

**International Symposium on the 15<sup>th</sup> Anniversary of  
the Geneva (1999) Act of the Hague Agreement**

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**Expansion of the Hague System – Users' view**

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MARQUES

MARQUES

European association representing the interests of trade mark owners since 1986. From that time MARQUES has built an enviable reputation as a highly respected and influential trademark owners association.

## 1. *MARQUES Mission*

- An important objective of **MARQUES** is to safeguard the public interest by ensuring the proper protection of trade marks, designs and other IP rights and to preserve the interests of trade mark as well as design proprietors with regard to the regime of trade mark and design protection.
- **MARQUES** *Designs Team's Mission* is to monitor and influence legislative, judicial and other developments in the law and practice of registered and unregistered design rights and to increase understanding of design rights and protection strategies on a global market.

## *2. Point of departure*

Why is DESIGN so important?

### **The Steve Jobs MBA Unit 107: It's all about design**

Apple was able to span the gap between what design was once understood to be - the creation of a seductive form for an object that was shaped by the necessary relationship between its moving parts - and the new post-object world, in which what counted was not so much **what an object looked like, but how its owner felt about using it.**

Deyan Sudjic, director of the [London Design Museum](http://www.london-design-museum.com), July 2011 issue of Wired.co.uk magazine

### 3. Advantages of the Hague System / Design protection

- No principle of speciality: In contrast to trademarks, the design enjoys protection without being limited to any goods or services  
 (*“Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character.” see Art. 2 I Locarno Agreement*)
- No use requirement: In contrast to trademarks, there is no requirement of “genuine use” for designs, thus filing a variety of multiple applications extends scope of protection at low costs.
- Presumption of validity: Design registration enjoy legal presumption of validity, as long as no existing court decision entered into force to the contrary and registration is obtained very quickly.
- Possibility to file multiple applications (e.g. variations of the same design) decreases administrative efforts and costs substantially.

#### 4. *Geographical expansion of the Hague Union*

Protection can only be attained in member states / international organizations which are contracting parties to the Hague Union

- The bigger the Hague Union, the bigger its impact and the more appealing becomes Design protection (in general)
- The advantages linked to Design protection, in particular through the HAGUE Union, are practically multiplied with its geographical expansion

#### 4. *Geographical expansion of the Hague Union*

- Main goal of the Geneva (1999) Act of the Hague Agreement: introduce amendments that allow geographical extension, facilitating examining countries to join.
- Impact of Declarations: Geneva (1999) Act provides for numerous declarations to align this Act with their national laws, particularly
  - Art. 7 – Individual designation fee
  - Art. 13 – Unity of Design vs. multiple filings
  - Art. 14 (2) – notification period for a refusal

**Every declaration submitted by a contracting country that “deviates” from the general principles renders the system less attractive!**



## 5. *The future of design protection*

- Design protection is a key element of increasing importance in the IP-strategy of every market player.
- In order to meet the needs of a globalized market the registration system needs to be swift, reliable and cost effective – a professed goal of the Hague Agreement
- The advantages of design protection only take effect if the efforts that went into the harmonization of the Hague System are uphold and the registration mechanism is kept as simple as possible

## 5. *The future of design protection*

- MARQUES would highly welcome if the number of declarations made by joining member states with respect to the Geneva (1999) act are kept as low as possible
- MARQUES would acclaim if declarations made would be thoroughly considered keeping in mind the overall goal of an efficient design registration system, not focusing on national differences or peculiarities.
- **Design Rights will go global** and will attain a more influential position in the realm of intellectual property rights. Designs represent an investment of increasing importance in our society that deserves our respect and accurate protection.

*Thank you  
for your attention!*