



中华人民共和国国家知识产权局
State Intellectual Property Office
of the People's Republic of China

China's Progress of Accession to the Hague System

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Department of Law and Treaty, SIPO, China

The 15 Anniversary of 1999 Act of the Hague Agreement

Geneva, June 19, 2014



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Industrial Design in China





Industrial Design In China

Legal Framework- International Treaties

Time of Accession	Name of Treaty
March 19, 1985	The Paris Convention
September 19, 1996	The Locarno Agreement
December 10, 2001	The TRIPs Agreement



Industrial Design In China

- **Legal Framework- the Chinese Patent Law**
 - **Design --- any new design of the shape, the pattern, or their combination, or the combination of the color with shape or pattern, of a product, which creates an aesthetic feeling and is fit for industrial application. (Article 2)**



Industrial Design In China

– Requirements for Grant of Design Patent Right (Article 23)

- **Shall not be a prior design, nor has anyone filed before the date of filing an identical design and disclosed after the date of filing.**
- **Shall significantly differ from prior design or combination of prior design features.**
- **Must not be in conflict with the legitimate right obtained before the date of filing by any other person.**



Industrial Design In China

– Preliminary Examination

- Formal examination of the application documents
- Formal examination of other documents
- Examination on obvious substantive defects (novelty examination)
- Examination of the relevant fees



Industrial Design In China

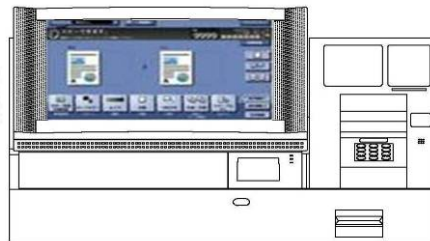
– Extent of Protection

- Determined by the design as shown in the drawings or photographs.
- The brief explanation may be used to interpret the design.



Industrial Design In China

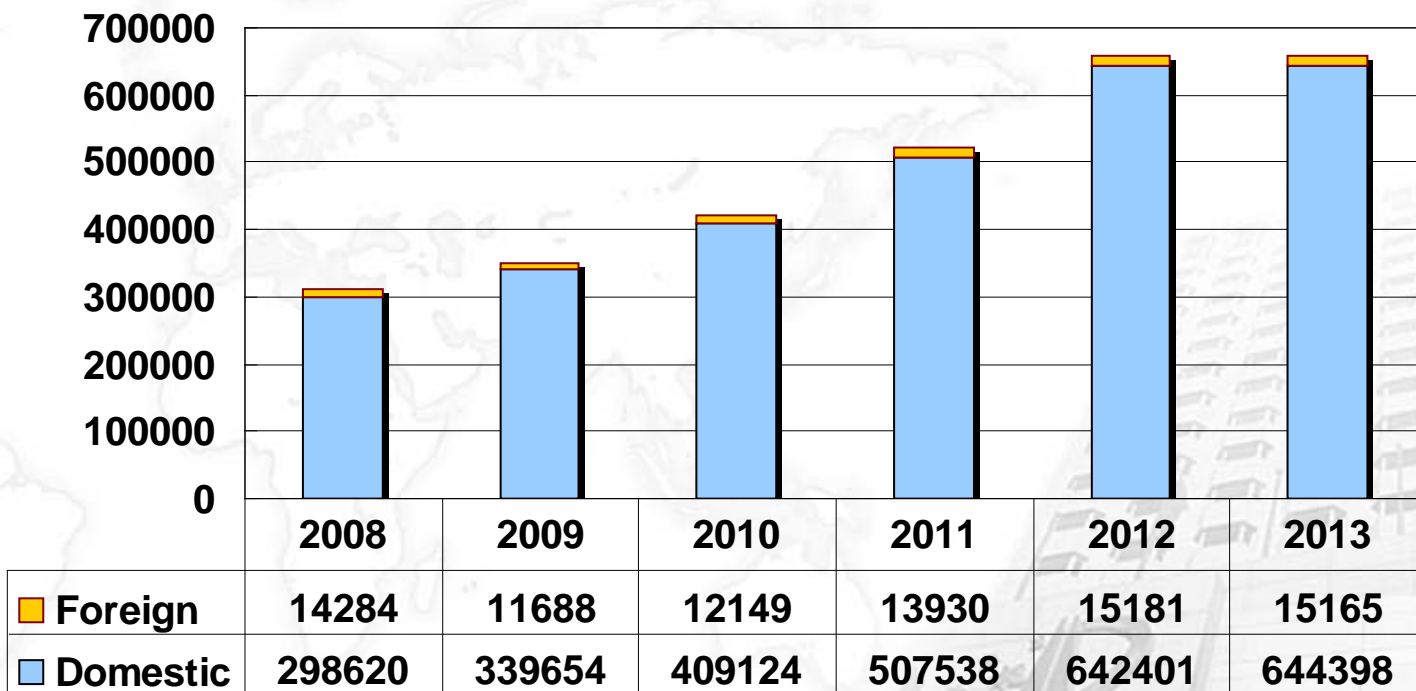
- Update -Graphical User Interface





Industrial Design In China

Design Patent Application Numbers





Industrial Design In China

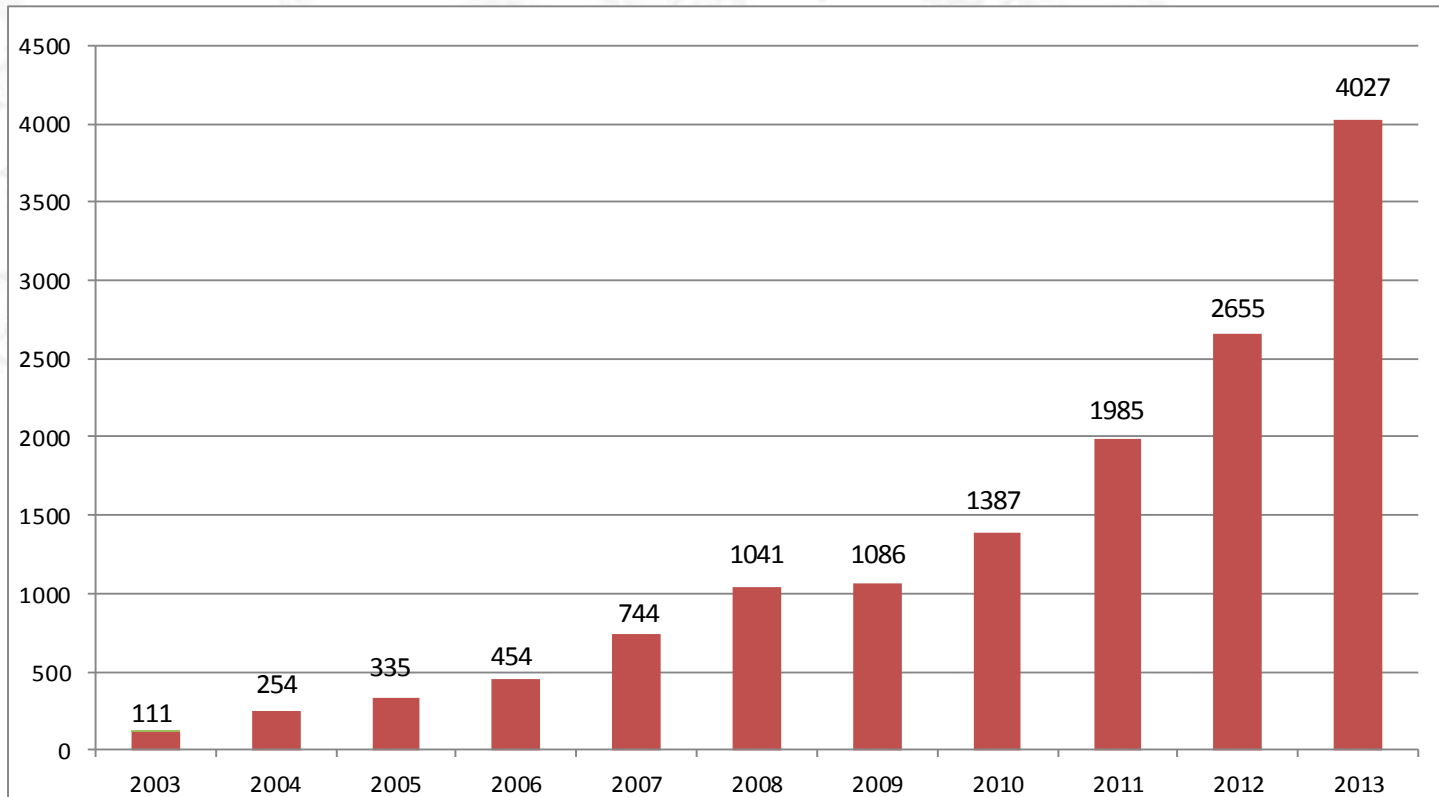
Abroad Applications





Industrial Design In China

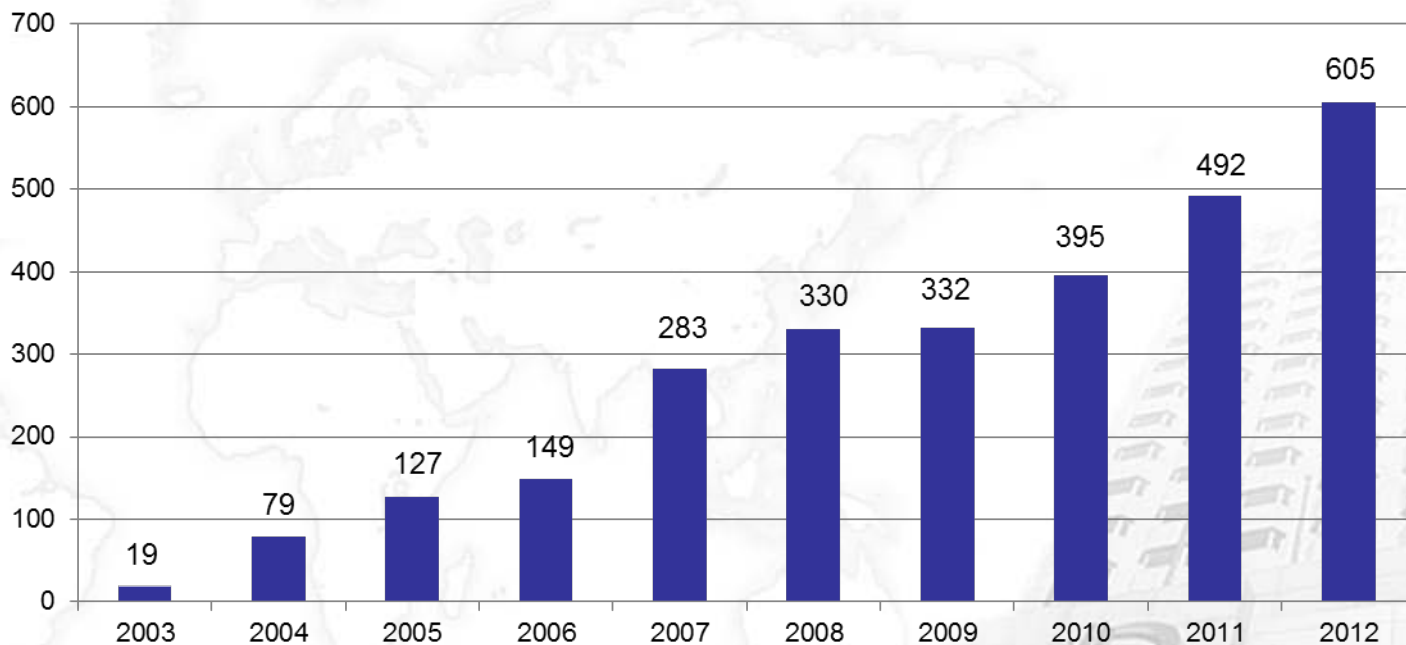
Design Numbers Filed By Chinese Applicants to OHIM -- from OHIM website





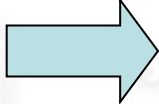

Industrial Design In China

Application Numbers Filed By Chinese Applicants to OHIM
---from WIPO website





Accession Procedure

- SIPO  State Council 
Standing Committee of the People's Congress
- SIPO
 - Initiated ground work in 2012;
 - Reported to the State Council in 2013
 - Technical Preparations—amending formal examination criteria and procedure



Possible Declarations

- 1. In order to be granted a filing date under the Chinese Patent Law, an application designating China shall contain a description of the characteristic features of the industrial design that is the subject of the application.



Possible Declarations

◆ “a description of the characteristic features”—Brief Explanation(Rule 28)

The brief explanation of application for patent for design shall indicate the title and the use of the product incorporating the design, **the essential feature of the design**, and designate a drawing or photograph capable of best showing the essential feature of the design. Where a view of the product incorporating the design is omitted or where concurrent protection for color is claimed, it shall be indicated in the brief explanation.

Where an application for patent for design is filed for two or more similar designs incorporated in the same product, one of these designs shall be indicated as the main design in the brief explanation.

The brief explanation shall not contain any commercial advertising and shall not be used to indicate the function of the product.



Possible Declarations

- 2. In connection with each international application designating China, and in connection with the renewal of such international registration, the prescribed designation fee referred to in Article 7(1) shall be replaced by an individual designation fee.



Possible Declarations

- 3. The national legislation of China does not provide for the deferment of publication.



Possible Declarations

- 4. An application for design patent shall be **limited to one design**.
 - Two or more **similar designs** for the same product or two or more designs which are incorporated **in products belonging to the same class** and sold or used in sets may be included in one application.
 - Where two or more similar designs of the same product are filed in one application, the other designs shall be similar to the one indicated in the description as the main design and the total number of similar designs shall not exceed 10.
 - In the case of two or more designs incorporated to products belonging to the same class and sold or used in sets, all products must belong to the same class of the International Classification for Industrial Designs and be customarily sold or used at the same time, and the designs incorporated in each product must have the same concept of design.





Possible Declarations

- 5. A recording of any change referred in Article 16(1)(i) shall not have effect in China until the State Intellectual Property Office of China has received the Certifying Documents for Change.
 - The related documents which are requested to submit are indicated in the Guidelines For Examination of State Intellectual Property Office of China.



Possible Declarations

- 6. For each international application designating China, in so far as a product with a three-dimensional design is concerned, if the essential features of the design of the product involve six sides, the applicant shall submit orthographic projection views of the six sides; if the essential features of the design of the product concern one side or some sides only, the applicant shall submit at least orthographic projection views of those sides and perspective view(s).



Possible Declarations

- 7. The prescribed period of 6 months for notifying the International Bureau of a refusal of an international application designating China shall be extended to **12 months**. Where it is found after the examination by the State Intellectual Property Office of China that there is no grounds for rejection of the international registration designating China, the Office shall make a decision to grant the Patent Right of Design, and **announce** it. The Patent Right of Design shall take effect in China from the date of that announcement.



Future Work & Suggestion

- **Future Work**
- **A Suggestion**
 - **For the Development of Hague System, the system need to be more friendly to the applicants, e.g. expanding the Working Languages**



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Thank You!