

ID5 Project Proposal

Title: *A Study of Term of Protection and the Manner and Framework for Obtaining that Term of Protection for Industrial Design Rights*

Lead Office: USPTO

Background

The ID5 Partner Offices have certain diverse practices and laws governing protection for industrial designs. Greater understanding of these practices and laws can create opportunities for increased legal certainty of industrial design protection in the five Partner jurisdictions and for ID5 Partners to comparatively self-evaluate their own practices. One example is that each ID5 Office jurisdiction offers different terms and different structures for the protection given to industrial designs via registered design rights. For example, variation is believed to exist regarding the duration/term, the costs associated with various terms such as renewals, whether renewable terms are offered compared to a single fixed term, and the associated mechanisms for renewing or extending the term of protection. Given these distinctions, it is an appropriate time to survey not only each jurisdiction's potential length of protection, but also the corresponding structure and fees associated with acquiring each segment of protection. Additionally, data can be exchanged regarding each Office's experience that will help highlight the frequency as to when design rights owners pursue the full term of protection and for what types of technologies/designs.

Project Definition

The aim of the project "Study of Term of Protection and the Manner and Framework for Obtaining that Term of Protection for Industrial Design rights" is to compare the provisions and different practices related to the various terms of protection for industrial designs. The purpose will be to identify where legal frameworks and office practices meet user needs to protect industrial design and to identify where legal frameworks and office practices could potentially be enhanced.

The structure of the study will also be agreed by the Partners. The Lead Office proposes that the delivery of the project shall endeavor to consist of four distinct steps: (1) creation of a catalogue of the existing scope of legal frameworks and office practices used to protect industrial designs; (2) consideration of improvements and developments to the legal framework and office practices identified in the catalogue that are beneficial to users and/or offices; (3) assuming a desire to proceed with future work, collaborate on future projects designed to bridge identified gaps in legal framework and office practices; and (4) monitor developments around the globe of changing terms of protection consideration by the Partners in the future as appropriate. Partners must reach consensus before progressing between steps.

The Lead Office will act as editorial offices compiling the contributions from the Partners. The catalogue will be distributed among the Partners for comments. The final version of the catalogue will be presented for approval at the annual meeting of the ID5. The Partners acknowledge approval of the catalogue will be through consensus of the Partners. The project is considered to be completed upon approval of the catalogue.

Project Scope and Exclusions

In scope:

- Develop a list of terms for review and receive Partner feedback.
- Develop a format and structure of a Catalogue comparing legal, regulatory and administrative provisions related to the agreed upon terms.
- Create an agreed list of elements corresponding with the format and structure of the Catalogue and collect and compile contributions from the Partners for each element.
- Create a first draft of the Catalogue upon receipt of all contributions and distribute the draft among the Partners for comments.
- Create a final draft of the Catalogue taking into account the comments of the Partners and present the final draft at the next annual meeting of ID5.
- Upon consensus by all partners, share the results of the Catalogue with Users in a form agreed to by Partners and collect user feedback.
- Consider user feedback and all Partners, assuming a desire to proceed with future work, should consider possible areas of convergence of practices where appropriate.
- Endeavor to collaborate on future work designed to further develop areas of convergence.

Desired Outcome

The desired outcome of the Catalogue is to enlarge, complete and update the knowledge of each Partner about provisions related to the protection of industrial designs in each of the Partner jurisdictions. This project aims to develop a greater appreciation and understanding of any collaborative need for the ID5 to take the global lead in protecting for industrial designs of the future.

User Benefits

The exchange of ideas among the ID5 Offices and acquired knowledge by this study will potentially result in improvement in the understanding of the scope and availability protection as they related to the specific terms of protection for industrial designs and therefore providing for improved protection. Such a development will help increase legal certainty of design protection.

Expected Resources

The Lead Office intends 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:

2020

- Submit Project Proposal
- Agree on Project Scope and Feasibility

2021

- Lead Office prepares and distributes a list of terms for consideration in the study for the ID5 Partner Offices.
- Complete the format and structure of the study.
- Lead Office will finalize the study and distribute for completion by the ID5 Partner Offices.
- Lead Office will compile the information collected and provide a draft catalog.
- ID5 Partner Offices will provide feedback on the draft catalog.
- ID5 Offices will agree to the final catalog for publication.
- Share the results of the Catalogue with Users in a form agreed to by Partners and collect user feedback.
- Consider user feedback and all Partners, assuming a desire to proceed with future work, should consider possible areas of convergence of practices where appropriate.