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Client Alert: Brazil Joins the Hague Agreement Concerning the International Registration of Industrial Designs

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United States applicants can file a single design patent application under the Hague System, now designating Brazil and 96 other countries, including the U.S.

Filing a design patent in Brazil has never been easier. As of August 1, 2023, U.S. applicants for a design patent now have the ability to file in Brazil via the Hague Agreement Concerning the International Registration of Industrial Designs. This allows U.S. applicants to bypass the need to hire a foreign associate in Brazil and aims to simplify the prosecution of applications for registration and reduce costs.

A Global Platform

For its part, the U.S. joined the Hague System in 2015. Canada followed in 2018 and Mexico in 2020. Other contracting parties include China, the African Intellectual Property Organization, the European Union, Japan, Israel, Russia, South Korea, Switzerland, Turkey, the United Kingdom, and Vietnam. Brazil's accession makes it the first country in South America to join the Hague System.

Duration of Protection

International registrations designating Brazil may be renewed every five years upon payment to the International Bureau, with a maximum protection term of 25 years counted from the date of filing of the international registration. Only 39 other contracting parties offer a maximum duration of 25 years. This term is only exceeded by one other country, Monaco, which offers a maximum duration of up to 50 years.

Cost Savings and Provisional Rights

Utilizing the Hague System can save applicants considerable time and money. Numerous designs (up to 100) can be included in a single application. Depending on a few factors, filing a Hague Design application can be an order of magnitude cheaper than under the Paris Convention. This is a result of the elimination of the

need to obtain foreign translations and hire foreign attorneys. Further, the Hague System streamlines the payment of annuity fees and delivery of communications from foreign patent offices. Unlike regular U.S. design patent applications, Hague applications publish to the public after six months, opening up the possibility of obtaining provisional rights in the form of a reasonable royalty.

Shumaker has assisted clients in securing design patent protection via the Hague system in 47 countries of the participating countries, all with one application filing.

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