IP POLICY AND INTERNATIONAL AFFAIRS
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China joins WIPO copyright and industrial design treaties

Recently, China became a party to two important international agreements that affect intellectual property rights: The Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (or **Hague Agreement**) and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (or **Marrakesh Treaty**). Both treaties are administered by the World Intellectual Property Organization (WIPO).

China's accession to the Hague Agreement will make application procedures for the protection of industrial designs easier for filers, and will better enable the protection of those designs in China. For the visually impaired—both those within China and those elsewhere in the world—accession to the Marrakesh Treaty will bring greatly improved access to Chinese-language copyrighted materials.

Hague Agreement

On February 5, 2022, China became the 68th contracting party to the Hague Agreement, and the 77th member of the Hague Union. China's accession brings the total number of countries covered under the Hague System to 94. The Agreement will enter into force with respect to China (excluding for now the Special Administrative Regions of Hong Kong and Macao) on May 5, 2022, three months after deposit of the instrument of accession.

The Hague System is an international industrial design registration system that offers filers the ability to obtain protection for up to 100 industrial designs in a single international application, submitted in a single language. The filing can be made either directly with the International Bureau of WIPO or indirectly, through one of the 74 Hague "contracting parties," unless that Party has made a declaration as specified in Article 4 of the Geneva Act of 1999 that "international applications may not be filed through its Office."

The agreements at a glance

Hague Agreement

- What it offers: Efficient straightforward system for pursuing international protection of industrial designs
- Two Acts of the Hague Agreement are currently in force, namely the Geneva Act (1999) and the Hague Act (1960).
- Countries covered: 94
- Contracting parties: 68
- Effective date in the United States: May 13, 2015

Marrakesh Treaty

- What it offers: A set of copyright provisions that facilitate the creation of accessible versions of copyrighted works for the blind, visually impaired, and otherwise print-disabled persons
- First entered into force: September 30, 2016
- Countries covered: 111
- Contracting parties: 85
- Effective date in the United States: May 8, 2019

Source: World Intellectual Property Organization

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Applicants for which China is the contracting party are expected to be able to file indirectly through the China National Intellectual Property Administration (CNIPA) as well as directly with WIPO.

While the Hague System has a standardized set of requirements for all signatories, the treaty also allows for a certain number of declarations to be made by a contracting party, by means of which they can ensure that the procedural mechanisms of the Hague System accommodate their own unique domestic requirements. Table 1 details the declarations made by China in its instrument of accession to the Hague Agreement.

Aside from making application procedures easier for filers, the Hague Agreement also contains a number of requirements regarding the protection of design rights. In order to comply with these, on June 1, 2021, China amended its Patent Law to better align itself with the requirements of the agreement. Among other things, the amended Patent Law now provides for the protection of partial designs and increases the term of design protection from 10 to 15 years. Additionally, while not a requirement or consideration of the Hague Agreement, the amended Patent Law now allows design applications to claim domestic priority.

Along with the amended Patent Law, in November 2020 China issued detailed provisions on designs in its Draft Amendment of the Detailed Rules for Implementation Regulation of the Patent Law and, in August 2021, Draft Amendments to its Patent Examination Guidelines. Further clarifications on China's implementation of its new patent law and guidelines and implementation of the Hague Agreement are expected to be issued later in 2022.

China is a notable market for U.S. design filers: In 2020, U.S. applicants filed 4,164 design applications with CNIPA. This was the largest number of design applications from a foreign country filed with CNIPA.

Globally, China was the recipient of the largest number of design filings in the world: According to WIPO, in 2020 CNIPA received 770,362 design applications. This represented 55.5% of all design applications filed worldwide. (Additional information about IP filings in China is in a recent USPTO report, "Trademarks and Patents in China: The Impact of Non-Market Factors on Filing Trends and IP Systems.")

Table 1: Declarations by China as part of its accession to the Hague Agreement

Declaration	Detail	Treaty clause or rule*
• Additional mandatory elements of the international application	• Brief explanation of the characteristic features of the design(s) required	• Article 5(2)(b)(ii)
• Designation fees	• Individual designation fee applies	• Article 7(2)
• Designs/reproductions	• Requirement of unity of design; Specific views of designs required	• Article 13(1); Rule 9(3)(a)
• Refusals	• Extension to 12 months of the refusal period	• Rule 18(1)(b)
• Date of effect of the international registration	• Extension up to six months; Unintentional late communication after the 12-month refusal period	• Rules 18(1)(c)(i) and (ii)
• Effect of Recording in International Register	• Supporting documents for a change in ownership required	• Article 16(2)

** The full text of the Hague Agreement is available on WIPOLex, https://wipolex.wipo.int/en/treaties/textdetails/12531*

Source: World Intellectual Property Organization, "China Joins the Hague System," news release, February 5, 2022, www.wipo.int/hague/en/news/2022/news_0005.html. The full text of the

Marrakesh Treaty

Also on February 5, China joined the WIPO-administered Marrakesh Treaty, which allows limited copyright exceptions for the reproduction and distribution of published works in formats accessible to the blind, visually impaired, and otherwise print disabled (such as physical limitations that prevent holding a book). The treaty also permits the exchange of published works across borders by organizations that serve those beneficiaries. China addressed some of the treaty's obligations in its recent copyright law amendments, which took effect June 1, 2021. In the coming months, it is expected China will address the import/export requirements of the treaty before it takes effect there in May 2022.

China's accession to the Marrakesh Treaty means that people outside of China who are blind or have other visual impairments will benefit from greater access to works of authorship in China. It also means that blind and visually impaired individuals in China, estimated to be more than 17 million, will benefit from expanded access to Chinese language versions of foreign-produced texts.

The treaty establishes a legal framework that carefully balances the compelling interests of visually impaired persons throughout the world in reading works of authorship, and the significant investments of authors and publishers in producing those works.

The Marrakesh Treaty was adopted by WIPO member states on June 27, 2013, and entered into force on September 30, 2016. The treaty now includes 84 contracting parties before China's accession comes into force on May 5, 2022.

More information on the Marrakesh Treaty is available on WIPO's website.

For more information

The USPTO regularly conducts China IP Roadshows and webinars to highlight recent legislative and other developments related to intellectual property (IP) in China. For more information on these, as well as additional resources on the protection and enforcement of IP in China, visit the USPTO's China IP webpage.

This report was prepared by the USPTO's Office of Policy and International Affairs. For information on the USPTO's engagement with international bodies and agreements that deal with intellectual property (IP) and IP policy, visit the USPTO's IP Policy webpage. To keep informed about the latest development in IP policy at the USPTO, subscribe to receive IP Policy and International Affairs Alerts by email.