

Since 1 January 2022, the Hague System Common Regulations contain new rules on force majeure, design publication and transfer of ownership. These recent changes grant users more flexibility to manage their design portfolio. We examine below the implications of these new rules for design applicants and owners worldwide.

HAGUE SYSTEM

WIPO ADOPTS NEW DESIGN RULES TO FIT BUSINESS NEEDS

EXCUSE IN CASE OF FORCE MAJEURE (RULE 5)

Failure to meet a time limit specified in the Common Regulations may now be excused if the delay is due to *force majeure* circumstances.

These include failures owing to circumstances beyond the control of the interested party, such as war, strike, natural calamity, epidemic and irregularities in delivery services.

To be excused, the user must fulfil two cumulative conditions:

- submit sufficient evidence of the *force majeure* circumstances, to the satisfaction of the International Bureau, and;
- perform the relevant action as soon as reasonably possible and not later than six months from the time limit concerned.

The previous rules had a very limited scope since they only applied to irregularities in postal, delivery and electronic communication services. Other types of actions, such as irregularities in the payment of fees through bank services, were not covered.

The new rules provide a general principle that gives more leeway for users to justify their failure to meet time limits in case of a *force majeure* event. These changes might come in handy with regard to the unforeseeable circumstances brought by the COVID-19 pandemic to design owners.

EXTENSION OF THE STANDARD PUBLICATION PERIOD (RULE 17)

The standard publication period of industrial designs is extended from 6 months to 12 months from the international registration date. During this period, designs are kept confidential by the International Bureau.

This new standard publication period only applies to international applications filed on or after 1 January 2022. For those applications, users also have the following alternatives:

- At the time of filing, users may request the publication immediately after the recording or the publication at a chosen time, with a maximum of 30 months from the filing date.
- After the filing, users may still request earlier publication at any time before the standard publication period comes to an end. In that case, the international registration will be published immediately upon receipt of the request by the International Bureau.

These new rules aim at approximating to the standard publication period that users enjoy under some domestic systems, where the publication of designs often takes place much later than six months from the filing date, typically after 12 months.

The NGOs representing users of the Hague System largely supported these changes in the public consultation organised on this matter. They will provide users with more flexibility and time to plan their marketing strategy while keeping their designs confidential.

RECORDING OF CHANGE IN OWNERSHIP (RULE 21)

The new owner of an international design registration may be recorded as the holder of that design if he presents a signed request to the International Bureau, accompanied by a document providing evidence that he is the successor in title of the previous holder.

Under the previous rules, the new owner had to present a request signed by the holder of the international registration. This requirement imposed a significant burden on new owners when they could not obtain the holder's signature.

This relaxation of the evidence standards makes it easier for new owners to request the recording of the change in ownership.



CONCLUSION

In adopting these amendments to the Hague System Common Regulations, the WIPO took into account recent developments such as the COVID-19 pandemic and current users' needs regarding design publications and assignments. These changes bring some welcome flexibility to the framework applicable to the international registration of industrial designs. This is good news for design applicants and owners worldwide.

To read further on this topic, you will find WIPO's official information notice [here](#) and the amended text of the Hague System Common Regulation [here](#).

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