

Diplomatic Conference to Conclude and Adopt a Design Law Treaty (DLT)

Riyadh, November 11 to 22, 2024

ARTICLE 4(2)(B), ARTICLES 6 AND 29

Proposal by the Delegation of China

The Delegation of China has submitted to the Secretariat of the Diplomatic Conference the proposal contained in the Annex to the present document.

[Annex follows]

Amendment Proposals by the Delegation of China to the Basic Proposal for the Design Law Treaty

I. Article 4(2)(b)

China proposes amending this subparagraph as follows,

“A Contracting Party may provide that, an applicant, holder, or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment in the territory of the Contracting Party may act himself/herself before the Office for the filing of an application, for the purposes of the filing date, or for the mere payment of a fee.”

Brief explanation:

The representation system plays an important role in the patent system, and a well-functioning system can help applicants to obtain patent rights in a better way, and also help the office to improve its work efficiency. In the field of design, the legal systems, the volume of applications, and the user demands of the state members are quite different. Therefore, we propose that mandatory representation can be expressed in a more flexible manner, giving the member states more choices according to their respective situations.

II. Article 6

The article is proposed to be deleted.

Brief explanation:

According to Article 1bis, the general principle is that nothing in this Treaty would limit the freedom of a Contracting Party to prescribe the applicable substantive law. The issue of grace period is an important substantive issue that has a great impact on the patent system. Obviously, the provision of article 6 is not in conformity with that of article 1bis, so we suggest to delete this article.

III. Article 29

China proposes adding the sentences as follows,

(1) [Reservation on] Any State or intergovernmental organization may declare through a reservation that, it shall not be bound by the provisions of Article

(2) [Reservation on other articles]

(3) [Modalities] Any reservation under paragraphs (1) or (2) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(4) [Withdrawal] Any reservation under paragraphs (1) or (2) may be withdrawn at any time.

(5) [Prohibition of Other Reservations] No reservation to this Treaty other than the reservations allowed under paragraphs (1) or (2) shall be permitted.

Brief explanation:

The article on reservation is quite important in an international treaty, the proper use of reservation can improve the efficiency of treaty-making and better balance the interests of the parties. When it is so difficult to reach consensus on certain article, this article could work as our last resort. We propose to discuss this article carefully, making it possible for the member states to declare reservation with regard to issues which are highly controversial.

[End of Annex and of document]