

# WIPO



H/A/26/1

ORIGINAL: English

DATE: July 31, 2008

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WORLD INTELLECTUAL PROPERTY ORGANIZATION  
GENEVA

SPECIAL UNION FOR THE INTERNATIONAL DEPOSIT OF INDUSTRIAL DESIGNS  
(HAGUE UNION)

ASSEMBLY

Twenty-Sixth (10<sup>th</sup> Extraordinary) Session  
Geneva, September 22 to 30, 2008

PROPOSAL FOR A NEW RULE 18BIS  
AND  
PROPOSAL FOR THE EXTENSION OF THE FEE REDUCTION SCHEME  
TO CERTAIN INTERGOVERNMENTAL ORGANIZATIONS

*prepared by the International Bureau*

## I. INTRODUCTION

1. The purpose of the present document is to submit for adoption by the Assembly an amendment to the Common Regulations under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement (“the Common Regulations”) in the form of new Rule 18*bis*, along with amendments to Rules 22, 26, 30 and 31 of the Common Regulations, consequential to new Rule 18*bis*, if adopted, and an extension of the fee reduction scheme by means, notably, of an amendment to the Schedule of Fees.

2. The aim of new Rule 18*bis*, if adopted, will be to provide in the Common Regulations for a formal framework for the optional notification, by designated Contracting Parties, of statements of grant of protection in situations where, within the applicable refusal period, offices have decided to grant protection to an industrial design, and additionally, in cases where offices have communicated a notification of refusal (total or partial) and such notification has been subsequently (totally or partially) withdrawn.

3. The proposal for a new Rule 18*bis* is developed in Chapter II of the present document. By way of background, the document firstly briefly outlines the refusal procedure under the Hague system. This is followed by a short analysis of the manner in which the holder of an international industrial design registration may establish the status of protection of a design, in particular, in the absence of the communication of a statement of grant of protection. The document then examines the current legal framework of the Hague system in the context of statements of grant of protection. Finally, in this regard, the document provides notes on proposed new Rule 18*bis*, which is submitted to the Assembly for adoption, in Annex I.

4. With regard to the Schedule of Fees, the aim of the proposed amendment is to extend to applicants whose sole entitlement to file an international application is a connection with an intergovernmental organization the majority of whose member States are least developed countries, the fee reduction that has already been established in the Schedule of Fees in respect of applicants from least developed countries generally.

5. This proposal is contained in Chapter III of the document. This chapter starts by outlining the background to the proposed amendment to the Schedule of Fees. It then offers some notes on the proposed amendment, which is submitted to the Assembly for adoption, in Annex III, and concludes by providing wording for a parallel revision of the Recommendation concerning Item 5 of the Schedule of Fees, to be adopted also by the Assembly.

## II. PROPOSED NEW RULE 18*BIS*

### A. Background

6. Each Contracting Party that has been designated in an international registration of industrial designs has the right to refuse, in its territory, the extension of protection to the industrial design or designs in question. Such refusal may be total, or partial, in the sense that it may apply to all the designs that are the subject of the international registration, or to only some of them.

7. As a matter of principle, the time limit for the notification of a refusal is six months from the date of publication of the international registration (Article 8(1) of the Hague (1960) Act (hereinafter referred to as “the 1960 Act”) and Article 12(2) of the Geneva (1999) Act (hereinafter referred to as “the 1999 Act”))<sup>1</sup>.

8. However, under Rule 18(1)(b) of the Common Regulations, any Contracting Party to the 1999 Act, whose office is an examining office, or whose law provides for the possibility of opposition, may declare that, for international registrations in which it is designated under the 1999 Act, the time limit of six months is replaced by twelve months.

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<sup>1</sup> Chapter II of the document is not concerned with the London (1934) Act of the Hague Agreement. It will be recalled that under the 1934 Act there is no possibility for the office of a designated Contracting Party to notify a refusal of protection, and additionally, that Act does not provide for the payment of a designation fee.

9. If a refusal has not been communicated to the International Bureau within the applicable time limit, then, in principle, the international registration shall have the same effect as a grant of protection for the industrial design under the law of the Contracting Party in question.

10. While it is implicit under Article 8 of the 1960 Act that an office may withdraw, in whole or in part, a refusal which it has communicated, that possibility is stated explicitly in paragraph (4) of Article 12 of the 1999 Act, as follows:

“Any refusal may be withdrawn, in part or in whole, at any time by the Office that communicated it.”

11. Rule 18(4) of the Common Regulations provides for the formalities for the notification of a withdrawal of refusal and the content of such notification.

12. While there is not a specific provision in the 1960 Act dealing with the withdrawal of a notification of refusal, Article 14(2)(b) of the 1999 Act provides that where a refusal of protection has been notified and is subsequently totally or partially withdrawn, the effect as a grant of protection under the law of the Contracting Party concerned must be afforded to the international registration, to the extent that the refusal is withdrawn, at the latest, on the date of its withdrawal.

13. In relation to Article 12(4) of the 1999, the Diplomatic Conference agreed on the following statement (the “agreed statement”):

“When adopting Article 12(4), Article 14(2)(b) and Rule 18(4), the Diplomatic Conference understood that a withdrawal of refusal by an Office that has communicated a notification of refusal may take the form of a statement to the effect that the Office concerned has decided to accept the effects of the international registration in respect of the industrial designs, or some of the industrial designs, to which the notification of refusal related. It was also understood that an Office may, within the period allowed for communicating a notification of refusal, send a statement to the effect that it has decided to accept the effects of the international registration even where it has not communicated such a notification of refusal.”

#### B. Establishing the Status of Protection of Industrial Designs under the Hague System

14. When the holder of an international registration of an industrial design seeks to establish the status of protection of the design, it is not always a straightforward matter. Obviously, if an application has met with a total refusal within the applicable time limit and that refusal has not been withdrawn, then that is the end of the matter. However, if, as is most frequent, a registration has not met with a refusal<sup>2</sup>, or has met with only a partial refusal or a refusal that has subsequently been withdrawn, then different possibilities exist.

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<sup>2</sup> For example, 44 notifications of refusal were recorded in the International Register in the year 2006 and 34 in the year 2007.

15. In the most common situation, that is to say, where a registration has not met with a refusal within the applicable time limit, then by application of Article 8 of the 1960 Act and Article 14(2)(a) of the 1999 Act, the industrial design is deemed to be protected in the territory of the designated Contracting Party in question. In the Hague system, and also under the Madrid Agreement and Protocol concerning the international registration of marks, where a similar principle operates, this is often referred to as *tacit acceptance* of a design or a trademark.

16. In cases where there has been a partial refusal of an international registration, then of course the refusing office will notify such partial refusal in accordance with the Common Regulations, and, by implication, and in the absence of a further communication from the office, the holder of the international registration will be in a position to establish that for the remainder of the designs in question, protection has been granted.

17. The third possibility is that there may have been either a partial or total refusal within the applicable time limit, and subsequently the office may have withdrawn (partly or wholly) the partial or total refusal. The holder will again, by implication, be in a position to establish that protection has been granted to some or all of the industrial designs in question.

18. In each of these situations, the holder will certainly be in a position to establish the status of protection of the industrial designs that are the subject of an international registration. However, in none of these situations will there have been a positive affirmation on the part of an office that the industrial designs are protected.

19. Finally, and what is contemplated by the present agreed statement relating to Article 12(4) of the 1999 Act, an office that does not intend to notify a refusal may, within the applicable refusal period, communicate a statement to the effect that the office concerned has decided to accept the effects of the international registration in respect of the industrial designs in question – in other words, a statement of grant of protection. It is recalled that the agreed statement contemplates also the possibility of the issuing of such a statement on the occasion of the withdrawal, or the partial withdrawal, of a refusal, as an alternative to a notification of withdrawal, as such.

20. In this last situation, the holder of an international registration will not be required to rely upon deduction and will, instead, be in possession of a formal positive communication from the office of a designated Contracting Party. This communication will explicitly affirm protection for some or all of the industrial designs.

21. It is to be noted that, since November 1, 2000, the facility of the optional issuing of statements of grant of protection has been a feature of the Madrid system for the international registration of trademarks. However, as with the Hague system, the facility of issuing such statements under the Madrid system is not a feature of either of the Madrid treaties, but rather is a feature of the Common Regulations under the Madrid Agreement and Protocol (Rule 17(6) of the Common Regulations). A total of 14 offices of Contracting Parties to the Madrid system currently issue such statements. It is a facility that is acknowledged to be of substantial interest to users of the Madrid system and at its last session (in June 2008) the Working Group on the Legal Development of the Madrid System for the International Registration of Marks recommended that the facility become a requirement (document MM/LD/WG/5/8 – Report of the Working Group).

C. Statements of Grant of Protection – the Current Legal Framework

22. The agreed statement that relates to Article 12(4) of the 1999 Act is, in principle, applicable to operations under that Act alone. Additionally, there is not currently any rule in the Common Regulations specifically for the regulation of the procedure of issuing of statements of grant of protection under Article 12.

23. Notwithstanding the absence of a specific rule relating to the issuing of statements of grant of protection, the International Bureau has, in the spring of 2008, begun to receive such statements from the office of one Contracting Party to the 1999 Act, namely the office of the European Community, Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM). Those statements are recorded, published and communicated to holders of international registrations by analogy with the handling by the International Bureau of the regular refusal procedure.

24. It is clear, therefore, that Offices of Contracting Parties bound exclusively by the 1999 Act may avail themselves of the facility of issuing statements of grant of protection and that the International Bureau will process those statements. This is of undisputable benefit to holders and users of the Hague system.

25. It is less clear, however, where offices of Contracting Parties bound by both the 1999 Act and the 1960 Act, or indeed, the 1960 Act alone stand. For example, it is possible that the office of a Contracting Party that is bound by both the 1999 and the 1960 Acts may take the view that it is appropriate for it to issue statements of grant of protection only when it has been designated under the 1999 Act, and not when it has been designated under the 1960 Act. The office of a Contracting Party that is bound only by the 1960 Act may, with some justification, feel that it is not appropriate for it to issue statements of grant of protection at all.

26. It is also possible that the office of a Contracting Party to both the 1999 and the 1960 Acts may come to the conclusion that it does not wish to operate two different regimes, depending upon whether it has been designated under the 1999 Act or the 1960 Act, and may simply take the view that it will not undertake to issue statements of grant of protection at all.

27. The International Bureau believes that it is in the best interest of holders of international industrial design registrations that such holders should have the widest possible scope for receiving statements of grant of protection from those offices that are willing to provide such statements. If some offices were to conclude that, because of the lack of clarity that currently prevails, they would issue such statements only in very limited circumstances, or indeed not at all, this would inevitably be to the detriment of holders.

28. It is therefore proposed that the Common Regulations be amended by the inclusion of a new Rule 18*bis*, which would address the issue in clear terms. New Rule 18*bis* would not result in the introduction of any new procedure, as such. Furthermore, for those offices that might be willing to issue statements of grant of protection, the facility would remain entirely optional. The result would be transparency and cohesion, and the removal of any ambiguity with respect to the facility for offices to issue statements of grant of protection.

D. Notes on Proposed New Rule 18bis

29. It is proposed that new Rule 18bis would adopt in spirit the content of the agreed statement relating to Article 12(4) of the 1999 Act and, by explicitly placing the provision in the context of the Common Regulations, would extend the scope of the agreed statement to all Contracting Parties – regardless of whether they are bound only by the 1999 Act, only by the 1960 Act, or by both the 1999 and the 1960 Acts. It would also serve to delineate more finely the operation of the procedure.

*Rule 18bis(1)(a)*

30. Paragraph (1)(a) of proposed new Rule 18bis would provide for the possibility of issuing statements of grant of protection where an office, within the applicable refusal period, has not communicated a notification of refusal and has decided to accept the effects of an international registration.

31. The provision contains a proviso with respect to Rule 12(3) of the Common Regulations, to the effect that the communication of a statement of grant of protection will be subject to the payment of the second part of the individual designation fee, where a designated Contracting Party has made the individual fee declaration provided for in that rule.

*Rule 18bis(1)(b)*

32. Paragraph (1)(b) would provide that a statement communicated under paragraph (1)(a) shall indicate or contain particulars of the office making the statement, the number of the international registration concerned, and the date of the statement.

*Rule 18bis(2)(a)*

33. On the other hand, paragraph (2)(a) would provide for the possibility of issuing statements of grant of protection in cases where an office *has* communicated a notification of refusal, which it has subsequently wholly or partly withdrawn.

34. In principle, therefore, an office which has communicated a notification of refusal would have the option of simply notifying the withdrawal of a refusal, as heretofore, or, in line with the agreed statement relating to Article 12(4) of the 1999 Act and in accordance with proposed new Rule 18bis(2), alternatively notifying a statement of grant of protection. This is explicit from the text of the proposed provision and, if adopted, would give formal regulatory effect to the agreed statement relating to Article 12(4).

35. As with paragraph (1)(a), the provision contains a proviso with respect to Rule 12(3) of the Common Regulations, to the effect that the communication of a statement of grant of protection under paragraph (1)(b) will be subject to the payment of the second part of the individual designation fee, where a designated Contracting Party has made the individual fee declaration provided for in that rule.

*Rule 18bis(2)(b)*

36. Paragraph 2(b) of proposed new Rule 18bis provides for the content of a statement communicated under paragraph 2(a) and mirrors the text of paragraph (4)(b) of Rule 18, dealing with the notification of a withdrawal of refusal.

*Rule 18bis(3)*

37. Finally, paragraph (3) of proposed new Rule 18bis provides for the recording and communication, to holders, of statements of grant of protection received by the International Bureau, whether under paragraph (1) or (2). The International Bureau will, of course, handle individual statements received on paper. However, it would also be ready to process statements received in the form of a list, so as to minimize the workload for offices. If a list is used to issue a given statement, the transmission to the holder envisaged under Rule 18bis(3) would simply consist in the notification of the recording by the International Bureau. In fact, this is the procedure that has already been put in place by the International Bureau for the handling of statements of grant of protection received from OHIM.

*Consequential Amendments*

38. If adopted, new Rule 18bis will require consequential amendments to Rule 22, on corrections, Rule 26 concerning the *Bulletin* and Rules 30 and 31 relating to the applicability of the Common Regulations to international applications governed exclusively or partly by the 1934 Act and international registrations resulting therefrom. These amendments are believed to be self-explanatory.

39. The text of proposed new Rule 18bis and amended Rules 22 and 26 is set out in Annex I, hereto. For easier reference, the proposed amendments are first reproduced in “track changes” mode, i.e., with the text of Rules 22, 26, 30 and 31 that is proposed to be deleted, struck through, and the text that is proposed to be added (and all of proposed new Rule 18bis), appearing underlined. For additional clarity, the final text of the Common Regulations, as it would result following the adoption of the proposed amendments, is reproduced in Annex II to the present document.

*40. The Assembly of the Hague Union is invited to adopt new Rule 18bis, and the consequential amendments of Rules 22, 26, 30 and 31, as set out in Annex 1, with a date of entry into force of January 1, 2009.*

### III. EXTENSION OF THE FEE REDUCTION SCHEME TO CERTAIN INTERGOVERNMENTAL ORGANIZATIONS

#### A. Background

41. This proposal is being submitted to the Assembly in the context of the accession to the Geneva (1999) Act by the African Intellectual Property Organization (OAPI)<sup>3</sup>.

42. It is recalled that at its session which took place in Geneva from September 24 to October 3, 2007, the Hague Union Assembly approved an amendment to the Schedule of Fees, with effect from January 1, 2008, the result of which was to introduce a reduction to 10% of the regular amount of all fees prescribed in the Schedule of Fees, rounded to the nearest full figure, for applications filed by applicants whose *sole* entitlement is a connection with a Least Developed Country (LDC)<sup>4</sup>. This amendment took the form of footnotes under Section I (*International Applications Governed Exclusively or Partly by the 1960 Act or by the 1999 Act*) and II (*International Applications Governed Exclusively by the 1934 Act*) of the Schedule of Fees.

43. The introduction of the fee reduction was intended to improve the ability of design creators from LDCs to benefit from the Hague system by reducing the costs for applicants from LDCs of filing applications under the Hague Agreement. Similar fee reduction schemes have been adopted under the PCT and the Madrid system for the international registration of marks.

44. It is also recalled that on the same occasion, the Assembly adopted the following recommendation:

“Contracting Parties that make, or have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure).”

45. The text of that recommendation was recorded by means of an editorial footnote in association with Section I, item 5 of the Schedule of Fees. The footnote does not, however, constitute an amendment of the Schedule of Fees.

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<sup>3</sup> This accession by OAPI will come into effect on September 16, 2008.

<sup>4</sup> The report of the Assembly is contained in document H/A/24/4.



46. OAPI comprises 16 member States, of which 12 currently qualify as LDCs in accordance with the criteria established by the United Nations<sup>5</sup>. Thus, although OAPI's accession to the 1999 Act means that nationals from all the member States of OAPI are entitled to file international applications under that Act, it remains that some are eligible for the fee reduction in respect of such filings, but others are not. In the course of its accession, OAPI thus expressed to the International Bureau its concern for the preservation of the underlying principle of uniformity and, in this regard, requested that the possibility of extending the benefit of the fee reduction to nationals of all of its member States be considered.

#### B. Comments on the Proposed Amendment

47. The proposed amendment concerns the footnotes under items 1, 2, 3 and 4 of Section I of the Schedule of Fees only. The footnote under item 6 of Section II is not concerned, as this Section sets the fees in respect of applications filed exclusively under the 1934 Act, to which intergovernmental organizations may not become party.

48. The proposed amendment to the footnotes under Section I aims to extend the benefit of the fee reduction to those applicants whose sole entitlement to file an international application is a connection with "*an intergovernmental organization, the majority of whose member States are LDCs.*" If adopted, this amendment would provide that where this criterion is met, *all* applicants from within the member States of OAPI would be entitled to the fee reduction, regardless of their specific origin.

49. However, it must not be forgotten that member States of an intergovernmental organization may also become party to the Hague Agreement in their own right. This then raises the question as to the eligibility for the fee reduction when an applicant has an entitlement to file an international application by virtue of a connection with *an intergovernmental organization, the majority of whose member States are LDCs* (i.e., OAPI), but, at the same time, has an independent connection with a Contracting Party bound by the 1934 Act, the 1960 Act, or the 1999 Act, such Contracting Party being also a member State of OAPI.

50. Clearly, no difficulty should be encountered if the Contracting Party in question is, in its own right, already an LDC. It is recalled, for example, that Benin and Senegal are party to both the 1934 and the 1960 Acts, and that Mali and Niger are party to the 1960 Act. These four Contracting Parties, as well as being member States of OAPI, are all also LDCs. Thus, the already existing fee reduction currently applies to filings made under these Acts by nationals of these Contracting Parties. In such a situation, there should not therefore be any obstacle to the combining of entitlements under the 1999 Act (through OAPI, as an intergovernmental organization) and under any of the other Acts (through a Contracting Party that is an OAPI member State, and also an LDC) and the continuation of the benefit of the fee reduction.

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<sup>5</sup> Benin, Burkina Faso, Central African Republic, Chad, Equatorial Guinea, Guinea, Guinea Bissau, Mali, Mauritania, Niger, Senegal, and Togo. The four member States of OAPI that do not qualify as LDCs are Cameroon, Congo, *Côte d'Ivoire* and Gabon.

51. However, it is also recalled that, at present, four of the member States of OAPI are not LDCs. Nevertheless, two of those member States are already Contracting Parties to the Hague Agreement in their own right: *Côte d'Ivoire* is party to the 1934 and 1960 Acts, and Gabon is party to the 1960 Act. The question then arises as to eligibility for the fee reduction where an applicant seeks to combine his entitlements in such a situation. In that case, it is submitted that an applicant originating from either of these Contracting Parties would continue to be eligible for the fee reduction under the 1999 Act, provided such applicant did not seek to make use also of his entitlements under the other Acts (as, under those Acts, such applicant is not eligible for the fee reduction).

52. In order to address these issues, it is proposed to append a further qualification to the suggested amendment. This qualification would provide that the reduction would also apply in respect of an international application filed by an applicant whose entitlement is a connection both with an intergovernmental organization the majority of whose member States are LDCs *and* another Contracting Party, provided one of two conditions is met:

(a) either the Contracting Party in question is itself an LDC (which addresses the situation referred to in paragraph 50, above), or

(b) that Contracting Party is a member State of the intergovernmental organization and that the international application is governed exclusively by the 1999 Act (which addresses the situation referred to in paragraph 51, above).

53. It is to be observed that in the event that any of the four non-LDC OAPI member States were to accede in their own right to the 1999 Act, their nationals would then dispose of two connections under this Act. One of these connections would be through OAPI and thus confer eligibility for the fee reduction, if the proposed amendment is adopted. However, the second connection, being with a non-LDC Contracting Party, would not. Yet, to the extent that the international application is governed exclusively by the 1999 Act, the second condition indicated above would be met. In such circumstances, the applicant would therefore continue to be eligible for the fee reduction. It is submitted that this consequence is in keeping with the desire of uniformity expressed by OAPI at the time of its accession.

54. The text of the proposed amendment to the Schedule of Fees is set out in Annex III hereto. For easier reference, the proposed amendment is first reproduced in "track changes" mode, i.e., with the text that is proposed to be added appearing underlined. For additional clarity, the final text of the Schedule of Fees, as it would result following the adoption of the proposed amendments, is reproduced in Annex IV to the present document.

### C. Proposed Revised Recommendation

55. In line with the proposed amendment set out in Annex III, the following text of an extension of the scope of the recommendation already adopted by the Assembly, and referred to in paragraph 44, above, is proposed for adoption:

“Contracting Parties that make, or that have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are Least Developed Countries, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure). Those Contracting Parties are further encouraged to indicate that the reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is an LDC, or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act.”

56. If the Assembly of the Hague Union were to adopt such extended recommendation, the text of that recommendation could be recalled by means of an editorial footnote in association with the texts of Article 7(2) of the 1999 Act and Rule 36(1) of the Common Regulations, as well as with item 5 of the Schedule of Fees, as set out, in “track changes” mode, in Annex III of the present document, for information purposes. The insertion of the footnote would not, however, constitute an amendment of either provision of the Schedule of Fees.

*57. The Assembly of the Hague Union is invited to adopt the amendment to the Schedule of Fees, as set out in Annex III along with the recommendation set out in paragraph 55, above, with a date of entry into force of January 1, 2009.*

[Annexes follow]

**Common Regulations Under  
the 1999 Act, the 1960 Act and the 1934 Act  
of the Hague Agreement**

(as in force on January 1, 2009)

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*CHAPTER 3*

*REFUSALS AND INVALIDATIONS*

[...]

*Rule 18bis*

*Statement of Grant of Protection*

(1) [Statement of Grant of Protection Where No Notification of Provisional Refusal Has Been Communicated] (a) An Office which has not communicated a notification of refusal may, within the period applicable under Rule 18(1)(a) or (b), send to the International Bureau a statement to the effect that protection is granted to the industrial designs that are the subject of the international registration in the Contracting Party concerned, it being understood that, where Rule 12(3) applies, the grant of protection will be subject to the payment of the second part of the individual designation fee.

(b) The statement shall indicate

(i) the Office making the statement,

(ii) the number of the international registration, and

(iii) the date of the statement.

(2) [Statement of Grant of Protection Following a Refusal] (a) An Office which has communicated a notification of refusal and which has decided to either partially or totally withdraw such refusal, may, instead of notifying a withdrawal of refusal in accordance with Rule 18(4)(a), send to the International Bureau a statement to the effect that protection is granted to the industrial designs, or some of the industrial designs, as the case may be, that are the subject of the international registration in the Contracting Party concerned, it being understood that, where Rule 12(3) applies, the grant of protection will be subject to the payment of the second part of the individual designation fee.

(b) The statement shall indicate

(i) the Office making the notification,

(ii) the number of the international registration,

(iii) where the statement does not relate to all the industrial designs that are the subject of the international registration, those to which it relates or does not relate, and

(iv) the date of the statement.

(3) [Recording, Information to the Holder and Transmittal of Copies] The International Bureau shall record any statement received under this Rule in the International Register, inform the holder accordingly and, where the statement was communicated, or can be reproduced, in the form of a specific document, transmit a copy of that document to the holder.

[...]

#### CHAPTER 4

#### CHANGES AND CORRECTIONS

[...]

##### Rule 22

##### *Corrections in the International Register*

[...]

(2) [Refusal of Effects of Correction] The Office of any designated Contracting Party shall have the right to declare in a notification to the International Bureau that it refuses to recognize the effects of the correction. Rules 18 ~~and to~~ 19 shall apply *mutatis mutandis*.

[...]

#### CHAPTER 6

#### BULLETIN

##### Rule 26

##### *Bulletin*

(1) [Information Concerning International Registrations] The International Bureau shall publish in the Bulletin relevant data concerning

- (i) international registrations, in accordance with Rule 17;
- (ii) refusals ~~recorded under Rule 18(5)~~, with an indication as to whether there is a possibility of review or appeal, but without the grounds for refusal, and other communications recorded under Rules 18(5) and 18bis(3);
- (iii) invalidations recorded under Rule 20(2);
- (iv) changes in ownership, changes of name or address of the holder, renunciations and limitations recorded under Rule 21;
- (v) corrections effected under Rule 22;
- (vi) renewals recorded under Rule 25(1);
- (vii) international registrations which have not been renewed.

[...]

CHAPTER 8

*INTERNATIONAL APPLICATIONS GOVERNED EXCLUSIVELY OR PARTLY BY THE  
1934 ACT AND INTERNATIONAL REGISTRATIONS RESULTING THEREFROM*

*Rule 30*

*Applicability of These Regulations to International Applications Governed Exclusively by  
the 1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [Exceptions]

[...]

(j) Notwithstanding Rules [18](#) and [18bis](#), the effects of an international registration resulting from an international application governed exclusively by the 1934 Act may not be the subject of a notification of refusal of protection [or of a statement of grant of protection](#).

[...]

*Rule 31*

*Applicability of These Regulations to International Applications Governed Partly by the  
1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [Exceptions]

[...]

(c) With respect to Contracting Parties designated under the 1934 Act in an international application referred to in paragraph (1), or in an international registration resulting therefrom,

[...]

(ii) the effects of the international registration concerned may not be the subject of a notification of refusal of protection referred to in Rule 18 [or of a statement of grant of protection referred to under Rule 18bis](#);

[...]

[Annex II follows]

**Common Regulations Under  
the 1999 Act, the 1960 Act and the 1934 Act  
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(as in force on January 1, 2009)

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- (b) The statement shall indicate
- (i) the Office making the statement,
  - (ii) the number of the international registration, and
  - (iii) the date of the statement.

(2) [*Statement of Grant of Protection Following a Refusal*] (a) An Office which has communicated a notification of refusal and which has decided to either partially or totally withdraw such refusal, may, instead of notifying a withdrawal of refusal in accordance with Rule 18(4)(a), send to the International Bureau a statement to the effect that protection is granted to the industrial designs, or some of the industrial designs, as the case may be, that are the subject of the international registration in the Contracting Party concerned, it being understood that, where Rule 12(3) applies, the grant of protection will be subject to the payment of the second part of the individual designation fee.

- (b) The statement shall indicate
- (i) the Office making the notification,
  - (ii) the number of the international registration,
  - (iii) where the statement does not relate to all the industrial designs that are the subject of the international registration, those to which it relates or does not relate, and
  - (iv) the date of the statement.

(3) [*Recording, Information to the Holder and Transmittal of Copies*] The International Bureau shall record any statement received under this Rule in the International Register, inform the holder accordingly and, where the statement was communicated, or can be reproduced, in the form of a specific document, transmit a copy of that document to the holder.

[...]

#### CHAPTER 4

#### CHANGES AND CORRECTIONS

[...]

##### Rule 22

##### *Corrections in the International Register*

[...]

(2) [*Refusal of Effects of Correction*] The Office of any designated Contracting Party shall have the right to declare in a notification to the International Bureau that it refuses to recognize the effects of the correction. Rules 18 to 19 shall apply *mutatis mutandis*.

[...]

#### CHAPTER 6

#### BULLETIN

##### Rule 26

##### *Bulletin*

(1) [*Information Concerning International Registrations*] The International Bureau shall publish in the Bulletin relevant data concerning

- (i) international registrations, in accordance with Rule 17;
- (ii) refusals, with an indication as to whether there is a possibility of review or appeal, but without the grounds for refusal, and other communications recorded under Rules 18(5) and 18*bis*(3);
- (iii) invalidations recorded under Rule 20(2);
- (iv) changes in ownership, changes of name or address of the holder, renunciations and limitations recorded under Rule 21;
- (v) corrections effected under Rule 22;
- (vi) renewals recorded under Rule 25(1);
- (vii) international registrations which have not been renewed.

[...]



CHAPTER 8

*INTERNATIONAL APPLICATIONS GOVERNED EXCLUSIVELY OR PARTLY BY THE  
1934 ACT AND INTERNATIONAL REGISTRATIONS RESULTING THEREFROM*

*Rule 30*

*Applicability of These Regulations to International Applications Governed Exclusively by  
the 1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [Exceptions]

[...]

(j) Notwithstanding Rules 18 and 18*bis*, the effects of an international registration resulting from an international application governed exclusively by the 1934 Act may not be the subject of a notification of refusal of protection or of a statement of grant of protection.

[...]

*Rule 31*

*Applicability of These Regulations to International Applications Governed Partly by the  
1934 Act and International Registrations Resulting Therefrom*

[...]

(2) [Exceptions]

[...]

(c) With respect to Contracting Parties designated under the 1934 Act in an international application referred to in paragraph (1), or in an international registration resulting therefrom,

[...]

(ii) the effects of the international registration concerned may not be the subject of a notification of refusal of protection referred to in Rule 18 or of a statement of grant of protection referred to under Rule 18*bis*;

[...]

[Annex III follows]

## ANNEX III

SCHEDULE OF FEES  
(as in force on January 1, 2009)

*Swiss francs*

I.	<i>International Applications Governed Exclusively or Partly by the 1960 Act or by the 1999 Act</i>	
1.	Basic fee*	
1.1	For one design	397
1.2	For each additional design included in the same international application	19
2.	Publication fee*	
2.1	For each reproduction to be published	17
2.2	For each page, in addition to the first, on which one or more reproductions are shown (where the reproductions are submitted on paper)	150
3.	Additional fee where the description exceeds 100 words per word exceeding 100 words*	2

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\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country (LDC), in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are LDCs, the fees intended for the International Bureau are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). The reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is an LDC, or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act. If there are several applicants, each must fulfill the said ~~eriterion~~ criteria.

Where such fee reduction applies, the basic fee is fixed at 40 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application), the publication fee is fixed at 2 Swiss francs for each reproduction and 15 Swiss francs for each page, in addition to the first, on which one or more reproductions are shown, and the additional fee where the description exceeds 100 words is fixed at 1 Swiss franc per group of five words exceeding 100 words.

		<i>Swiss francs</i>
4.	Standard designation fee**	
4.1	Where level one applies	
4.1.1	For one design	42
4.1.2	For each additional design included in the same international application	2
4.2	Where level two applies:	
4.2.1	For one design	60
4.2.2	For each additional design included in the same international application	20
4.3	Where level three applies:	
4.3.1	For one design	90
4.3.2	For each additional design included in the same international application	50

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\*\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country ([LDC](#)), in accordance with the list established by the United Nations, [or with an intergovernmental organization the majority of whose member States are LDCs](#), the standard fees are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). [The reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is an LDC, or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act.](#) If there are several applicants, each must fulfill the said ~~crit~~[criterion](#) ~~criteria~~.

Where such reduction applies, the standard designation fee is fixed at 4 Swiss francs (for one design) and 1 Swiss franc (for each additional design included in the same international application) under level one, 6 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application) under level two, and 9 Swiss francs (for one design) and 5 Swiss francs (for each additional design included in the same international application) under level three.

5. Individual designation fee (the amount of the individual designation fee is fixed by each Contracting Party concerned)♦

[...]

[Annex IV follows]

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♦ [WIPO Note]: Recommendation adopted by the Assembly of the Hague Union:  
“Contracting Parties that make, or that have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are Least Developed Countries, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure). Those Contracting Parties are further encouraged to indicate that the reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is a Least Developed Country or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act.”

## ANNEX IV

**SCHEDULE OF FEES**  
(as in force on January 1, 2009)

*Swiss francs*

I.	<i>International Applications Governed Exclusively or Partly by the 1960 Act or by the 1999 Act</i>	
1.	Basic fee*	
1.1	For one design	397
1.2	For each additional design included in the same international application	19
2.	Publication fee*	
2.1	For each reproduction to be published	17
2.2	For each page, in addition to the first, on which one or more reproductions are shown (where the reproductions are submitted on paper)	150
3.	Additional fee where the description exceeds 100 words per word exceeding 100 words*	2

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\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country (LDC), in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are LDCs, the fees intended for the International Bureau are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). The reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is an LDC, or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act. If there are several applicants, each must fulfill the said criteria.

Where such fee reduction applies, the basic fee is fixed at 40 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application), the publication fee is fixed at 2 Swiss francs for each reproduction and 15 Swiss francs for each page, in addition to the first, on which one or more reproductions are shown, and the additional fee where the description exceeds 100 words is fixed at 1 Swiss franc per group of five words exceeding 100 words.

	<i>Swiss francs</i>
4. Standard designation fee**	
4.1 Where level one applies	
4.1.1 For one design	42
4.1.2 For each additional design included in the same international application	2
4.2 Where level two applies:	
4.2.1 For one design	60
4.2.2 For each additional design included in the same international application	20
4.3 Where level three applies:	
4.3.1 For one design	90
4.3.2 For each additional design included in the same international application	50

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\*\* For international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country (LDC), in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are LDCs, the standard fees are reduced to 10% of the prescribed amounts (rounded to the nearest full figure). The reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is an LDC, or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act. If there are several applicants, each must fulfill the said criteria.

Where such reduction applies, the standard designation fee is fixed at 4 Swiss francs (for one design) and 1 Swiss franc (for each additional design included in the same international application) under level one, 6 Swiss francs (for one design) and 2 Swiss francs (for each additional design included in the same international application) under level two, and 9 Swiss francs (for one design) and 5 Swiss francs (for each additional design included in the same international application) under level three.

5. Individual designation fee (the amount of the individual designation fee is fixed by each Contracting Party concerned)<sup>♦</sup>

[...]

[End of Annex IV and of document]

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♦ [WIPO Note]: Recommendation adopted by the Assembly of the Hague Union:  
“Contracting Parties that make, or that have made, a declaration under Article 7(2) of the 1999 Act or under Rule 36(1) of the Common Regulations are encouraged to indicate, in that declaration or in a new declaration, that for international applications filed by applicants whose sole entitlement is a connection with a Least Developed Country, in accordance with the list established by the United Nations, or with an intergovernmental organization the majority of whose member States are Least Developed Countries, the individual fee payable with respect to their designation is reduced to 10% of the fixed amount (rounded, where appropriate, to the nearest full figure). Those Contracting Parties are further encouraged to indicate that the reduction also applies in respect of an international application filed by an applicant whose sole entitlement is a connection with both such an intergovernmental organization and another Contracting Party, provided that this Contracting Party is a Least Developed Country or provided that this Contracting Party is a member State of that intergovernmental organization and that the international application is governed exclusively by the 1999 Act.”