

# **Q&A on Hague Procedures in China**

## **1. If an international design application submitted by a foreigner designates China, is it necessary to entrust a Chinese patent agency?**

Foreigners, foreign enterprises or other foreign organizations that do not have a habitual residence or business places in China, if they need to reply to notices or handle legal formalities, should entrust a legal patent agency in China. No need to entrust legal patent agency to file copies of earlier application or pay fees.

## **2. Can the individual designation fees of China be reduced?**

Currently, the individual designation fees of China cannot be reduced.

## **3. What formalities may need to be handled with the CNIPA after the publication of the international registration?**

After the international registration is published, the Hague international registration designating China will automatically

enter the Chinese national procedure.

If the applicant has declared exception to lack of novelty in the DM/1 form, the applicant needs to submit a supporting document within 2 months from the international publication date.

If the application has claimed priority, no priority claim fees is required, the applicant needs to submit priority document within 3 months from the international publication date. And if necessary, the applicant also needs to submit a document certifying the assignment of the right of priority within 3 months from the international publication date. International registration number (start with “DM”) shall be stated when the submission is made by the applicant.

If the applicant wishes to file a divisional application initially, the divisional application should be filed within 2 months from the international publication date.

#### **4. How to make a change in ownership of the Hague international registration which has designated China?**

To make a change in ownership of the Hague international registration which has designated China, in addition to going through the relevant formalities with the International Bureau,

the party concerned shall also submit the document certifying the change in ownership to the CNIPA. If the certifying documents are in a foreign language, it shall also be accompanied by a Chinese translation of the abstract. If the documents are not submitted or unqualified, the CNIPA informs the International Bureau that the change of ownership does not take effect in China. However, the party concerned could submit the relevant certifying documents again. Once the certifying documents are considered qualified, the CNIPA will notify the International Bureau and the International Bureau will declare the change of the rights effective in China.

#### **5. How does the CNIPA proceed with the examination ?**

The CNIPA performs the examination in accordance with the provisions of the Chinese Patent Law, the Implementing Regulations of the Patent Law, and the Guidelines for Patent Examination.

Where no cause for refusal is found after examination of the international design application, the CNIPA shall make a Statement of Grant of Protection and notify the International Bureau.

Where an international design application is found to be

not in conformity with the relevant provisions of the Chinese Patent Law and its Implementing Regulations, the CNIPA shall issue a notification of refusal to the International Bureau.

The applicants shall submit reply to the CNIPA within the time period specified in the notification of refusal, and entrust a legal patent agency if necessary. The applicants shall state the domestic application number to reply. Any statement of opinion shall be written in Chinese, and amendments in the application documents shall be in English.

The patent right becomes effective in China from the date of announcement of granting. The patentee could request for a copy of patent register of the international design application, as proof of protection in China.