



# Catalogue on the Term of Protection for Industrial Designs

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## **A. INDUSTRIAL DESIGN TERM PROTECTION**

### **A.1 What is the maximum term of protection for industrial designs in your jurisdiction?**

#### **A.1.1 CNIPA**

According to the revised PATENT LAW which has come into force on June 1, 2021, the duration of patent right for design shall be 15 years, counted from the filing date.

#### **A.1.2 EUIPO**

A registered Community design is initially valid for five years from the date of filing and can be renewed in four blocks of five years up to a maximum of 25 years (Article 12 CDR).

#### **A.1.3 JPO**

In Japan, design rights for applications filed before April 2007 have become effective from the date when the establishment of rights registration, and the maximum term of protection expires after 15 years from that date.

Design rights for applications filed from April 2007 to March 2020 have become effective from the date when the establishment of rights registration, and the maximum term of protection expires after 20 years from that date.

Design rights for applications filed after April 2020 become effective from the date when the establishment of rights registration, and the maximum term of protection expires after 25 years from the date when design applications were filed.

#### **A.1.4 KIPO**

A design right arises on the date in which the granting of the right is registered under Article 90 (1) of the Design Protection Act and continues to exist until the 20th anniversary of the filing date of the relevant application of design registration application.

As for the industrial designs applied before July 2014, the maximum term of protection is 15 years from the date of registration for the establishment of the design right.

#### **A.1.5 USPTO**

The maximum term of protection for patents issued from industrial designs for applications filed on or after May 13, 2015 is 15 years.

However, patents issued from design applications filed before May 13, 2015 have a 14-year term from the date of grant.

## **A.2 What is the minimum term of protection granted for industrial designs in your jurisdiction?**

### **A.2.1 CNIPA**

According to the revised PATENT LAW which has come into force on June 1, 2021, the duration of patent right for design shall be 15 years, counted from the filing date. (China does not have related regulations of “renewal.”)

### **A.2.2 EUIPO**

Five years (as from the date of the filing of the application).

### **A.2.3 JPO**

The minimum term of protection for design rights in Japan is one year.

### **A.2.4 KIPO**

3 years. A person granted a design right registered under Article 90 (1) of the Design Protection Act shall pay a design registration fee for three years from the date the grant of the right is registered

### **A.2.5 USPTO**

The minimum term of protection for industrial designs for applications filed on or after May 13, 2015 is 15 years.

However, patents issued from design applications filed before May 13, 2015 have a 14-year term from the date of grant.

## **A.3 Is the industrial design term fixed in your jurisdiction or does your industrial design term have renewable industrial design term increments?**

### **A.3.1 CNIPA**

In CNIPA, the industrial design patent term is fixed.

### **A.3.2 EUIPO**

The holder may renew the Registered Community Design always in blocks of five years, up to a total term of 25 years from the date of filing. So, 4 renewals of 5 years.

### **A.3.3 JPO**

The term of protection for designs is not fixed in Japan. Design rights holders can maintain their rights for multiple years by paying applicable registration fees each year from the date when the establishment of the rights registration.

For JPO's practice on the renewal of design term increments, please refer to A.8.3.

#### **A.3.4 KIPO**

The industrial design term has renewable industrial design term increments. By paying a registration fee for one year thereafter on or before each anniversary of the registration date of the grant of the relevant right, the owner of a design right can maintain their right up to total term of 20 years from the filing date. The owner of a design right may pay registration fees for several or all subsequent years in lump sum in the order of the years for which the payment will become due consecutively.

#### **A.3.5 USPTO**

The industrial design term is fixed.

### **A.4 Is the term of protection granted from the priority date, the filing date, or grant date (e.g. in the United States (U.S.) the industrial design term is 15 years from the grant date)?**

#### **A.4.1 CNIPA**

The duration of patent right for design in China is counted from the filing date.

#### **A.4.2 EUIPO**

Five years as from the date of the filing of the application.

#### **A.4.3 JPO**

In Japan, design rights become effective from the date when the establishment of rights registration. For the starting date for calculating the protection period for design rights, please refer to A.1.3.

#### **A.4.4 KIPO**

From the filing date. (Amended on July 1, 2014.)

#### **A.4.5 USPTO**

The industrial design term is 15 years from the grant date.

### **A.5 If your jurisdiction has a term of protection for related designs, is the term of protection different from the principle design?**

#### **A.5.1 CNIPA**

China does not have the concept of "related design" and "principle design".

### **A.5.2 EUIPO**

Not applicable – EUIPO does not have a related designs system.

### **A.5.3 JPO**

The protection term for design rights of the Related Designs is calculated to be aligned with the protection term of their Fundamental Design, i.e., their Principal Design or their initial Principal Design in case multiple Related Designs are linked to other Related Designs. Therefore, if the date when the establishment of the Related Design rights was registered is different from the date for their Principal Designs, their protection periods (from the date when design rights become effective up to the expiry of the protection periods) are different. For relevant provisions, please refer to A.10.3.

Also, when applications to register Fundamental Designs were filed by March 2020, and if applications for their Related Designs were filed on or after April 1, 2020, the former Design Act of Japan is to be applied to the Fundamental Designs, and the maximum term of protection for them is 20 years from the date when the establishment of the rights was registered. Meanwhile, since the revised Design Act is to be applied to the Related Designs, the maximum term of protection for them is 25 years from the date when applications for the Fundamental Designs were filed. As stated above, when the starting date for calculating the terms of protection and the maximum term of protection are different, the terms of protection for Principal Designs and their Related Designs are different.

### **A.5.4 KIPO**

A design right to a related design registered under Article 35 of the Design Protection Act expires at the end of the duration of the design right to its principal design.

### **A.5.5 USPTO**

Not applicable – the United States does not have a related designs system.

## **A.6 Are there any measures or steps the applicant must take to maintain the industrial design right for the maximum term of protection (maintenance fees, etc.)?**

### **A.6.1 CNIPA**

The annual fee of the patent right shall be paid from the year in which the patent right is granted, if the fee are not paid within the time limit, the patent right shall lapse from the expiration of the time limit within which the annual fee should be paid.

### **A.6.2 EUIPO**

A design shall be maintained on the Register for the minimum term of protection as long as it is not declared invalid by the Invalidity Division or by a Community Design Court. In order for the design to remain valid beyond the initial 5-year minimum term of protection the holder (or any person expressly authorized by the holder) must submit a request for renewal every five years and pay the corresponding renewal fee.

#### **A.6.3 JPO**

Applicants or design rights holders need to pay registration fees each year until the term of rights protection expires

#### **A.6.4 KIPO**

There is no other measure than annual registration fees up to 20 years from the filing date for maintaining the industrial design right for the maximum term of protection.

#### **A.6.5 USPTO**

Once the “issue fee” has been paid, there are no additional measures or step an applicant must take to maintain the industrial design right for the 15 year term of protection in the United States.

### **A.7 If your jurisdiction’s term of protection is determined by the priority date, can the priority date be later changed to impact the term of protection (e.g. by later removing the priority claim after protection has begun), or can the registration/grant date be corrected to add priority and thus impact the term of protection?**

#### **A.7.1 CNIPA**

The duration of patent right for design in China is counted from the filing, whether the priority date would be changed or not will not influence the duration of patent right for design.

#### **A.7.2 EUIPO**

Not applicable – the term of protection is not determined by the priority date, but by the filing date (Article 12 CDR). A priority right does not have any effect on the term of protection (Article 43 CDR in combination with Article 12 CDR).

#### **A.7.3 JPO**

In Japan, the term of protection for design rights is calculated from the date when applications for the designs were filed, not from the priority date. Therefore, the JPO has no answer to this question.

#### **A.7.4 KIPO**

Not applicable.

**A.7.5 USPTO**

Not applicable – the term of protection is not determined by the priority date in the United States.

**A.8 If your jurisdiction’s industrial design term is renewable, what are the increments of renewal (as in the amount of time for each renewal)?**

**A.8.1 CNIPA**

China does not have related regulations of “renewal”.

**A.8.2 EUIPO**

A registered Community design is initially valid for five years from the date of filing and can be renewed in blocks of five years up to a maximum of 25 years. So, 4 renewals of 5 years.

**A.8.3 JPO**

In Japan, the increment for each renewal is one year.

**A.8.4 KIPO**

After the first 3 years, you can renew the industrial design right by a year. And the owner of a design right may pay registration fees for several or all subsequent years in lump sum in the order of the years for which the payment will become due consecutively.

**A.8.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

**A.9 If your jurisdiction has renewable industrial design term increments, can the industrial design right be renewed only for one increment at a time or can the industrial design right be renewed for multiple time increments at once?**

**A.9.1 CNIPA**

China does not have related regulations of “renewal”.

**A.9.2 EUIPO**

It can only be renewed one increment at a time, four times until a maximum of 25 years.

**A.9.3 JPO**

Both are available in Japan. The term of protection can be renewed for one year, each year or can also be renewed for multiple years.

#### **A.9.4 KIPO**

You can choose multiple time increments. Please refer to A.8.3.

#### **A.9.5 USPTO**

Not applicable – the United States does not have renewable industrial design term increments.

### **A.10 Please list any applicable laws and/or regulations as it applies to industrial design terms in your jurisdiction.**

#### **A.10.1 CNIPA**

Article 42, 43 and 44 of the PATENT LAW; Rule 5 and 98 of the IMPLEMENTING REGULATIONS OF THE PATENT LAW OF THE PEOPLE'S REPUBLIC OF CHINA

#### **A.10.2 EUIPO**

- Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs. [\*\*CDR - Community Design regulation\*\*](#)
- Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs amended by Commission Regulation (EC) No 876/2007 on 24 July 2007 amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs. [\*\*CDIR- Implementing Regulation\*\*](#)
- Commission Regulation (EC) No 2246/2002 of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs.
- [\*\*CDFR- Community Designs Fees regulation\*\*](#)
- Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs.
- [\*\*Directive on the legal protection of designs\*\*](#)

Also, EUIPO website [\*\*most frequently asked questions about Designs.\*\*](#)

#### **A.10.3 JPO**

Articles 20 and 21 of the Design Act of Japan are to be applied to the term of protection for design rights, as stated below:



(Registration of establishment of a design right)

**Article 20** (1) A design right shall become effective upon registration of its establishment.

(2) The establishment of a design right shall be registered where the registration fee for the first year under Article 42(1) has been paid.

(3) (omitted)

(4) (omitted)

(Duration of design rights)

**Article 21** (1) The duration of a design right (excluding the design right of a Related Design) shall expire after a period of 25 years from the date of the application for design registration.

(2) The duration of a design right of a Related Design shall expire after a period of 25 years from the date of the application for design registration of its Fundamental Design.

#### **A.10.4 KIPO**

Applicable laws and regulations are as follows:

#### **Design Protection Act**

##### **Article 91 (Duration of Design Rights)**

(1) A design right arises on the date the grant of the right is registered under Article 90 (1) and perpetuates until 20th anniversary of the filing date of the relevant application of design registration: Provided, That a design right to a related design registered under Article 35 expires at the end of the duration of the design right to its principal design.

(2) If the grant of a design right claimed in an application filed by a legitimate right-holder for design registration is registered under Article 44 or 45, the duration of the design right under paragraph (1) shall begin on the day immediately after the filing date of an application filed by an ineligible person for design registration.

##### **Article 79 (Design Registration Fees)**

(1) A person granted a design right registered under Article 90 (1) shall pay a design registration fee (hereinafter referred to as “registration fee”) for three years from the date the grant of the right is registered, and the owner of a design right

shall pay a registration fee for one year thereafter on or before each anniversary of the registration date of the grant of the relevant right.

(2) Notwithstanding paragraph (1), the owner of a design right may pay registration fees for several or all subsequent years in lump sum in the order of the years for which the payment will become due consecutively.

(3) Registration fees referred to in paragraphs (1) and (2), the methods and terms of payment of such fees, and other necessary matters shall be prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

Enforcement Rule of the Collection of Patent Fees, ETC

**Article 4②(1)(table 3) and Article 8**

#### **A.10.5 USPTO**

35 U.S.C. 173 - Term of design patent.

MPEP 1505 Term of Design Patent [R-08.2017]

**A.11 Does your jurisdiction have unregistered industrial design rights? If so, is the term of protection the same as registered industrial design rights or is the term of protection different? Please list any applicable laws and regulations with regard to industrial design term of protection with regard to unregistered industrial design rights.**

#### **A.11.1 CNIPA**

CNIPA does not have unregistered design right. Industrial designs which are not granted patent rights may be protected by the Law of the People's Republic of China Against Unfair Competition, etc.

#### **A.11.2 EUIPO**

The Community Design Regulation (CDR) protects unregistered Community designs when it is new (in the sense no identical design has been made available to the public before the date on which the design for which protection is claimed has first been made available to the public) and it has individual character (where the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the date on which the design for which protection is claimed has first been made available to the public).

A design which meets the requirements stipulated under Section 1 CDR shall be protected by an unregistered Community design for a period of three years as from

the date on which the design was first made available to the public within the Community.

#### **A.11.3 JPO**

Japan does not have unregistered design rights.

#### **A.11.4 KIPO**

Not applicable.

#### **A.11.5 USPTO**

The United States does not have unregistered industrial design rights.

## **B. PROCEDURE FOR SECURING AN INDUSTRIAL DESIGN TERM**

### **B.1 What procedural steps must be taken to receive a term of protection in your jurisdiction?**

#### **B.1.1 CNIPA**

The applicant needs to raise a request of application for design. Where it is found after preliminary examination that there is no grounds for rejection of the application for design, the examiner shall make Notification to Grant Patent Right for Design. If the applicant finishes the formalities of registration of the grant of patent right within the time limit, the Patent Office shall make a decision to grant the patent right for design, issue the certificate of patent for design, register and announce it.

#### **B.1.2 EUIPO**

There are two ways of applying for registration of a Registered Community design (RCD):

(i) direct filing, with the Office or with the central industrial property office of a Member State or, in Benelux countries, with the Benelux Office for Intellectual Property (BOIP) (Article 35 et seq. CDR)

(ii) via an international registration filed with the International Bureau of the World Intellectual Property Organization and designating the European Union (Article 106a et seq. CDR).

All applications go through:

(1) A formalities check. The application must satisfy all the mandatory requirements set out in Articles 1 (Content of the application), 3 (Classification and indication of products), 4 (Representation of the design) and 6 (Fees for the application) CDIR.

Additional requirements apply where the applicant selects one of the following options: a multiple application is filed (Article 2 CDR), specimens are filed (Article 5 CDR), a priority or an exhibition priority is claimed (Articles 8 and 9 CDR), or where the applicant chooses to be, or must be, represented (Article 77 CDR).

and

(2) A substantive examination: The Office carries out an examination of the substantive protection requirements, which is limited to two grounds for non-registrability: An application will be refused if the design does not correspond to the definition set out in Article 3(a) CDR or if it is contrary to public policy or to accepted principles of morality (Article 9 CDR).

### **B.1.3 JPO**

Applicants need to pay registration fees for the first year within 30 days from the date on which a certified copy of examiners' decisions or trial decisions to register designs has been sent from the JPO.

### **B.1.4 KIPO**

Applicants need to pay registration fees for three years from the date the grant of the right in three months from the date of grant of protection. From the fourth year onward, the relevant annual design registration fees should be paid for the protection.

### **B.1.5 USPTO**

Applicants must pay the post allowance "issue fee" pursuant to 37 CFR 1.18. Once the design right holder pays the "issue fee" and is granted the patent, the industrial design is protected for the duration of the 15-year term of protection.

## **B.2 If your jurisdiction has a renewable industrial design term, who initiates the renewal, the design right holder or the Office? Does the Office remind the industrial design right holder to renew the industrial design right?**

### **B.2.1 CNIPA**

China does not have related regulations of "renewal."

### **B.2.2 EUIPO**

At least 6 months before the expiry of the registration, the Office will inform the holder of the RCD or any person having a registered right in respect of the RCD that the registration is approaching expiry.

According to Article 13 CDR, registration of the registered Community design shall be renewed at the request of the right holder or of any person expressly authorized

by him, provided that the renewal fee has been paid within the period of six months preceding the expiry date, at the latest it is to be submitted/paid on or before the last day of the month in which protection ends.

### **B.2.3 JPO**

To renew design registrations, rights holders or their representatives can pay registration fees. Also, their stakeholders can pay such fees even if it is against the will of rights holders.

The JPO just sends its written notices to inform rights holders of the deadline for paying registration fees for each year when the establishment of design rights is registered. When rights holders want the JPO to provide specific notice of deadline, they can receive the specific notice in advance by e-mail from the JPO provided that they register an account on JPO's website for the "service to inform the payment deadline for registration fees."

### **B.2.4 KIPO**

We have the Annual Registration Notification System to notify a design right holder to pay the annual registration fees in advance to prevent him or her from losing the right by not paying the fees within the due date by mistake or negligence.

The office initiates the renewal and notifies the right holder 3 months earlier than the due date.

The Office notifies the right holder 3 months earlier than the due date by postal service to pay the registration fees. The holder can print out the notice at the website ([www.patent.go.kr](http://www.patent.go.kr)) by searching the case number under the menu of the Patent Storage of the Patent Management.

This is our administrative service to assist the holder to prevent him or her from losing the right by not paying the registration fees in due time by mistake or negligence. Thus, the holder must pay the fees within the due date in order to maintain his or her design right regardless of the notification. Even though the holder has not received the annual registration notification, there will be no change in the payment due date, payment methods and legal effects of non-payment.

### **B.2.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

## **B.3 If your jurisdiction has renewable industrial design term increments and the industrial design right holder allows an industrial design term to lapse, can the industrial design term be reinstated?**

### **B.3.1 CNIPA**

China does not have related regulations of "renewal."

### **B.3.2 EUIPO**

According to Article 13 (3) CDR failing to submit the request and to pay the fee within the six mentioned months preceding the expiry date, a late renewal is still possible, as the request may be submitted and the fee paid within a further period of six months from the day referred to, provided that an additional fee is paid within this further period.

### **B.3.3 JPO**

In Japan, design rights can be restored, if registration fees and registration surcharges (same as the registration fees) are paid late up to within six months after the payment deadline. Also, when rights holders are unable to pay registration fees and registration surcharges before the late-payment deadline due to certain “justifiable reasons,” the rights holders may restore their design rights by paying these fees no later than two months after the date on which the “justifiable reasons” ceased to exist but within one year from the date of the late-payment deadline.

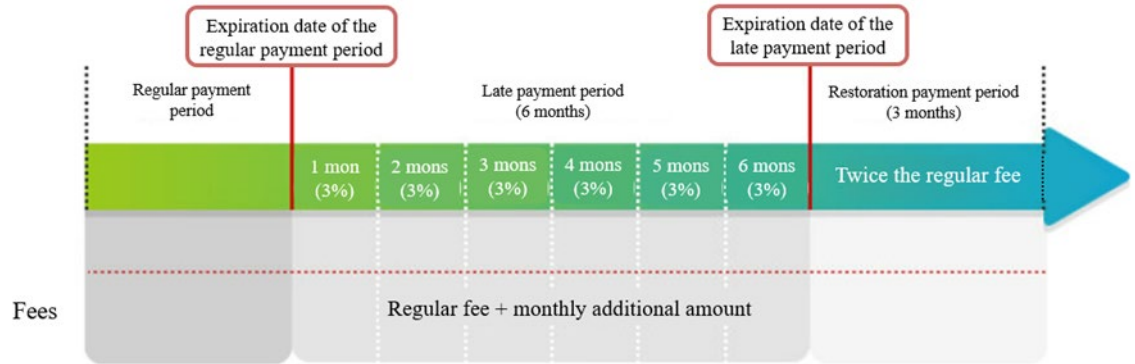
### **B.3.4 KIPO**

(Regular payment period) In accordance with Article 79, the regular payment period is between the registration date of the previous year and the anniversary of the registration date. For example, if the registration date is September 1, 2020, the regular payment period is from this day to September 1, 2021. (In accordance with Article 16 of the Design Protection Act, the first day is not counted.)

(Late payment period) Under Article 82, a design right holder may make a payment within 6 months after the expiration of the regular payment period. The late fee will be charged at a rate of 3% of the regular fee per month. If the annual registration fee is not paid during the late payment period, the design right concerned will be extinguished.

(Restoration request period) If the right is extinguished as the late payment period has expired, restoration of the extinguished right can be requested within three months from the expiration date of the late payment period in accordance with Article 84 by paying twice the regular annual registration fee.

Meanwhile, the restoration request can be filed only by the design holder by using the payment slip, not an interested party.



\*The day on which the right is extinguished : the day after the expiration date of the regular payment period

### B.3.5 USPTO

Not applicable – the United States does not have a renewable industrial design term.

## B.4 Are there any penalties associated with reinstating an industrial design term that has lapsed?

### B.4.1 CNIPA

No penalties are regulated. Where a time limit is not observed by a party concerned because of force majeure, resulting in loss of his or its rights, he or it may request to restore his or its rights.

### B.4.2 EUIPO

The late request for renewal must be submitted and the renewal fee plus a 25% surcharge can be paid within the six-month grace period starting on the day following the last day of the month in which the RCD was due for renewal.

### B.4.3 JPO

Where a design right has been restored, such design right shall not be effective against following (1)-(3), after the lapse of the time limit during which the late payment of the registration fees is allowed but before the registration of the restoration of the design right.

(1) An article or graphic image recording medium, etc., to the registered design or a design similar thereto, which was imported into, or manufactured or acquired within Japan

(2) A building to the registered design or a design similar thereto, which was built or acquired within Japan

(3) A graphic image to the registered design or a design similar thereto, which was created or acquired within Japan

### B.4.4 KIPO

After the expiration of the regular payment period, the late fee will be charged at the rate of 3% per month during the six months of the late payment period.

#### **B.4.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

### **B.5 What procedure must the industrial design right holder follow to reinstate the industrial design term? Must the application provide a showing of “unavoidable or unintentional” lapse or related showing of reason for the industrial design term lapsing?**

#### **B.5.1 CNIPA**

To request for restoration of right under Rule 6.1 and Rule 6.2, the party concerned shall submit a request for restoration of right, state the reason, attach, if necessary, the relevant supporting documents, and go through the corresponding formalities that shall have been completed before the loss of right. To request for restoration of right under Rule 6.2, the party concerned shall also pay the fee for restoration of right.

#### **B.5.2 EUIPO**

Where the Registered Community design is not renewed within the basic period, the request may still be submitted and the renewal fee may still be paid, upon payment of an additional fee (a 25% surcharge), within a further period of 6 months.

Registered Community design rights may also be reinstated (*restitutio in integrum*) if parties to proceedings before the Office were unable to meet a time limit vis-à-vis the Office despite taking all due care required by the circumstances, provided that the failure to meet the time limit had the direct consequence, by virtue of the provisions of the Regulations, of causing a loss of rights or loss of means of redress (28/06/2012, T-314/10, Cook’s, EU:T:2012:329, § 16-17).

Observing time limits is a matter of public policy, and granting *restitutio in integrum* can undermine legal certainty. Consequently, the conditions for the application of *restitutio in integrum* have to be interpreted strictly.

*Restitutio in integrum* can be requested if, in spite of all due care required by the circumstances having been taken the applicant or holder was unable to observe the time limit for renewal. The application must be filed in writing, and the fee (200 EUR) paid within two months of the removal of the cause of non-compliance with the time limit. The omitted act must be completed within this period. The application is only admissible within the year immediately following the expiry of the unobserved time limit. In the case of non-submission of the request for renewal of registration or of non-payment of a renewal fee, the six-month grace period is deducted from the period of one year.



### **B.5.3 JPO**

When design rights holders pay registration fees and registration surcharges late up to within six months after the payment deadline, any additional carrying out of procedures or submission of additional documents is not necessary.

In case rights holders are unable to pay registration fees and registration surcharges late up to within six months after the deadline due to certain “justifiable reasons,” the rights holders must submit statements of reasons along with their payments to the JPO no later than two months after the date on which the “justifiable reasons” ceased to exist but within 1 year from the date of the late-payment deadline. In the statements, the rights holders must state the justifiable reasons; and the date on which these reasons ceased to exist and the grounds for this.

### **B.5.4 KIPO**

If the registration fee is not paid during the late payment period or the payment of underpaid registration fees is not made in due time for the reason for which a design right holder cannot responsible, the late fees or underpaid fees may be paid within two months of date that the relevant cause ceases to exist.

Meanwhile, the restoration of the extinguished design right can be requested by paying twice the regular registration fees within two months of the expiration date of the late payment period without any additional evidence.

### **B.5.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

## **B.6 Please list the applicable laws and regulations with regard to lapse and reinstatement of industrial design rights.**

### **B.6.1 CNIPA**

Rule 6 of the IMPLEMENTING REGULATIONS OF THE PATENT LAW.

### **B.6.2 EUIPO**

Article 13 (3) of the Community Design Regulation (CDR), Article 22(2) (a), (b) of the Community Design Implementing Regulation (CDIR) and Article 7(1) and Annex to the Community Design Fee Regulation (CDFR) points 11 and 12 on renewal

Article 67 CDR regarding Restitutio in integrum

### **B.6.3 JPO**

Applicable laws and regulations with regard to lapse and reinstatement of design rights are stated in the Design Act of Japan as follows:

(Late payment of registration fees)

**Article 44 (1)** Where a holder of a design right is unable to pay the registration fees within the time limit under Article 43(2), the holder of design right may make a late payment of the registration fees after the expiration of the said time limit, but not later than 6 months following the expiration of the said time limit.

(2) The holder of design right who makes a late payment of the registration fees under the preceding paragraph shall pay, in addition to the registration fees to be paid under Article 42(1), a registration surcharge in the same amount as the registration fees.

(3) The payment of the registration surcharge under the preceding paragraph shall be made by patent revenue stamps as provided by an Ordinance of the Ministry of Economy, Trade and Industry; provided, however, that where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, a cash payment thereof shall be accepted.

(4) Where a holder of a design right fails to pay, within the time limit for late payment of the registration fees under paragraph (1), the registration fees and the registration surcharge under paragraph (2), the design right shall be deemed to have been extinguished retroactively upon expiration of the time limit as provided in the Article 43(2).

(Restoration of design right by late payment of registration fees)

**Article 44-2 (1)** Where an original holder of a design right which was deemed to have been extinguished under paragraph (4) of the preceding Article, has justifiable reasons for having been unable to pay the registration fees and the registration surcharge under Articles 44(4) within the time limit for late payment of the registration fees under Article 44(1), the original holder of the design right may make a late payment of the registration fees and the surcharge within two months from the date on which the justifiable reasons ceased to exist, but not later than one year following the expiration of the said time limit.

(2) Where the registration fees and the surcharge are paid under the preceding paragraph, the design right shall be deemed to have been maintained retroactively from the time of expiration of the time limit as provided in Article 43(2).

(Restriction on effect of restored design right)

**Article 44-3 (1)** Where a design right has been restored under paragraph (2) of the preceding Article, such design right shall not be effective against an article or graphic image recording medium, etc., to the registered design or a design similar thereto, which was imported into, or manufactured or acquired within Japan, a building to the registered design or a design similar thereto, which was built or acquired within Japan, or an graphic image to the registered design or a design

similar thereto, which was created or acquired within Japan after the lapse of the time limit during which the late payment of the registration fees is allowed under Article 44(1) but before the registration of the restoration of the design right.

(2) A design right restored under paragraph 2 of the preceding Article shall not be effective against the following acts conducted after the lapse of the time limit during which the late payment of the registration fees is allowed under Article 44(1) but before the registration of the restoration of the design right:

(i) the working of the registered design or a design similar thereto;

(ii) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or the recording medium, etc. containing computer program, etc., to be used for the manufacturing of the article to the registered design or a design similar thereto:

(a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or recording medium, etc. containing computer program, etc., to be used for the manufacturing;

(b) acts of creating any computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;

(iii) Acts of possessing an article to the registered design or a design similar thereto for the purpose of assigning, leasing or exporting it;

(iv) Acts falling under any of the following that are conducted with regard to any article, or computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the building of the building to the registered design or a design similar thereto:

(a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article, or recording medium, etc. containing computer program, etc., to be used for the building;

(b) acts of creating any computer program, etc. to be used for the building, or providing it through an electric telecommunication line or offering for the provision;

(v) Acts of owning a building to the registered design or a design similar thereto for the purpose of assigning or leasing it;

(vi) Acts falling under any of the following that are conducted with regard to any article, or graphic image or general graphic image recording medium, etc., or a computer program, etc. or recording medium, etc. containing computer program, etc., to be used for the creating of the graphic image to the registered design or a design similar thereto:

(a) acts of manufacturing, assigning, leasing, or importing, or offering for assignment or lease of any article or general graphic image recording medium, etc., or recording medium, etc. containing computer program, etc., to be used for the creating;

(b) acts of creating any graphic image or computer program, etc. to be used for the creating, or providing it through an electric telecommunication line or offering for the provision;

(vii) Acts of holding a graphic image to the registered design or a design similar thereto for the purpose of providing it through an electric telecommunication line, or acts of possessing a graphic image recording medium, etc. to the registered design or a design similar thereto for the purpose of assigning, leasing, or exporting it.

#### **B.6.4 KIPO**

Applicable laws and regulations are as follows:

##### **Design Protection Act**

##### **Article 82 (Late Payment of Registration Fees)**

(1) A person who seeks to register grant of a design right or the owner of a design right may pay a registration fee within six months (hereinafter referred to as “grace period for late payment”) even after the due date specified in Article 79 (3) for the payment of the registration fee.

(2) A person who pays a registration fee after the due date in accordance with paragraph (1) shall pay the amount specified by Ordinance of the Ministry of Trade, Industry and Energy, which shall not exceed twice the registration fee that the person was otherwise obliged to pay.

(3) If a person who seeks to register grant of a design right fails to pay the registration fee within a grace period for late payment (referring to cases where an underpaid registration fee is not fully paid within a grace period for the payment thereof, if the period for the payment of the underpaid registration fee under Article 83 (2) has not elapsed even after the end of the grace period for late payment), the application for design registration shall be deemed abandoned, and the design right owned by the person shall be deemed extinguished retroactively to the day immediately following the end of a period for which a registration fee was paid in accordance with Article 79 (1) or (2).

##### **Article 83 (Payment of Underpaid Registration Fees)**

(1) If a person who seeks to register grant of a design right or the owner of a design right fails to fully pay a registration fee within a period specified in Article 79 (3)

or 82 (1), the Commissioner of the Korean Intellectual Property Office shall order the person to pay the underpaid registration fee.

(2) Upon receipt of an order to pay an underpaid registration fee under paragraph (1), a person may pay the underpaid registration fee within one month from the date on which he or she receives such order.

(3) A person who pays an underpaid registration fee in accordance with paragraph (2) shall pay the amount specified by Ordinance of the Ministry of Trade, Industry and Energy, which shall not exceed twice the amount he or she is otherwise obliged to pay.

#### Article 84 (Restoration of Applications for Design Registration and Design Right by Late Payment of Registration Fees or Payment of Underpaid Registration Fees)

(1) If a person who seeks to register grant of a design right or if the owner of a design right fails to pay a registration fee within the grace period for late payment or an underpaid registration fee within the payment deadline due to a cause beyond his or her control, he or she may pay the registration fee or the underpaid registration fee within two months from the date on which such cause ceases to exist: Provided, That the foregoing shall not apply where one year has passed since the end of the grace period for late payment or the end of the payment deadline of an underpaid registration fee, whichever is later.

(2) Notwithstanding Article 82 (3), if a person pays a registration fee or an underpaid registration fee in accordance with paragraph (1), the relevant application for design registration shall be deemed not abandoned, and the relevant design right shall be deemed perpetual.

(3) If the owner of a design right fails to pay a registration fee within a grace period for late payment or fails to pay an underpaid registration fee within a payment deadline of the underpaid registration fee, and the design right-holder to the relevant registered design is extinguished, the design right may pay twice the registration fee within three months from the end of the grace period for late payment or the end of the payment deadline of the underpaid registration fee to apply for the restoration of the extinguished right. In such cases, the relevant design right shall be deemed perpetual. <Amended on Jan. 27, 2016>

(4) The effects of an application for design registration or a design right under paragraph (2) or (3) shall not extend to the working of the relevant design or design similar thereto by another person during a period (hereinafter referred to as "period of limited effects") from the date immediately after the end of a grace period for late payment of the registration fee until the date the registration fee or underpaid registration fee is fully paid.

(5) A person who commercially works, or prepares to commercially work, a design claimed in an application for design registration or a registered design under

paragraph (2) or (3), or similar thereto, in good faith, within the Republic of Korea during a period in which its validity is restricted, shall be granted a non-exclusive license for the design that the person works or prepares to work for business purpose.

(6) A person granted a non-exclusive license under paragraph (5) shall pay reasonable consideration therefor to the owner or exclusive licensee of the relevant design right.

#### **B.6.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

### **C. Fees for Industrial Design Term PROTECTION**

**C.1 Are there fees associated with receiving a term of protection in your jurisdiction after the application is registered or granted? If so, what is the fee(s) (e.g., in the U.S., once the design right holder pays the “issue fee” and is granted the patent, the industrial design is protected for the duration of the 15-year term of protection).**

#### **C.1.1 CNIPA**

After making Notification to Grant Patent Right for Design by the patent administration department under the State Council, the applicant needs to go through the formalities of registration of the grant of patent right within the time limit of 2 months after the receipt of the notification, it or he shall pay the annual fee of the year in which the patent right is granted. Annual fee is RMB 600 for the 1st to 3rd years; RMB 900 for the 4th to 5th years; RMB 1,200 for the 6th to 8th years; RMB 2,000 for the 9th to 10th years; RMB 3,000 for the 11th to 15th years.

#### **C.1.2 EUIPO**

The fee structure for designs is as follows:

A basic fee for a single design or the first design of a multiple application.

A reduced fee for the 2nd to 10th designs.

A further fee reduction per design, from the 11th design onwards.

Please see the Fee structure here below:

[Registration fees](#)

Single design or first design in a multiple application	EUR 230
2nd to 10th design in a multiple application	EUR 115 per design
11th+ design in a multiple application	EUR 50 per design

Publication fees

Single design or first design to be published in a multiple application	EUR 120
2nd to 10th design to be published in a multiple application	EUR 60 per design
11th+ design to be published in a multiple application	EUR 30 per design

Deferment fees (where deferment of publication is requested)

Single design or first design with deferment of publication in a multiple application	EUR 40
2nd to 10th design with deferment of publication in a multiple application	EUR 20 per design
11th+ design with deferment of publication in a multiple application	EUR 10 per design

Registered Community designs are granted for an initial period of 5 years from the date of filing and can be renewed in four blocks of five years up to a maximum of 25 years (Article 12 CDR).

In accordance with Article 13(1) CDR, registration shall be renewed on request provided that the renewal fee has been paid.

The fees payable for the renewal of a Registered Community design consist of:

- a renewal fee, which, where several designs are covered by a multiple registration, is in proportion to the number of designs covered by the renewal;

- any additional fee applicable for late payment of the renewal fee or late submission of the request for renewal.

The amount of the renewal fee, per design, whether or not included in a multiple registration, is as follows (Annex to the Community Design Fee Regulation (CDFR) points 11 and 12):

- for the first renewal: EUR 90;
- for the second renewal: EUR 120;
- for the third renewal: EUR 150;
- for the fourth renewal: EUR 180.

The fee must be paid within a period of 6 months ending on the last day of the month in which protection ends.

The additional fee for late payment or late submission is:

- 25% of the renewal fee.

The individual renewal fee for an international registration is, for the first, second, third and fourth period of renewal EUR 31 per design in accordance with point 11a of the Annex to the CDFR.

### **C.1.3 JPO**

Yes. In addition to filing fees, applicants must pay annual fees (registration fees) to register the establishment of their design rights after examiners' decisions to register the designs were made. Annual fee is JPY8,500 for the first to third years and JPY16,900 from the fourth year on.

### **C.1.4 KIPO**

The 'design registration fee' should be paid after the grant of design registration to secure the term of protection.

i) Substantive examination system\*

a. 1 to 3 years, annually: 25,000

ii) Partial-substantive examination system\*\*

a. 1 to 3 years, annually, for each design: 25,000

iii) Deferment fee (where deferment of publication requested, per design):  
18,000 (electronic), 20,000 (paper)

\* The general examination system will be applied to the articles which fall into the rest of classes which are not subject to the partial-substantive examination.



\*\* The partial-substantive examination system will be applied to the articles which fall into Class 2, 5 and 19 of the Locarno Classification before July 1, 2014 and Class 1, 2, 3, 5, 9, 11 and 19 as of today.

If the annual registration fees for 3 years or more are paid in a lump sum from the 4th year onward for which the regular payment period has not expired, 10% of the total amount can be discounted.

### **C.1.5 USPTO**

Applicants must pay the post allowance “issue fee” pursuant to 37 CFR 1.18. Once the design right holder pays the “issue fee” and is granted the patent, the industrial design is protected for the duration of the 15-year term of protection.

## **C.2 Are the fees identified in C.1 a separate fee from the original filing fee? Or does the application filing fee also cover the industrial design term of protection such that there is not a separate fee for the industrial design term of protection? (e.g. in the U.S., once the design right holder pays the issuance fee and is granted the patent, the industrial design innovation is protected for the duration of the 15 year term).**

### **C.2.1 CNIPA**

The filing fee and the registration fee for the grant of patent right mentioned in QC.1 shall be paid separately.

### **C.2.2 EUIPO**

According to Article 6 CDIR 1, the following fees shall be paid at the time when the application is submitted to the Office, and therefore altogether, not separately:

- (a) the registration fee;
- (b) the publication fee or a deferment fee if deferment of publication has been requested;
- (c) an additional registration fee in respect of each additional design included in a multiple application;
- (d) an additional publication fee in respect of each additional design included in a multiple application, or an additional deferment fee in respect of each additional design included in a multiple application if deferment of publication has been requested.

The above fees are for a protection of 5 years. However, in accordance with Article 13(1) CDR, registration shall be renewed on request provided that the renewal fee has been paid.

The fees payable for the renewal of a Registered Community design consist of:

- a renewal fee, which, where several designs are covered by a multiple registration, is in proportion to the number of designs covered by the renewal;
- any additional fee applicable for late payment of the renewal fee or late submission of the request for renewal.

The amount of the renewal fee, per design, whether or not included in a multiple registration, is as follows (Annex to the Community Design Fee Regulation (CDFR) points 11 and 12):

- for the first renewal: EUR 90;
- for the second renewal: EUR 120;
- for the third renewal: EUR 150;
- for the fourth renewal: EUR 180.

The fee must be paid within a period of 6 months ending on the last day of the month in which protection ends.

The additional fee for late payment or late submission is:

- 25% of the renewal fee.

The individual renewal fee for an international registration is, for the first, second, third and fourth period of renewal EUR 31 per design in accordance with point 11a of the Annex to the CDFR.

### **C.2.3 JPO**

Annual fees stated above in Answer C.1.3 are separate fee from the filing fees.

### **C.2.4 KIPO**

The filing fee and registration fee are separate.

The applicant who is granted the design right must pay the registration fees for the initial 3 years for the establishment and registration of the relevant right at once in order to register the design for the first time.

### **C.2.5 USPTO**

The “issue fee” is a separate fee from the original filing fee. Once the design right holder pays the “issue fee” and is granted the patent, the industrial design is protected for the duration of the 15-year term of protection.

## **C.3 If your industrial design terms are renewable, how much are the fees to renew?**

### **C.3.1 CNIPA**

China does not have related regulations of “renewal.”

### **C.3.2 EUIPO**

Renewal fee (Article 13(1) of Regulation (EC) No 6/2002; Article 22(2)(a) of Regulation (EC) No 2245/2002) per design, included or not in a multiple registration:

D-041 Fee for the first period of renewal 90 €

D-042 Fee for the second period of renewal 120 €

D-043 Fee for the third period of renewal 150 €

D-044 Fee for the fourth period of renewal 180 €

Individual renewal fee for an international registration (Article 13(1) and 106c of Regulation (EC) No 6/2002; Article 22(2)(a) of Regulation (EC) No 2245/2002 per design: info

Fee for the first period of renewal — (per design) 31 €

Fee for the second period of renewal — (per design) 31 €

Fee for the third period of renewal — (per design) 31 €

Fee for the fourth period of renewal — (per design) 31 €

### **C.3.3 JPO**

Please refer to C.1.3. In Japan, “renewal fee” is also called “registration fee.”

### **C.3.4 KIPO**

If the first round of 3 years is over, you can renew by paying the annual fees (KRW) as follows.

#### **i) Substantive examination track**

a. 4 to 6 years, annually: 35,000

b. 7 to 9 years, annually: 70,000

c. 10 to 12 years, annually: 140,000

d. 13 to 20 years, annually: 210,000

#### **ii) Partial-substantive examination track**

a. 4 to 20 years, annually, for each design: 34,000

### C.3.5 USPTO

Not applicable – the United States does not have a renewable industrial design term.

## C.4 Whether fixed or renewable, are there any other applicable fees beyond renewal fees? E.g., does your jurisdiction have annual/maintenance fees associated with your industrial design term of protection?

### C.4.1 CNIPA

Except for the annual fee, the party concerned does not need to pay other fees.

### C.4.2 EUIPO

According to Article 6 CDIR 1, the following fees shall be paid at the time when the application is submitted to the Office:

- (a) the registration fee;
- (b) the publication fee or a deferment fee if deferment of publication has been requested;
- (c) an additional registration fee in respect of each additional design included in a multiple application;
- (d) an additional publication fee in respect of each additional design included in a multiple application, or an additional deferment fee in respect of each additional design included in a multiple application if deferment of publication has been requested.

Publication fee + additional fee for deferment of publication

Additional publication fee in respect of each additional design included in a multiple application (Article 37(2) of Regulation (EC) No 6/2002; Article 6(1)(d) of Regulation (EC) No 2245/2002):

D-012 Fee for each design from the 2nd to the 10th design 60 €

D-013 Fee for each design from the 11th design onwards 30 €

D-021 Fee for deferment of publication (Article 36(4) of Regulation (EC) No 6/2002; Article 6(1)(b) of Regulation (EC) No 2245/2002) 40 €

Additional fee for deferment of publication in respect of each additional design included in a multiple application subject to deferment of publication (Article 37(2) of Regulation (EC) No 6/2002; Article 6(1)(d) of Regulation (EC) No 2245/2002):

D-022 Fee for each design from the 2nd to the 10th design 20 €

D-023 Fee for each design from the 11th design onwards 10 €

D-004 Fee for the late payment of the registration fee (Article 107(2)(a) of Regulation (EC) No 6/2002; Article 10(3) of Regulation (EC) No 2245/2002) 60 €

D-014 Fee for the late payment of the publication fee (Article 107(2)(b) of Regulation (EC) No 6/2002; Article 10(3) and Article 15(4) of Regulation (EC) No 2245/2002) 30 €

D-024 Fee for the late payment of the fee for deferment of publication (Article 107(2)(c) of Regulation (EC) No 6/2002; Article 10(3) of Regulation (EC) No 2245/2002) 10 €

The above fees are for a protection of up to 5 years.

There are no annual or maintenance fees.

#### **C.4.3 JPO**

In Japan, there are no other applicable fees beyond renewal fees.

#### **C.4.4 KIPO**

N/A

#### **C.4.5 USPTO**

The United States does not any maintenance or renewal fees.

### **C.5 If there are other fees, such as maintenance fees, associated with the industrial design term of protection, what happens if those fees are not paid?**

#### **C.5.1 CNIPA**

If the annual fees are not paid as regulated, the patent right shall lapse from the expiration of the time limit within which the annual fee should be paid, before the 15 years' duration.

#### **C.5.2 EUIPO**

The Registration and Publication (or deferment) fee must be paid at the time of filing (Article 6(1)CDIR). If they are not paid at the time of filing they will be subject to a late payment fee in accordance with the following:

D-030 Fee for the late payment of additional fees for multiple applications as referred to in 2, 4 and 6 of this annex (Article 107(2)(d) of Regulation (EC) No 6/2002; Article 10(3) and Article 15(4) of Regulation (EC) No 2245/2002)  
25 % of the additional fees

D-054 Fee for restitutio in integrum (Article 67(3) of Regulation (EC) No 6/2002)  
200 €

**C.5.3 JPO**

Not applicable.

**C.5.4 KIPO**

N/A

**C.5.5 USPTO**

Not applicable – the United States does not have a renewable industrial design term.

**C.6 Is there a discount if the required fees associated with receiving and/or maintaining a term of protection are processed electronically versus by paper submission?**

**C.6.1 CNIPA**

No.

**C.6.2 EUIPO**

In our current design regulation(s) there are no benefits when applying for an RCD online, but e-filing is the strongly recommended means of filing since it can guarantee accurate quality of the design representation, and the system gives guidance to the applicant, thus reducing the number of potential deficiencies and speeding up the examination procedure.

**C.6.3 JPO**

There are no discounts offered in Japan.

**C.6.4 KIPO**

In case you want to issue a copy of the register or records, if it is applied and issued online, it will be free of charge but if it is issued in paper form, in addition to the postage, 500 KRW will be charged for a copy. And if the document is more than 10 pages, extra 100 KRW will be charged for each page.

**C.6.5 USPTO**

There is no discount for processing fees electronically versus by paper submission.

**C.7 Do the fees associated with receiving and/or maintaining a term of protection vary for small entities, micro entities, individuals, nonprofits, universities, etc.?**

**C.7.1 CNIPA**

In any of the following circumstances, the applicant or patentee could apply for a reduction of related fees (including annual fees) to the CNIPA:

1. the person whose monthly income of the previous year is lower than 5,000 ¥ (i.e. 60,000 ¥ a year);
2. the enterprise whose taxable income of the previous year is lower than 1,000,000 ¥;
3. public institutions, social organization and no-profit research institute.

Where an application has two or more applicants or patentees, whether they are for person or enterprise, should meet the above-mentioned regulations respectively.

### **C.7.2 EUIPO**

All mentioned fees are exactly the same for all applicants. However, small and medium-sized enterprises (SMEs) can apply for a 50% reimbursement on design basic application fees from the ‘Ideas Powered for Business’ SME Fund for up to a maximum of EUR 1 500.

<https://euipo.europa.eu/ohimportal/en/online-services/sme-fund>

### **C.7.3 JPO**

In Japan, the fees do not vary depending on applicants.

### **C.7.4 KIPO**

We offer special discounted rates for filing and the first round (3 years) of registration fees for them, as below:

(in Korean)

[https://www.kipo.go.kr/kpo/HtmlApp?c=52603&catmenu=m05\\_02\\_06\\_03](https://www.kipo.go.kr/kpo/HtmlApp?c=52603&catmenu=m05_02_06_03)

### **C.7.5 USPTO**

The “issue fee” associated with receiving a term of protection varies for small entities, micro entities, and normal entities. See 37 CFR 1.18(b)(1).

## **C.8 Are the required fees associated with receiving and/or maintaining a term of protection dependent upon the classification of the design being protected?**

### **C.8.1 CNIPA**

The annual fees are not associated with the classification of the design.

### **C.8.2 EUIPO**

The required fees are not dependent upon the classification of the design being protected.

### **C.8.3 JPO**

The fees are the same, regardless of design classification of designs requiring protection.

#### **C.8.4 KIPO**

Please refer to C.1.3.

#### **C.8.5 USPTO**

The required fees are not dependent upon the classification of the design being protected.

### **C.9 Are there limitations on who can pay industrial design fees? Can someone other than the design right holder pay the industrial design term fee? Must the fees be paid through a local representative?**

#### **C.9.1 CNIPA**

There are no related regulations to limit that the fees must be paid by the design right holder.

#### **C.9.2 EUIPO**

Pursuant to Article 77 Community Design Regulation (CDR) natural or legal persons not having either their domicile or their principal place of business or a real and effective industrial or commercial establishment in the Community must be represented before the Office in accordance with Article 78(1) in all proceedings before the Office established by this Regulation, **other than in filing an application for a registered Community design.**

Furthermore, professional representation is not mandatory for renewal.

Therefore, there is no limitation on who can pay the industrial design fees.

The EUIPO accepts payment by bank transfer, debit or credit card and through a current account held with the EUIPO. Payments by transfer must be accompanied by an indication of the payer's name and address, but this does not necessarily need to coincide with the name of the applicant. Payments through an Office current account are by means of an automatic debiting system. Payment of a fee by debiting a current account held by a third party requires explicit written authorisation. The authorisation must be given by the holder of the current account and must state that the account can be debited for a specific fee.

#### **C.9.3 JPO**

Design registration fees can be paid only by persons having the rights to obtain design registrations, design rights holders, and their representatives and stakeholders. (Any third parties cannot pay registration fees, if they have no interest in the design rights.)



#### **C.9.4 KIPO**

During the regular and late payment periods, any stakeholder can pay registration fees. But the restoration request can be filed only by the design right holder, not a stakeholder.

If you do not have a residential or business address in Korea, you should appoint a representative to pursue application procedures including the payment of fees. The representative must have a residential or business address in Korea and could be a friend or relative, not necessarily a patent attorney.

#### **C.9.5 USPTO**

The fee(s) due will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34. See MPEP 1306.

### **C.10 If your jurisdiction has terms of protection for related designs, what are the fees for related designs? Are the fees for related designs different for the fees for the principle design?**

#### **C.10.1 CNIPA**

China does not have related regulations of “related design”.

#### **C.10.2 EUIPO**

Not applicable – EUIPO does not have a related designs system.

#### **C.10.3 JPO**

Fees for Related Designs and their Principle Designs are same. For registration fees, please refer to C.1.3.

#### **C.10.4 KIPO**

The fee for related design is same as the principal one.

#### **C.10.5 USPTO**

Not applicable – the United States does not have a related designs system.

### **C.11 Please list applicable methods (cash payment, fund transfer, credit card payment, etc.) for payment of design fees. Can a person residing outside the jurisdiction pay fees without a local representative? Is there a system that automatically pays fees?**

#### **C.11.1 CNIPA**

There are 3 methods of payment for the annual fee:

1. The fees may be paid directly to the Patent Office (including the local patent receiving agencies);
2. For registered electronic application user, the fees may be paid through the online payment system of the e-application official website after logging in.
3. The fees may be paid by postal or bank remittance

### **C.11.2 EUIPO**

The specific methods of payment, other than payment or transfer to a bank account held by the Office, established by Article 5(2) CDFR, of fees and charges due to the Office are those made through current accounts opened at the Office, or by credit and debit cards. Cash payments at the Office's premises and cheques are no longer accepted (03/09/2008, R 524/2008-1, Teamstar / TeamStar).

Payments through an Office current account are by means of an automatic debiting system. Payment of a fee by debiting a current account held by a third party requires explicit written authorisation. The authorisation must be given by the holder of the current account and must state that the account can be debited for a specific fee. The Office cannot issue invoices. However, the Office will provide a receipt when requested to do so by the user.

Where the applicant does not have its domicile or its principal place of business or a real and effective industrial or commercial establishment within the European Economic Area (EEA), it must be represented by a representative in all proceedings before the Office other than in filing an application.

However, professional representation is not mandatory for filing or renewal.

### **C.11.3 JPO**

Applicable payment methods at the JPO include: payment through the advance-payment system, cash payment, online cash transfer, bank transfer, and credit card payment.

Persons residing outside Japan are required to pay fees through design administrators, i.e., legal representatives domiciled or residing in Japan.

Also, the JPO has an automatic payment system available.

### **C.11.4 KIPO**

- (1) In general, the fee can be paid by cash, electronic transfer, postal orders and credit card but only an individual or SME are allowed to pay by credit card.
- (2) A person residing outside Korea needs a representative to pay the fee.
- (3) The automatic payment system is available.

### **C.11.5 USPTO**

The following methods of payment are available at the USPTO

1. Online: debit/credit card payment, deposit account, electronic funds transfer
2. By fax: debit/credit card payment, deposit account
3. By mail: debit/credit card payment, deposit account, check, money order
4. By wire transfer

The “issue fee” in a design application will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34. See MPEP 1306.

## **C.12 Is it possible to check a payment status for the design term fees or a continuance of the design rights in the database provided by the office?**

### **C.12.1 CNIPA**

Yes.

### **C.12.2 EUIPO**

Current account holders can view, save or print account movements and pending debits online via the User Area of the Office’s website.

The EUIPO database (eSearch) shows the different statuses through which a design passes (e.g. from Application Filed to Application Examination), but there is no specific field with information on the payments. For payments made other than by current account held with the Office, the holder can contact the Office directly to request information on the payment status.

### **C.12.3 JPO**

Yes. The payment status for design term fees and the duration of protection for design rights can be checked in the JPO’s online database called the J-PlatPat.

<https://www.j-platpat.inpit.go.jp/>

### **C.12.4 KIPO**

Payment status for the fee can be monitored via online system. e.g. patent.go.kr and kipris.or.kr.

### **C.12.5 USPTO**

Yes. USPTO customers can check the payment status at <https://fees.uspto.gov/>. However, the USPTO does not charge maintenance fees for design applications.

## **C.13 Please explain that if your office provides user-friendly means and**

**assistance to help users understand fees and payment methods. For example, is there a service / mechanism that allows users to calculate the approximate total amount of fees?**

#### **C.13.1 CNIPA**

Users could conveniently calculate the amount of fees according to the official published payment standard and could take advantage of the client platform for electronic application (i.e. EAC) to do the calculation.

#### **C.13.2 EUIPO**

Yes, users can visit our website (<https://euipo.europa.eu/ohimporta/en/rcd-fees-and-payments>) where they can find a full list of fees and can use a fees calculator. Users can also consult the EUIPO's guidelines (<https://euipo.europa.eu/ohimportal/en/guidelines>), which contains further information. Moreover, users can consult our [most frequently asked questions about Designs](https://euipo.europa.eu/ohimportal/en/help) (<https://euipo.europa.eu/ohimportal/en/help>).

#### **C.13.3 JPO**

With regard to fees necessary to advance required procedures and payment methods, the JPO publishes details on our website and sets up specific pages for users to easily calculate the amount of their filing and registration fees.

#### **C.13.4 KIPO**

Online e-filing system (including mobile and PC) has a fee calculator and an alarming feature to help users avoid erroneous payment.

#### **C.13.5 USPTO**

The USPTO provides a fee schedule of all applicable fees and payment methods at <https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule>.

### **C.14 Please list any applicable laws and regulations with regard to industrial design term fees.**

#### **C.14.1 CNIPA**

Article 43 and 44 of the PATENT LAW; Chapter 9 of the IMPLEMENTING REGULATIONS OF THE PATENT LAW; The notice about the reduction of patent fees.

#### **C.14.2 EUIPO**

Article 36(4) [CDR - Community Design regulation](#) (EC) No 6/2002

Article 6 [CDIR - Community Design implementing regulation](#) (EC) No 2245/2002

[CDFR - Community Design fees regulation](#) (EC) No 2246/2002

Also, EUIPO website [most frequently asked questions about Designs](#)

### C.14.3 JPO

Applicable laws and regulations of the Design Act and the Enforcement Order of Design Act of Japan with regard to design term fees are as follows:

(Registration fees)

#### **Design Act**

**Article 42** A person that has had a registration made establishing design rights, or the holder of design rights, must pay as registration fees in the amounts prescribed by Cabinet Order within not exceeding 16,900 yen, for each design registration and for each year to the expiration of the duration of design rights provided for in Article 21:

(2) The provisions referred to in the preceding paragraph do not apply to design rights belonging to the national government.

(3) Notwithstanding the provisions of paragraph (1), if a design right is jointly owned by the national government and persons other than the national government, and their respective shares of the design right have been agreed upon, the registration fees payable under paragraph (1) is determined as the sum calculated by multiplying the applicable registration fees as provided in paragraph (1) by the ratio of the share of persons other than the national government, and the persons other than the national government must pay the amount.

(4) If there is a fraction of less than 10 yen in the amount of registration fees calculated pursuant to the preceding paragraph, the fraction is to be discarded.

(5) The payment of registration fees referred to in paragraph (1) must be made by patent revenue stamps as provided by Order of the Ministry of Economy, Trade and Industry; provided, however, that cash payment may be made, if so specified by Order of the Ministry of Economy, Trade and Industry.

#### **Enforcement Order of Design Act**

**Article 1** The amount prescribed by Cabinet Order referred to in Article 42, paragraph (1) of the Design Act shall be the amount specified in the following items for each of the categories of years as provided in the relevant item.

(i) the first to the third year: 8,500 yen

(ii) the fourth to the twenty-fifth year: 16,900 yen

#### **C.14.4 KIPO**

Enforcement Rule of the Collection of Patent Fees, ETC Article 7 and 8

#### **C.14.5 USPTO**

37 C.F.R. 1.18(b)(1) – Design “issue fee”

### **D. Data Regarding Industrial Design Terms**

**D.1 Please provide any statistics on renewable design terms, including frequency of renewal(s) and breakdowns according to classification, country, size of the entity, and design term increment. Please provide any statistics on the average terms, the minimum terms, the maximum terms, as well as any trends with regard to industrial design term increments.**

#### **D.1.1 CNIPA**

China does not have related regulations of “renewal.”

#### **D.1.2 EUIPO**

Please refer to renewals statistics on the EUIPO Website

2003-01 to 2020-12 Evolution

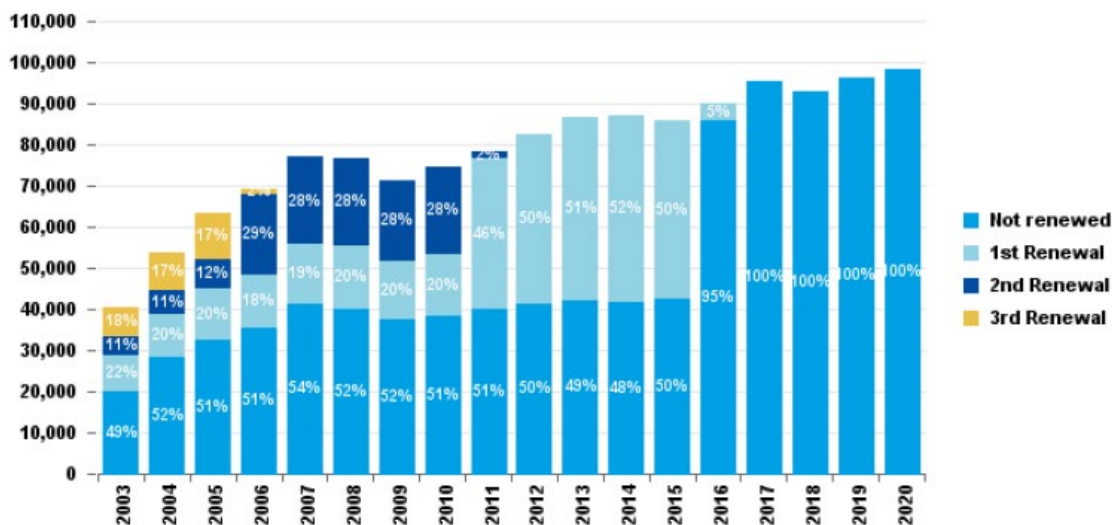
(percentage of renewals by reception date)



## 5. RCD Renewals

Solicitudes - Anmeldungen - Applications Depots - Domande

Renewals over total of RCDs registered



Receiving Year	Registered	Not renewed	1st Renewal	% 1st *	2nd Renewal	% 2nd *	3rd Renewal	% 3rd *
2003	40,422	19,725	13,462	33.30%	4,482	11.09%	7,235	17.90%
2004	53,660	28,128	16,247	30.28%	5,671	10.57%	9,285	17.30%
2005	63,246	32,496	19,686	31.13%	7,347	11.62%	11,063	17.49%
2006	69,007	35,522	32,419	46.98%	19,712	28.57%	1,066	1.54%
2007	76,943	41,350	35,593	46.26%	21,286	27.66%	0	0.00%
2008	76,672	40,064	36,608	47.75%	21,449	27.98%	0	0.00%
2009	71,335	37,398	33,937	47.57%	19,631	27.52%	0	0.00%
2010	74,647	38,276	36,371	48.72%	21,207	28.41%	0	0.00%
2011	78,376	40,058	38,318	48.89%	1,892	2.41%	0	0.00%
2012	82,534	41,199	41,335	50.08%	0	0.00%	0	0.00%
2013	86,443	42,222	44,221	51.16%	0	0.00%	0	0.00%
2014	87,034	41,629	45,405	52.17%	0	0.00%	0	0.00%
2015	85,665	42,619	43,046	50.25%	0	0.00%	0	0.00%
2016	89,966	85,618	4,348	4.83%	0	0.00%	0	0.00%
2017	95,543	95,543	0	0.00%	0	0.00%	0	0.00%
2018	92,954	92,954	0	0.00%	0	0.00%	0	0.00%
2019	96,293	96,293	0	0.00%	0	0.00%	0	0.00%
2020	98,462	98,462	0	0.00%	0	0.00%	0	0.00%

RCDs stated as 1st renewal may also be represented in 2nd renewal if renewed twice and in 3rd renewal if renewed three times.

\* Percentage of renewals over Registered Designs.

### D.1.3 JPO

In Japan, design rights can be renewed for either one year or for multiple years. The average period of maintaining design rights in Japan is 9.9 years. When looking at these average periods by industry, building and civil engineering products are the longest (11.6 years) while clothing and personal belongings are the shortest (7.8 years).

Also, when looking at the periods by country of applicants (by nationality), design rights have been maintained by Chinese applicants for 3.0 years, applicants from Europe (the EU member countries) for 8.6 years, Korean applicants for 5.4 years, Japanese applicants for 10.3 years, and U.S. applicants for 7.6 years.

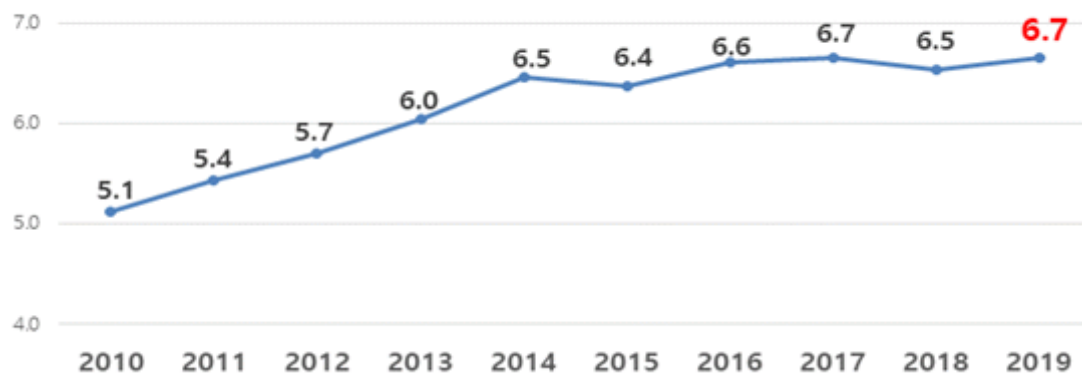
\* When tallying the numbers, the JPO used the data of registered design registrations whose rights expired in 2019 and 2020.

\* Since the JPO does not have statistical data of frequency of renewal(s) and size of entities for design rights, these answers are not available.

### D.1.4 KIPO

As of 2019, the average term of maintaining design rights increased by 1.6 years to 6.7 years over the past decade (a 31.4% increase compared to that in 2010).

<The trend in the period (years) of maintaining design rights (as for the extinguished design rights)>



The articles that have the longest maintenance period of design rights between 2010 and 2019 are vehicles including automobiles and ships with 8.4 years while the articles that have the shortest maintenance period are foodstuffs including with 5 years.

Meanwhile, looking at the extinguished design rights, design rights held for 3 years accounted for the largest share with 34.7% and the long-term holdings of 15 year or more accounted for 7.8% of the total.



### D.1.5 USPTO

Not applicable – the United States does not have a renewable industrial design term.

## E. Development of Laws Regarding Industrial Design Term Protection

### E.1 What considerations were important in developing your jurisdiction's term of protection for industrial designs, e.g. innovation for the creation of industrial design, benefit of industrial designs for public use after a certain amount time, etc.? Are there any benefits and/or challenges the structure noted by stakeholders?

#### E.1.1 CNIPA

In the process of formulating regulations about term of protection for industrial designs, diversified demands of the innovators are fully considered. Taking into consideration the fact that products of the industrial designs involve with a wide range of areas and have different lifecycles, certain extension of the term of protection would be of benefit to the enhancement of the IPR protection. In the meantime, to satisfy the innovators' demands for a more prompt and convenient registration procedure when filing abroad, the related regulations about the term of protection are adjusted with a view to meeting the requirements of the Hague Agreement.

#### E.1.2 EUIPO

Answer V.1: Please see CDR preamble number 16 and 17 on the term of protection

Whereas (16) Some of those sectors produce large numbers of designs for products frequently having a short market life where protection without the burden of registration formalities is an advantage and the duration of protection is of lesser significance. On the other hand, there are sectors of industry which value the advantages of registration for the greater legal certainty it provides and which require the possibility of a longer term of protection corresponding to the foreseeable market life of their products.

Whereas (17) This calls for two forms of protection, one being a short-term unregistered design and the other being a longer term registered design.

Please see CDR preamble number 1 and 2 on the need and benefit to introduce a uniform design protection law, and number 7 on innovation

Whereas:

(1) A unified system for obtaining a Community design to which uniform protection is given with uniform effect throughout the entire territory of the

Community would further the objectives of the Community as laid down in the Treaty.

(2) Only the Benelux countries have introduced a uniform design protection law. In all the other Member States the protection of designs is a matter for the relevant national law and is confined to the territory of the Member State concerned. Identical designs may be therefore protected differently in different Member States and for the benefit of different owners. This inevitably leads to conflicts in the course of trade between Member States.

(7) Enhanced protection for industrial design not only promotes the contribution of individual designers to the sum of Community excellence in the field, but also encourages innovation and development of new products and investment in their production.

### **E.1.3 JPO**

Under the revised Design Act of Japan in 2019, the term of protection for design rights that was “20 years from the date when the establishment of the rights was registered” has been extended to “25 years from the date when design applications were filed.” The reasons for this revision are as follows:

#### **(1) Extension of protection period for design rights**

In recent years, in fields such as aircraft and automobiles, an increasing number of companies are filing applications at the JPO to register designs of their products at the stage of research and development (R&D) activities and the launching of new products in the market after introducing many improvements over time. In these fields, there has been a growing need for further extending the term of protection for design rights. Also, from the perspective of supporting R&D activities for companies to develop their own unique design concepts and promoting an increase in brand value, it would be desirable to set longer protection periods for design rights. In particular, based on the fact that the maximum 25-year period of protection for design rights is allowed in Europe, Japan has been required to extend the protection period from 20 years to 25 years in terms of implementing the best possible design policies.

#### **(2) Revision to date on which term of protection for design rights begins**

**(i) Increase in conversion of applications between applications for invention patent and applications for design registration**

Under the Design Act of Japan, applications for design registration and applications for invention patent can be converted from one to the other. (Article 13 (1) of the Design Act and Article 46 (2) of the Patent Act) In recent years, the conversion of applications has been on the rise, and the annual number increased to about 100, and to about 180 occasionally. Also, the date on which the protection period for

design rights has started from the date when the establishment of design rights was registered, while the protection period for patent rights has started from the date when applications for invention patent were filed. Due to this difference, there has been a growing need among users to harmonize the dates on which the protection periods for patent rights and design rights start. That was because it would be inconvenient for users in terms of managing their IP rights that the protection period for IP rights could be significantly changed by converting applications.

Also, amid the increase in the conversion of applications, when applicants filed applications for invention patents to ensure eligibility in regard to previously filed inventions and to undergo patent examinations, and if these applicants convert their patent applications into design applications just before an examiners' decisions to grant or not grant patent rights to their filed patent applications, the protection period for design rights would start from the date when the establishment of the filed designs was registered after the design applications were examined. Because of this, the expiry of the protection period for the inventions (designs) has been likely to be extended unreasonably.

(ii) Reasons why dates on which protection period for IP rights begin are unified as the filing dates, not the registration dates

In Japan, the date on which the term of protection for patent rights starts is the date when patent applications were filed. This is because, unlike design applications, for patent applications, the JPO has a system allowing applicants to request patent examinations, in which applicants can determine whether to undergo substantive examinations at the JPO (under Article 48-2 of the Patent Act). In other words, if the term of protection for patent rights starts from the date when the establishment of the rights was registered, the expiry of the protection period might vary depending on the timing of when applicants request examinations and on the ongoing progress in examinations conducted by examiners, and this was not considered to be appropriate. On the other hand, since the JPO does not have the examination request system for design applications, the term of protection for design rights starts from the date when the establishment of the rights was registered. Accordingly, if the production period for design rights starts from the application date, there is no particular problem.

Considering the above circumstances, it is considered to be more appropriate to start the protection period for design rights from the application dates, as is the case of patent rights.

#### **E.1.4 KIPO**

To foster innovation, pro-patent policies have long been maintained across the government. For this policy reason, we have extended the design protection period since 2014.

### **E.1.5 USPTO**

On December 18, 2012, the Patent Law Treaties Implementation Act of 2012 (PLTIA) was signed into law. The PLTIA among other things sets forth provisions implementing the 1999 Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs ("Hague Agreement"). These provisions (Title I of the PLTIA) took effect on May 13, 2015. As a result, U.S. design patents resulting from applications filed on or after May 13, 2015 have a 15 year term from the date of grant. However, patents issued from design applications filed before May 13, 2015 have a 14 year term from the date of grant.

## **E.2 Did your jurisdiction consider shareholder input on the design term? If so, what considerations were important to shareholders? Has there been any shareholder comments with regard to changing your jurisdiction's term of protection? If so, what were the comments and the rationale behind those comments?**

### **E.2.1 CNIPA**

According to the requirements of the relevant laws of china, the comments of the public should be considered during the process of drafting laws and regulations.

### **E.2.2 EUIPO**

In general, the term of protection for registered design rights appears appropriate, and strikes the right balance to achieve **effective** protection. However, differences between the provisions of the Directive and the Regulation concerning the initial term of protection for RCDs and national registered designs undermine coherence of the two protection systems. Although some stakeholders are critical of the term of protection for UCDs, most of them still consider it appropriate. Currently, there does not seem to be a strong call or need to review the term of protection for UCDs.

More information on the evaluation can be found here: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1846-Evaluation-of-EU-legislation-on-design-protection>

### **E.2.3 JPO**

From August to September 2018, the JPO solicited various opinions to contribute to reviewing issues to be considered in revising the design system of Japan. Major comments submitted by stakeholders are as follows:

(1) Extension of protection period for design rights

Support opinions:

The extension is beneficial for designs that have been used through the years in terms of dealing with damages continuously caused by counterfeit goods;

Extension of the protection period for design rights is needed to eliminate disadvantages of shortening the protection period, when revising the date on which the protection period starts from the registration dates to the filing dates;

In the EU region, the term of protection for registered designs is 25 years. I think this system has functioned well, and no particular problems have been found in this regard; and

When designs serve as a decisive factor to purchase products, longer terms of protection would be desirable for the design rights, such as trademark rights. Also, considering the fact that in most countries, the protection period has extended to 25 years, the extension of the protection period in Japan is in line with the global trend of the design system.

Opposing opinions:

The current 20-year protection period is the same or longer compared to the period in most countries, and the current term of protection is enough for most design rights;

The extension is not necessary, likely leading to industrial stagnation. Rather, it would be better to shorten the current term of protection;

Since the term of protection for design rights was extended to 20 years, not much time has passed. Also, any of the 20-year protection periods for registered design rights have not expired. Under these circumstances, I cannot find any benefits in discussing further extension of the protection period;

If the term of protection for design rights is extended to 25 years, design rights would remain effective even when the term of protection for patent rights has expired and the former patented technologies have become public domain technologies. Based on this premise, it is likely to occur that any third parties cannot use such technologies. Even at present, such situations can occur. Therefore, I am concerned about extending the protection period further; and

A total amount of annual fees for the 20-year protection period in Japan is expensive when compared to those for the 15-year period in the U.S. and the 25-year period in Europe.

(2) Revision to date on which protection period for design rights starts

Support opinions:

I support the revision from the perspective of harmonizing the Design Act with the Patent Act;

It would not be preferable that the protection period varies depending on the examination period. The protection period should start from the filing dates, regardless of whether to extend the period; and

Such a revision was made in other jurisdictions, including the case of registered designs in the EU.

Opposing opinions:

Since design rights have become effective from the date when the establishment of the rights was registered, the revision means a substantive shortening of the protection period;

I cannot imagine any impact from costs to change the current system of managing applications and from benefits by reducing workload; and

Due to the revision, the calculation of registration fees and the time when the protection period expires could become more complicated.

#### **E.2.4 KIPO**

The design protection term was extended from 15 yrs. to 20 yrs. in 2014. KIPO conducted a fairly extensive survey of very large number of stakeholders, and the result of the study led to amendment of Design Protection Act.

#### **E.2.5 USPTO**

The term of protections for design patents was extended from 14 years to 15 years in the Patent Law Treaties Implementation Act of 2012. This was done in preparation of the United States joining the Hague System.