

ALERTS**Intellectual Property Law Alert - Design Patent Changes To Come With Ratification Of The Geneva Act**

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The Patent Law Treaties Implementation Act of 2012 (PLTIA)[1] was signed into law as part of the United States' membership process into the Hague Union.[2] The Hague Union is a collection of "Member States" who have ratified the various provisions of the Hague System for the International Registration of Industrial Designs.[3] The PLTIA outlines several changes to the process for filing design patent applications, both in the United States and internationally, to comply with the provisions set out in one of the Hague Union's governing agreements, called the Geneva Act.[4] Some of the changes include:

1. Increasing the term for design patents from 14 years to 15 years from the date of patent grant;
2. Allowing a single international design application to be filed in the United States with designation for which additional contracting parties to register for;
3. Allowing priority claims to international design applications filed with other contracting parties or from applications filed in the United States; and
4. Bolstering provisional rights before patent issuance.[5]

On Feb. 13, the United States submitted the ratification documents to the World Intellectual Property Organization (WIPO) to complete the membership process.[6] The treaty is set to go into effect in the United States on May 13, 2015.[7] This also marks the effective date for the terms in the PLTIA.[8] Several sources misstated the effective date to be December 18, 2013, or one year after the enactment of the PLTIA. However, the PLTIA specifically states that "[t]he amendments made by this title shall take effect on the later of-- (1) the date that is 1 year after the date of the enactment of this Act; or (2) the date of entry into force of the treaty with respect to the United States." [9]

United States design patent applications filed before May 13, 2015 will receive the previous 14 year term,[10] and applications filed on or after May 13, 2015 will receive the 15 year term.[11] The USPTO is expected to publish final rules governing USPTO processing and examination of international design applications soon, which will also take effect on May 13, 2015.[12] There are currently 64 contracting parties to the Hague agreements[13] for filing international design applications, with more expected to join in the near future.[14]

For more information, contact the Barnes & Thornburg attorney with whom you work or a member of the firm's Intellectual Property Law Department in the following offices: Atlanta (404-846-1693), Chicago

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- [1] See Pub. L. No. 112-211 (2012), available at <http://www.gpo.gov/fdsys/pkg/PLAW-112publ211/html/PLAW-112publ211.htm>.
- [2] See <http://www.law360.com/articles/399896/the-anticipated-us-ascension-to-hague-agreement>; <http://www.law360.com/articles/405320/benefits-of-us-implementation-of-the-hague-agreement>.
- [3] See Hague – The International Design System, WIPO.INT, <http://www.wipo.int/hague/en/> (last visited Mar. 18, 2015).
- [4] See United States Deposits Instrument of Ratification to Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, USPTO.GOV (Feb. 13, 2015) available at <http://www.uspto.gov/about-us/news-updates/united-states-deposits-instrument-ratification-geneva-act-hague-agreement>; see generally Geneva Act, available at http://www.wipo.int/treaties/en/text.jsp?file_id=285214.
- [4] See generally Pub. L. No. 112-211 (2012).
- [6] See *supra*, note 3.
- [7] *Id.*
- [8] See, e.g., Richard Mescher, Term for U.S. design patents is now 15 years, TECHNOLOGYLAWSOURCE.COM, <http://www.technologylawsource.com/2014/02/articles/intellectual-property-1/term-for-u-s-design-patents-is-now-15-years/>.
- [9] See Pub. L. No. 112-211, sec. 103 (2012) (emphasis added).
- [10] See 35 U.S.C. § 173 (“Patents for designs shall be granted for the term of fourteen years from the date of grant.”); see also Manual of Patent Examining Procedure §§ 1505, 2701.
- [11] See *supra*, note 3.
- [12] *Id.*
- [13] See WIPO-Administered Treaties: Contracting Parties - Hague

Agreement, WIPO.INT, http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=9 (last visited Mar. 18, 2015).

- [14] See supra, note 3.