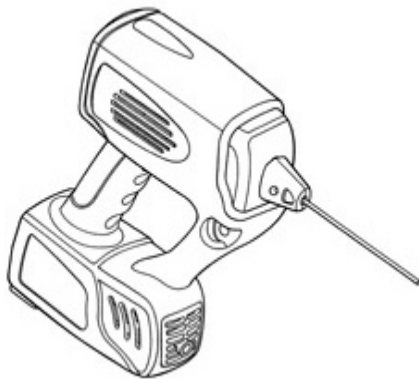
Filing an International Application

- in Spanish, English or French
- directly with WIPO, **electronically** or on paper
- up to **100** different designs (same Locarno class)
- one set of fees (in CHF) is to be paid
- A representative before WIPO may be appointed
 - Will use correspondents to defend against refusals

Role of the International Bureau (1/2)

- **Formal examination:** Application complete and in order?
 - compulsory requirements are all correctly indicated
 - Identity of the applicant
 - Entitlement of the applicant
 - Designation of at least one CP
 - Reproductions
 - optional elements are correctly indicated
 - unauthorized elements are excluded

Acceptable Reproductions



Role of the International Bureau (2/2)

■ Recording of the IR in the **International Register**

- Effects of the int'l registration at this point :
Same effect as a regularly filed national application

■ Publication in the ***International Designs Bulletin***

- Publication on WIPO's website
- Serves as Notification to Designated Contracting Parties (DCPs)
- Offices can upload the data into own system (XML language)

International Designs Bulletin

www.wipo.int/hague/en/bulletin/search-struct.jsp

International Designs Bulletin

» **Bulletin:** 2007/01 **Publication Date:** 28/02/2007

» **Recording Type:** Registrations (1960 and 1999 Acts) Individually By Chapter

» **Query:**

	Registration Number	=	
AND	Holder	=	
AND	International Registration Date	=	
AND	Locarno Classification	=	
AND	Indication of Products	=	
AND	Priority Data	=	
AND	Designated Contracting Parties	=	CH

[\[Search Summary\]](#)

Results of searching in HAGUE-BULL-200701 for:

DS/CH AND DTY/NEN: 71 records

Showing records 1 to 50 of 71 :

Final 21 records

Start At

Refine Search

DS/CH AND DTY/NEN

No.	Title
1.	(DM/68549) 1.-5. Kitchen furniture components, namely fronts of kitchen cabinets / 1.-5. <i>Éléments de meubles de cuisine, à savoir façades de placards de cuisine</i>
2.	(DM/68545) 1.-2. Jewellery / 1.-2. <i>Bijoux</i>
3.	(DM/68544) 1.-8. Graphics / 1.-8. <i>Graphismes</i>
4.	(DM/68540) Bijoux, notamment colliers (1, 4, 8), bracelets (2, 6), bagues (3, 5), boucles d'oreilles (7) / <i>Jewelry, in particular necklaces (1, 4, 8), bracelets (2, 6), rings (3, 5), earrings (7)</i>
5.	(DM/68539) Jouet, notamment poupée / <i>Toy, in particular doll</i>
6.	(DM/68538) Cap with motif of monkey / <i>Casquette à motif représentant un singe</i>
7.	(DM/68535) 1. Garde-robe; 2. garde-robe / paravent / 1. <i>Wardrobe; 2. wardrobe / screen</i>
8.	(DM/68534) 1.-2. Meubles de rangement bureautique / 1.-2. <i>Storage furniture for office use</i>

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Publication in the Bulletin

(11) DM/066307 (15) 03.02.2005

(22) 03.02.2005 (73) ZENITH INTERNATIONAL S.A., Billodes 34, CH-2400 Le Locle (CH) **(86) (87) (88) (85) CH (85) CH (74) Christian MARECHAL** c/o LVMH 65, avenue Edouard Vaillant, F-92517 BOULOGNE BILLANCOURT Cedex (FR) **(28) 6 (51) Cl. 10-07 (54) 1.-5. Watch dials; 6. Watch case with dial / 1.-5. Cadrans de montres; 6.1. Boîtier de montre avec cadran (57) (55)**
The watch movement partly apparent through an opening of the dial, the hands and the words "ZENITH" and "El Primero" are not coming into the scope of the industrial design (Disclaimer) / *Le mouvement de la montre apparaît partiellement par une ouverture du cadran, les aiguilles et les mots "ZENITH" et "El Primero" n'entrent pas dans l'étendue de la protection du dessin ou modèle industriel (clause de réserve) (81) I. AN, ID, TN, VA. II. MA, MC. III. CH, EG, LI, TR, UA*

1



2



UE

Bulletin

Loading International Registrations into the National Database

- All data files extracted from the International Register as part of the regular automated procedures are disseminated via the Internet, absolutely free of charge and includes both bibliographic and image data
- The format of the data is XML (eXtensible Markup Language)
- <ftp://ftpird.wipo.int/wipo/hague>

Next Stage: Procedure at DCP's Level

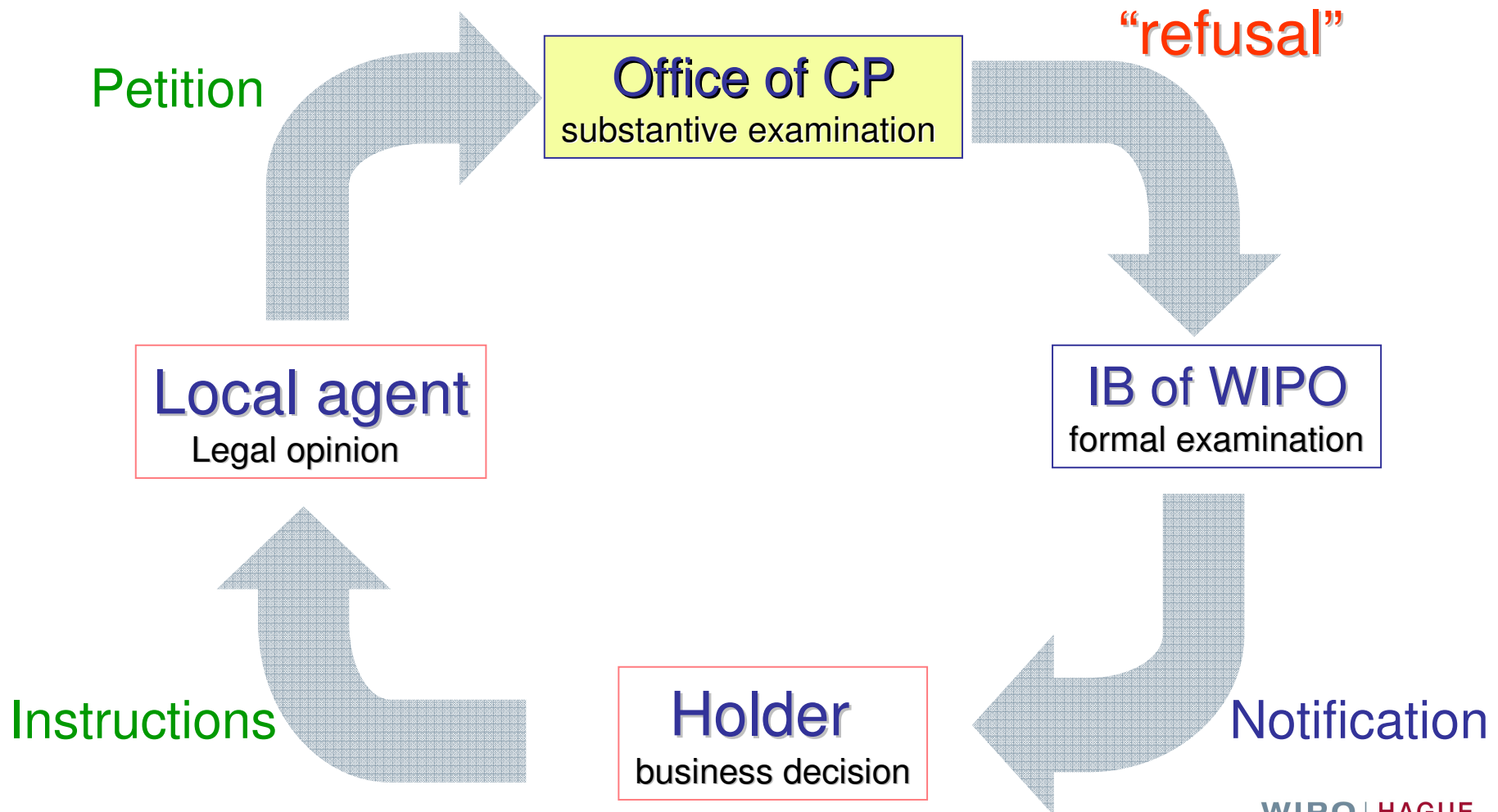
Normal Substantive Examination by Office

- Only to the extent it applies to national filings
- Formality examination is skipped
- Statement of Grant of Protection can be issued

Possible Refusal and Withdrawal of Refusal

- On same substantive grounds as for direct filings
- must be communicated within time limit
- effect limited to that CP's territory

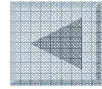
Refusal: Mechanism



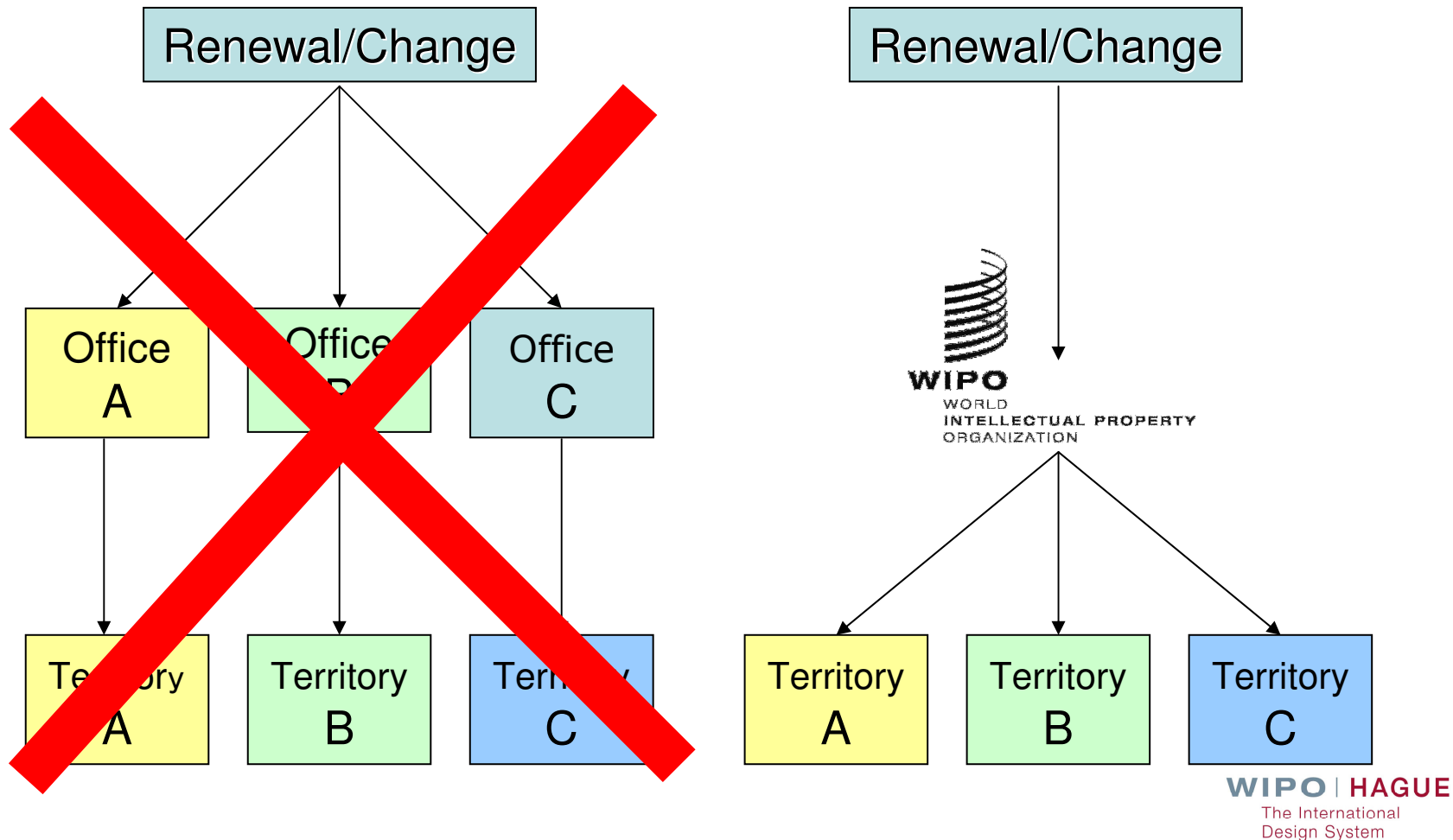
Effects of the International Registration (where not refused)

- Same rights as a local design registration
- IR becomes a bundle of independent local rights
- Duration is 5 years, renewable twice at least
- IR offers the advantages of **central management**

More Than Just a Filing Route!



Long-term advantages of having a single registration !

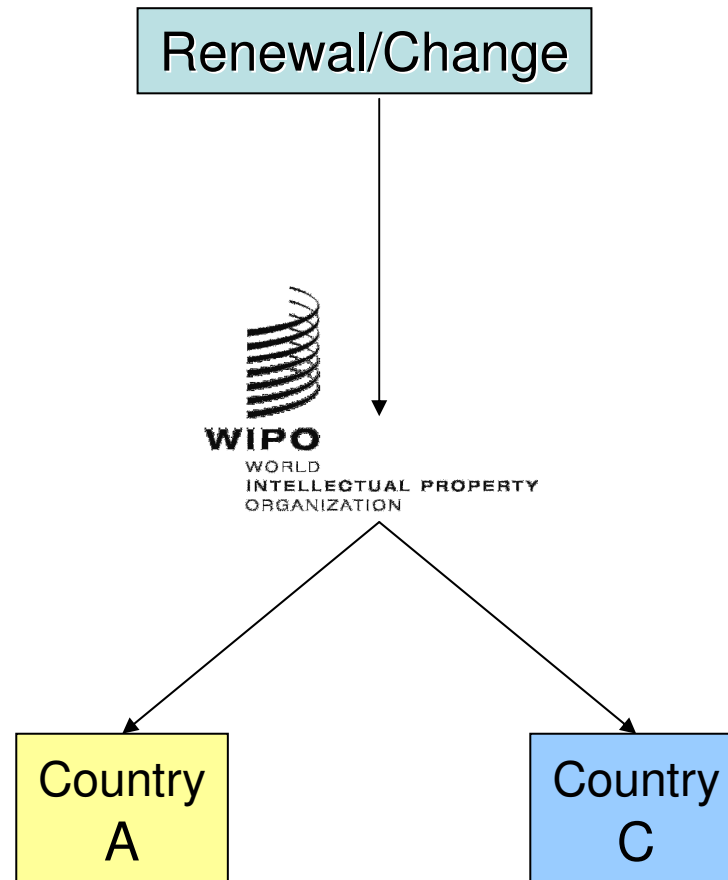
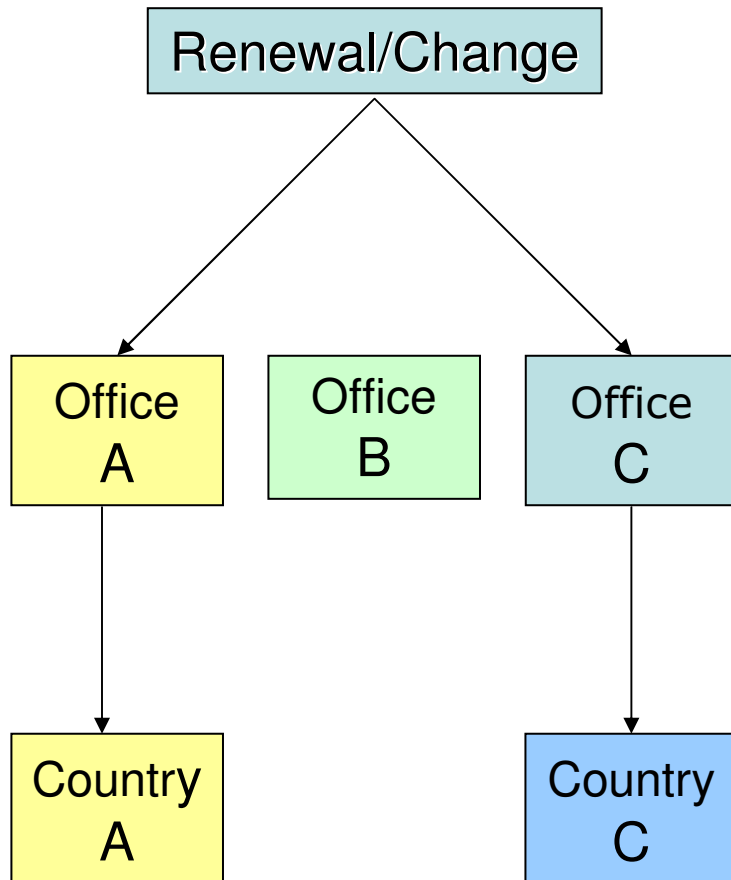


Central Management for Renewals and Modifications

- single renewal date and cycle to monitor
- single request
- single set of requirements
- one language
- single payment in a single currency

Central Management

Your single registration is a flexible title





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Advantages of the Hague System

Objectives of the Hague System

The centralized acquisition and maintenance of industrial design rights by filing a **single application** for a **single registration** with effect in many Contracting Parties.

Hague System is...

- Cost-effective and efficient, thereby creating opportunities that would not otherwise exist for any enterprise with a limited IP budget
- Flexible affording right holders great flexibility in targeting national, regional or global markets for particular products

Benefits for Users

National/Regional Route

- many Offices for filing
- many languages
- many currencies
- many registrations
- many renewals
- many modifications
- foreign attorney or agent
(first needed at filing)

International (Hague) Route

- one Office for filing
- one language
- one currency
- one international registration
- one renewal
- one modification
- foreign attorney or
agent (needed only if refused)

Benefits for the IP Profession

- Centralized management of the whole title
- Design-related work as a new business line
- More registrations in general means more business:
 - license and contract work
 - enforcement or litigation work

Benefits for Offices

- Normal work is reduced:
 - Office relieved from formal examination
 - Office gets a « clean file » on which to base its substantive examination, if any
- Sovereignty on substantive issues is preserved:
 - same regime as for national filings

Important Remark: Fundamental Differences with Madrid System

- No « Hague-specific » task is imposed
- In particular, no duty to act as « office of origin »
 - No basic local application required
 - Self designation is allowed
 - Filings are made directly with WIPO
 - National office not involved in prosecution of international applications

Gracias

gregoire.bisson@wipo.int

www.wipo.int/hague/en





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Annex I

More Facts and Figures about the Hague System

Hague Union Members (June 9, 2011)

59 Members

Grouped according to the most recent applicable Act:

Geneva Act (1999): African Intellectual Property Organization, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Botswana, Bulgaria, Croatia, Denmark, Egypt, Estonia, European Union, Finland, France, Georgia, Germany, Ghana, Hungary, Iceland, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Monaco, Mongolia, Namibia, Norway, Oman, Poland, Republic of Moldova, Republic of Serbia, Romania, Rwanda, Sao Tome and Principe, Singapore, Slovenia, Spain, Syrian Arab Republic, Switzerland, The former Y.R. of Macedonia, Turkey, Ukraine (42)

Hague Act (1960): Belgium, Belize, Benin, Côte d'Ivoire, D.P.R. of Korea, Gabon, Greece, Italy, Luxembourg, Mali, Montenegro, Morocco, Netherlands, Niger, Senegal, Suriname (16)

London Act (1934): Tunisia (1)

2010 Report

Acquisition of rights	2010	Growth
International registrations	2,216	+31.8%
Designs registered	11,238	+26.7%
Individual designations	10,741	+6.3%

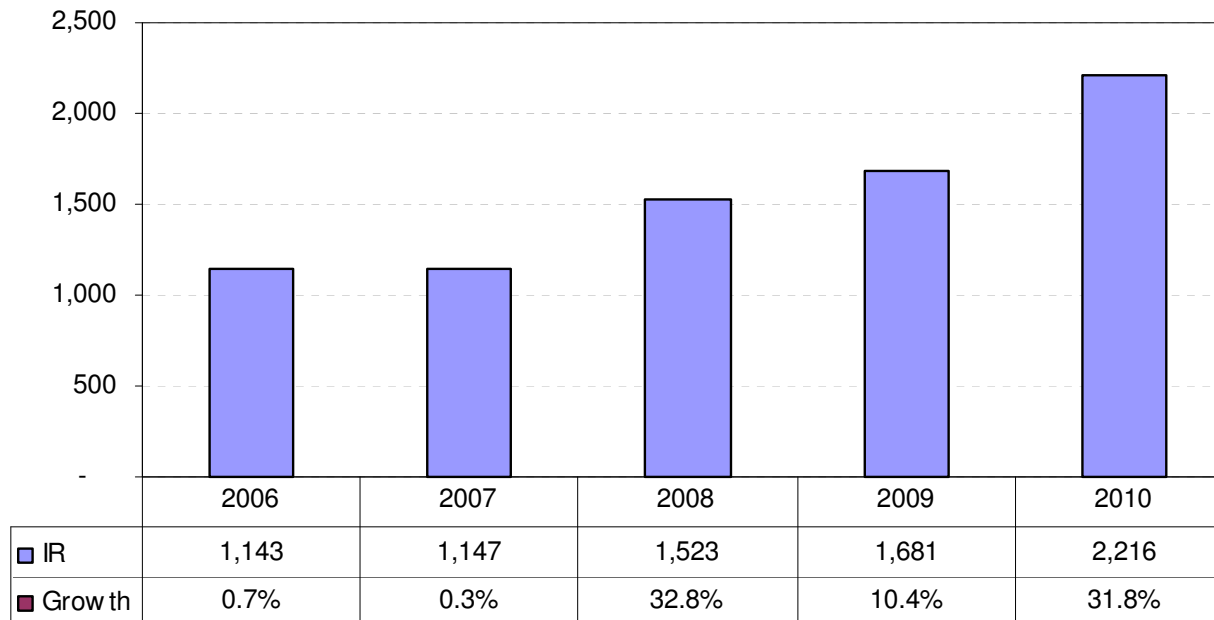
International Registrations in Force on December 31, 2010

Number of designs in active registrations	107,834	-0.7%
Active designations	256,294	+1.0%
Number of right holders	7,919	+2.5%

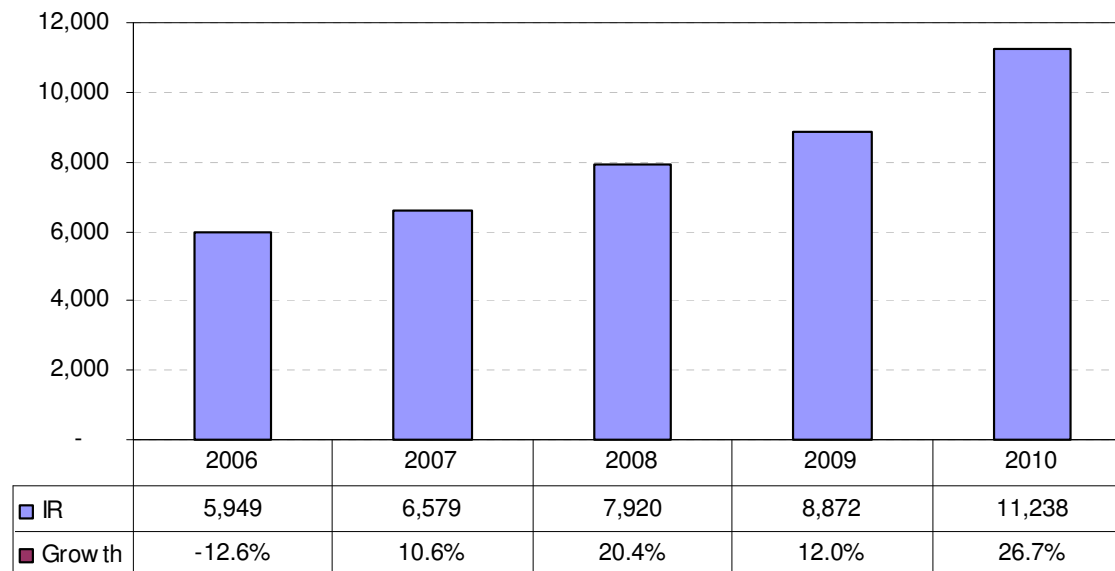
Classes most widely used in applications (2010)

<u>Classes</u>	<u>Heading</u>	<u>IRs</u>	<u>Share</u>
Class 9	Packages and containers	253	11.4%
Class 10	Watches &, other measuring instruments,	202	9.1%
Class 6	Furnishing	183	8.3%
Class 23	Sanitary, heating, ventilation and air-conditioning equipment	143	6.5%
Class 7	Household goods	137	6.2%

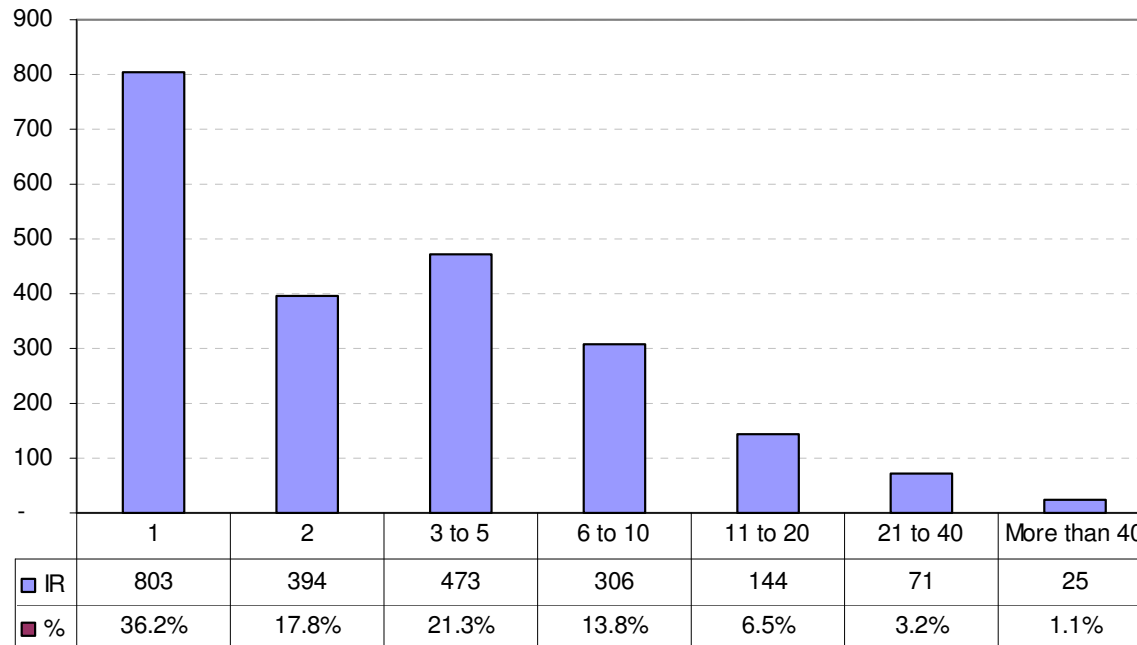
International Registrations Recorded in 2006-2010



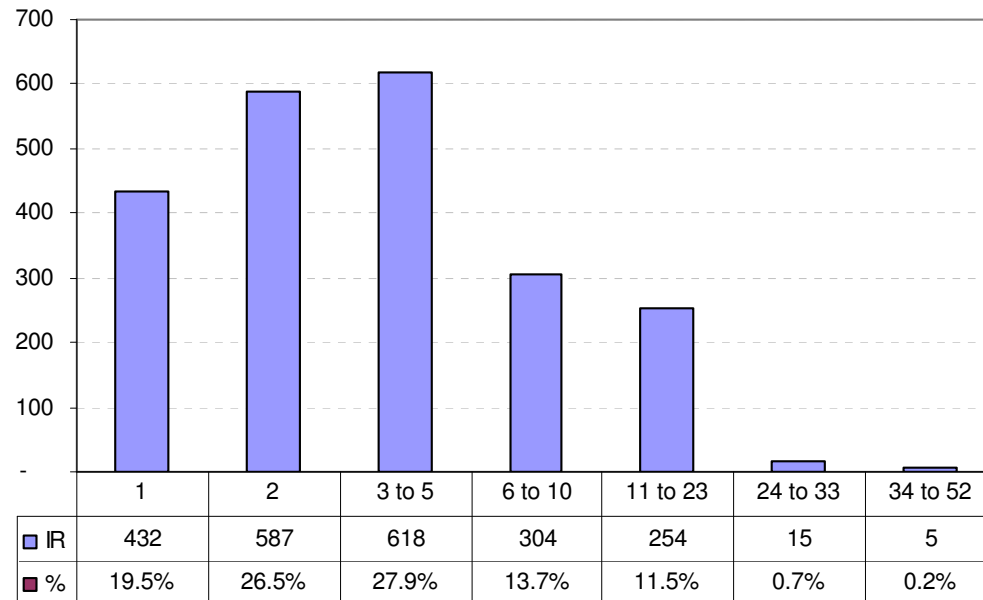
Designs Recorded in 2006-2010



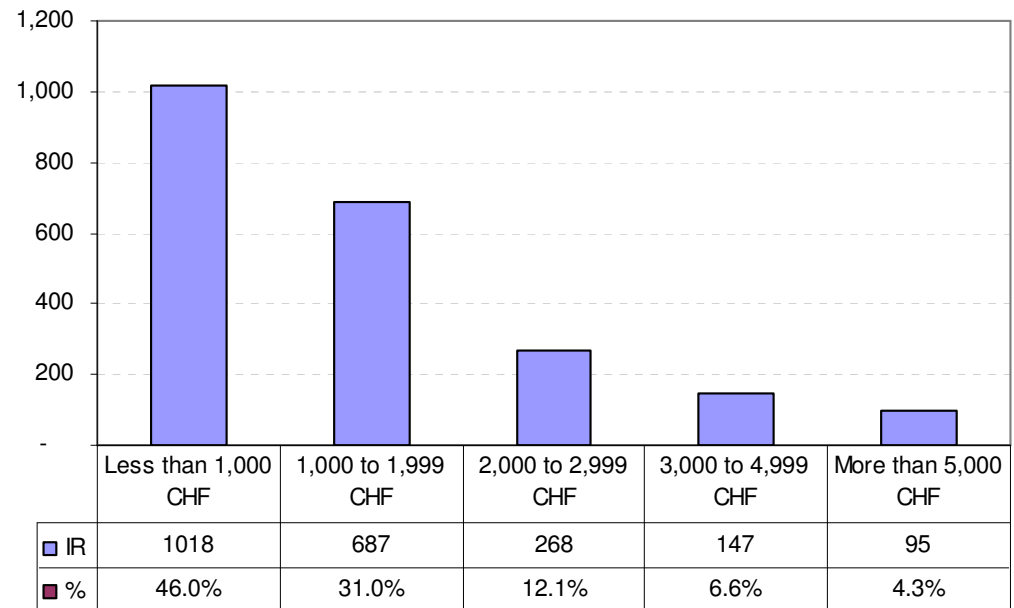
Number of Designs per International Registration (2010)



Number of Designations per International Registration (2010)



Amounts of Fees Paid per International Registration (2010)



International Registrations in Force in the International Register (on December 31, 2010)

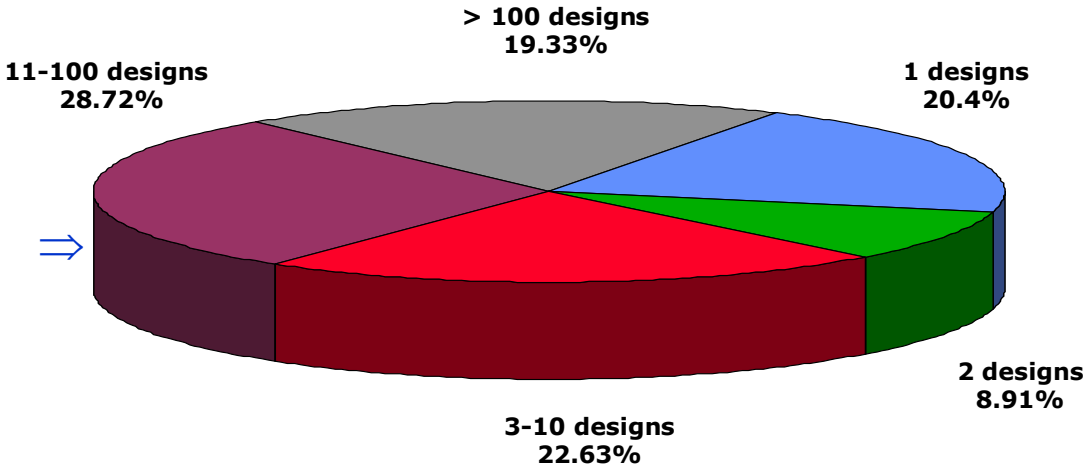
Industrial Designs

**Right-holders
(7,919)**



Industrial designs by right-holder	Number of right-holders	
1 design	5,230	66.04%
2 designs	1,142	14.42%
3-10 designs	1,232	15.56%
11-100 designs	296	3.74%
> 100 designs	19	0.24%
All	7,919	100.00%

**Registrations
in force
(25,633)**



2010: Top Filing Contracting Parties

Contracting Party of entitlement (through establishment, domicile, nationality or habitual residence):

■	1.	European Union	(4,601 designs, 43.3 %)
■	2.	Switzerland	(3,415 designs, 32.1%)
■	3.	France	(1,022 designs, 9.6%)
■	4.	Germany	(812 designs, 7.6%)
■	5.	Turkey	(287 designs, 2.7%)
■	6.	Spain	(182 designs, 1.7%)
■	7.	Liechtenstein	(58 designs, 0.5%)
■	8.	Poland	(48 designs, 0.5%)
■	9.	Norway	(32 designs, 0.3%)
■	10.	Serbia	(25 designs, 0.2%)

2010: Top Filers of International Applications

Country of Address of the Applicant

■	1.	Germany	(2,864 designs, 26.9%)
■	2.	Switzerland	(2,635 designs, 24.8%)
■	3.	France	(998 designs, 9.4%)
■	4.	Netherlands	(867 designs, 8.2%)
■	5.	United States of America	(811 designs, 7.6%)
■	6.	Italy	(551 designs, 5.2 %)
■	7.	Turkey	(287 designs, 2.7 %)
■	8.	Austria	(231 designs, 2.2 %)
■	9.	Spain	(218 designs, 2.1%)
■	10.	Luxembourg	(208 designs, 2.0%)