ID5 Project Proposal

Title: *ID5 Recommended Design Practices*

Lead Office: JPO & USPTO
Introduced: 2018 ID5 Midterm Meeting (June 2018); 2018 ID5 Annual Meeting (Nov. 2018)

Background

Since at least 2007[1], the global design community has been working towards the development of a common set of design formalities principles and practices. As such, the jurisdictions of the ID5 Offices for well over a decade have been continuously working to develop a baseline of practices aimed primarily at industrial design formalities practices. Similar accomplishments have already been achieved for both trademark and patent law in the form of normative treaties at WIPO (i.e., the Singapore Treaty for the Law of Trademarks (STLT) and the Patent Law Treaty (PLT)). Jurisdictions around the world have already agreed in principle to many standard formalities practices with regard to designs in the draft provisions of the Design Law Treaty (DLT) under debate at the World Intellectual Property Organization (WIPO). Most of these provisions derive their origin from agreed upon provisions in either the STLT or PLT or both, depending on the nuance of industrial design practice addressed. Due to political issues, the DLT has not progressed into a normative international instrument as its siblings the STLT and PLT have in the past.

With the ID5 bringing together the Offices handling the vast majority of the entire world's industrial design filings, the ID5 Industrial Design Forum is well poised to lead this effort and advance global industrial design practices in a positive manner. Through the experience and leadership of the ID5 Offices, applicants around the world can benefit from the development and endorsement of an *ID5 Recommended Design Practices* document aimed at outlining recommended formalities and related practices, closely tracking subject matter of the draft DLT.[2] This final listing of recommended practices would be ***non-binding and purely advisory*** in nature. However, given the recommendations would be set forth by the Partner Offices of the ID5, the recommendations would carry weight and be influential to other Offices as they examine their own design practices moving forward.

Since the provisions of the draft DLT has already been generally agreed upon (non-bracketed text) globally, it is believed core aspects of a recommended practices document already exist as result of the decade plus worth of previous work by the ID5 Partners and their respective colleagues.

Project Definition

The aim of the project "ID5 Recommended Design Practices" is to produce an agreed set of **recommended but non-binding** provisions endorsed by the ID5 Partners. A finalized "ID5 Recommended Design Practices" document would be shared with the public including other design offices, WIPO, and users, contributing to the advancement to the global design system for the benefit of users and offices alike. In particular, the identification of common

---

[1] *See WIPO SCT/17/6*, March 21, 2007. http://www.wipo.int/edocs/mdocs/sct/en/sct_17/sct_17_6.pdf
[2] *See Draft Design Law Treaty*, http://www.wipo.int/edocs/mdocs/sct/en/sct_35/sct_35_2.pdf and http://www.wipo.int/edocs/mdocs/sct/en/sct_35/sct_35_3.pdf.

recommended practices would encourage other design offices to incorporate these principles for compatibility. As more Offices consider implementing these principles into their design system, design creators and associated applicants will be able to more simply and efficiently pursue design protection across jurisdictions with less risk of inadvertent loss of right due to failure to properly satisfy a given formality requirement at a particular office.

Project Scope and Exclusions

In scope:
- Lead Offices will develop an initial draft text of potential recommended practices, drawing from the existing draft texts of the DLT. The ID5 Recommended Practices draft text will be worded to take into account its expected final format as a recommended practices document rather than a normative instrument. *See Appendix A*

- Lead Offices will solicit inputs from representatives of the ID5 Partner Offices in relation to the draft text including discussion of the purpose, objective and nature of the ID5 Recommended Design Practices document.

- Lead Offices will create a first draft of an "ID5 Recommended Design Practices" document, incorporating input on the initial draft text from the ID5 Partners.

- Discussion of a draft "ID5 Recommended Design Practices" with user group representatives (i.e., at a user session) and receiving feedback on the draft.

- Lead Offices will incorporate user input and draft a finalized "ID5 Recommended Design Practices" document for review by the Partner Offices.

- The finalized "ID5 Recommended Design Practices" will be made available publicly on the ID5 website.

Out of Scope:

- The project does not aim to create a binding international instrument as was the aim of the DLT. Rather the objective is development of a non-binding recommended practices document supported by the ID5 Partner Offices on the subject matter of design formalities.

- The project is not aimed at having any Partner modify or change their law or even necessarily align with the recommended practices.

Desired Outcome

A finalized "ID5 Recommended Design Practices" document will be shared with the public, contributing to the advancement to the global design system and design formalities practices for the benefit of users and offices alike.

User Benefits

Identification of common recommended practices, particularly in the area of design formalities, will encourage other non-ID5 design offices to incorporate these principles as they develop their design systems. As more design offices consider implementing these principles into their design system, design creators and associated applicants will be able to more simply and efficiently pursue design protection across various jurisdictions with less risk of inadvertent loss of right due to failure to properly satisfy a given formality requirement at a particular office.

Expected Resources

The Lead Offices intend to be responsible for any resources required for planning and coordinating the project. Unless specifically otherwise identified, each office is responsible for their own costs and resources including personnel, IT and other resources required to collect and share information necessary to complete this project.

Proposed Project Timeline:

2018
- Submit Project Proposal
- Agree on Project Scope and Feasibility

2019
- Lead Offices prepare principle document stating philosophy and significance of endorsing DLT based practices as ID5 Recommended Design Practices.
- Complete discussion on the principle document.
- **Adopt DLT-based *ID5 Recommended Design Practices* document.**
- Receive user input on the *ID5 Recommended Design Practices* document at the 2019 Annual Meeting.

2020
- Partners provide input concerning potential areas for which further consistency of design system and practices may be desired *other than those based on DLT*.
- Lead Offices compile user and Partner inputs for discussion among Partners.
- **Partners adopt a list of areas (if any) that ID5 considers desirable to establish further recommended practices as next step of cooperation at 2020 Annual Meeting**.