

Why Hasn't Indonesia Ratified The Hague System? What's The Problem?

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Abstract

Despite its membership in key international intellectual property (IP) agreements, Indonesia has not yet acceded to the Hague System for the International Registration of Industrial Designs. This article employs a doctrinal, principle-based legal analysis to examine the alignment of Indonesia's industrial design regime, particularly Law No. 31 of 2000, with international standards under the TRIPS Agreement, the Paris Convention, and the Geneva Act of 1999. The study analyses statutory provisions, international instruments, and case law, and is complemented by a comparative overview of jurisdictions such as Japan, Singapore, the Republic of Korea, and Viet Nam that have already joined the Hague System. The findings reveal persistent structural issues in the Indonesian framework, including ambiguity in the novelty requirement, overlapping protection between industrial designs, copyright, and three-dimensional trademarks, as well as limited substantive examination and territorial fragmentation of protection. These legal and administrative constraints hinder the effective use of an international registration system, even though the Hague System offers procedural efficiency, cost reduction, and broader market access for designers. The article argues that targeted legislative reform and

regulatory harmonization are essential preconditions for accession and contends that such reforms would enhance legal certainty, strengthen design protection, and improve Indonesia's competitiveness in the global creative economy.

Keywords

Hague System, TRIP's Agreement, Industrial Designs

A. Introduction

Intellectual property (IP) originated from the need to protect the results of human creativity and innovation. The concept of IP first emerged in the 15th century, along with the development of the printing industry. Copyright was first recognized in England in 1709 with the publication of the Statute of Anne, which provided protection to authors for their written works. Over time, various other forms of protection began to be recognized, such as patents for inventions and trademarks for product identities. In the 19th century, efforts to create an international protection system began, one of which was the formation of the Paris Convention for the Protection of Industrial Property in 1883. This convention regulates the international protection of patents, trademarks, and industrial designs. Then, in 1886, the Berne Convention was formed to protect copyright in participating countries. With the emergence of the World Intellectual Property Organization (WIPO) in 1967, IP protection became more structured globally. As time progressed, international agreements such as TRIPs (1994), which regulates intellectual property rights in global trade, and the Hague system for industrial designs, further strengthened IP protection around the world.

Intellectual property protection is a crucial element in today's globalized world, where innovation and creativity are among the key factors driving a country's progress. In this case, industrial design, which includes the aesthetic and functional elements of a product, also plays an equally important role. Good industrial design can be a strong differentiator for a product in the global market, providing economic benefits for the design creator and encouraging increased competitiveness for a country's industry. In order to provide better protection for industrial designs, many countries around the world have adopted an international system known as the Hague System or the Hague Agreement, which is managed by the World Intellectual Property

Organization (WIPO)¹. This system allows design owners to register their industrial designs internationally through a single application accepted by more than 90 WIPO member countries. One of the main advantages of this system is efficiency in terms of time and cost, where design owners only need to submit one application to obtain protection in many countries, without having to register separately in each desired country.²

The Hague System, formally known as the Hague Agreement Concerning the International Registration of Industrial Designs, was first agreed upon in 1925. Since then, the system has undergone several changes, including the ratification of the Geneva Act in 1999, which provides the legal basis for the international registration of industrial designs³. With this system, industrial design owners can register their designs through a single international application to WIPO, which will then be forwarded to the participating countries they select. This centralized registration process clearly offers significant advantages over traditional registration methods, where design owners must file separate applications in each country they wish to cover.

The industrial design registration system in Indonesia is still national in nature. Based on Law No. 31 of 2000 concerning Industrial Designs, industrial design rights are only valid within the territory of Indonesia, and to obtain protection in other countries, design owners must submit a separate registration application in those countries. This process is certainly more complicated and time-consuming, as well as more costly, especially for companies or designers with markets in many countries. This is what makes the Hague System so attractive to many countries, including developed countries such as Japan, South Korea, and Singapore, which have ratified it. Although the Hague System offers convenience and efficiency, Indonesia has not yet ratified this system. This raises questions about Indonesia's lack of interest in joining this system, especially when compared to neighboring countries in Asia that have already ratified the Hague System.⁴

¹ *Hague Yearly Review 2024*, 2024.

² *Hague Yearly Review 2024*.

³ Design Act et al., "Notes for the Designation of Japan in an International Design Application under the Geneva Act of the Hague Agreement October , 2021," no. 2 (2021): 2–5.

⁴ Muhammad Naufal Azmii, "Ambiguitas Prinsip Kebaruan Dalam Regulasi Desain Industri (Studi Putusan Mahkamah Agung Nomor 235 Pk/Pdt.Sus-Hki/2018)" (UIN Syarif Hidayatullah Jakarta, 2023).

Countries such as Japan, Singapore, and South Korea have already taken advantage of the benefits offered by this international agreement (the Hague System). For example, Japan ratified the Hague System in 1998 and has since enjoyed various benefits, such as more efficient industrial design protection and easier access to global markets. Japan, known for its technological innovation, adopted this system to provide faster and more transparent protection for domestic and foreign designs. Singapore also ratified the Hague System in 1999, and the country uses this system to enhance the competitiveness of its industrial designs in the international market. With a more efficient registration system, Singapore can attract foreign designers who want to protect their designs in the global market through a single international application. South Korea, which joined in 2004, uses the Hague System to extend the protection of their industrial designs in major countries, such as the United States and Europe⁵. This system helps these countries optimize the protection of their designers abroad and simplifies administrative processes that were previously fragmented.

Indonesia still faces various challenges in ratifying the Hague System. One of the main obstacles is the inconsistency between Indonesia's Industrial Design Law and the provisions in the Hague Agreement.⁶ For example, the term of industrial design protection in Indonesia, as stipulated in Law No. 31 of 2000 on Industrial Designs, is 10 years, with a five-year extension, while the Hague System allows for protection of up to 15-20 years with a five-year extension. In addition, the registration system, which is still national in nature, also complicates the implementation of the Hague System, whereby design applicants must first register with the Indonesian intellectual property office before they can file an international application⁷, unlike the Hague System, which offers centralized registration. However, despite these obstacles, Indonesia's ratification of the Hague System could bring many benefits, both for domestic designers and businesses. Indonesia could increase the competitiveness of its products in the international

⁵ ASEAN IP, "Hague Agreement," ASEAN IP, 2024.

⁶ Carla Joycelyne Limanto, Felicia Eugenia, and Dave David Tedjokusumo, "Tantangan Dalam Perlindungan Hukum Desain Industri Di Indonesia : Perbandingan Hukum Dengan Amerika Serikat, Uni Eropa, Dan Jepang," *Jurnal Kajian Hukum (Iuris Studia)* 5, no. 2 (2021): 173–83.

⁷ Ok Saidin, *Aspek Hukum Hak Kekayaan Intelektual* (Jakarta: PT Raja Grafindo Persada, 2013).

market, speed up the industrial design registration process, and reduce the costs of obtaining design protection in many countries.⁸

In addition, by joining this system, Indonesia can strengthen the legal position of its industrial design at the global level, attract foreign investment, and support a more open and modern innovation ecosystem. Seeing the benefits gained by neighboring countries that have ratified the Hague System, it is time for Indonesia to consider strategic steps to immediately join this system. Adjusting domestic legal regulations and strengthening administrative infrastructure are important steps that must be taken so that Indonesia can take advantage of the enormous potential that exists in the world of industrial design.

B. Method

This study uses a doctrinal legal research method with a normative juridical research⁹, type based on principles that focus on the analysis and harmonization of national legal norms related to industrial design in relation to international provisions concerning the registration and protection of industrial designs in the Hague System.

This study uses an approach based on the principles of legal certainty, fairness, utility, and territoriality in intellectual property rights, as well as the harmonization of international law to ensure consistency. A qualitative approach was used to examine industrial design legislation, international agreements, and court decisions to identify overlapping protections, normative gaps, and inconsistencies between Law No. 31 of 2000 and international instruments such as the TRIPS Agreement, Paris Convention, Geneva Act 1999, and Locarno Agreement. This analysis is in line with this doctrinal research, which uses interpretations of authoritative legal texts¹⁰, to explain the existing legal developments with the aim of producing principle-based legal arguments with the intention of formulating the need for industrial design law reform.

Conversely, under the Industrial Design Law, substantive examination is only conducted if there are objections or challenges. This condition opens up the possibility that the aspect of significant difference will not be examined in the industrial design protection process in Indonesia. Fourth, the assessment of the significantly different aspect is basically carried out through visual observation.

⁸ Erlina, *Penegakan Hukum Kekayaan Intelektual* (Bandar Lampung: AURA CV. Anugrah Utama Raharja, 2018).

⁹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenadamedia Group, 2005).

¹⁰ Mike McConville and Wing Hong Chui, "Research Methods of Law," *Research Methods for Law*, 2017, 18–47.

However, there are differences in the benchmarks: Japanese law assesses aesthetic impressions from the consumer's point of view (including traders), while the Industrial Design Law does not explain what is meant by aesthetic impressions or from whose perspective the assessment should be carried out.¹¹

C. Result and Discussion

Amendments to Law of the Republic of Indonesia Number 31 of 2000 concerning Industrial Design were made so that the protection mechanism could function more optimally and remain relevant to current developments. In addition, the new law is expected to be able to adapt to international dynamics in the field of Industrial Design and create a more conducive climate for the growth of creativity and innovation as part of the Intellectual Property system. In this regard, the Directorate General of Intellectual Property (DJKI) proposes eight main changes, namely the provisions in Article 1 paragraph 1, Article 2, Article 6, Article 13, Article 22, Article 34, provisions regarding the Industrial Design Appeal Commission, and Article 62 in the Draft Industrial Design Law.¹²

Based on Petrus Antonius Jehadu's research, several findings were obtained: First, the interpretation of the element of “significantly different” in Japanese design law is considered better than the provisions in the Industrial Design Law. Second, the phrase “known design” in both Japanese design law and the Industrial Design Law emphasizes the aspect of publication, so that the design is considered to be in the public domain. The difference lies in the publication period, where Japanese law allows for a period of non-publicly known design, while this provision is not recognized in Indonesian industrial design law. In addition, the phrase “combination of known design features” in Japanese law emphasizes the assessment of design features without having to consider the similarity of articles, while this is not regulated in the Industrial Design Law. Third, substantive examination in the Japanese design system must be carried out after administrative requirements have been met.

Conversely, under the Industrial Design Law, substantive examination is only conducted if there are objections or

¹¹ Petrus Antonius Jehadu, “Perbandingan Hukum Desain Jepang Dan Hukum Desain Indonesia Tentang Aspek Significantly Different” (Universitas Indonesia, 2016).

¹² Affa.co.id, “8 Usulan Perubahan Undang-Undang Desain Industri Di Indonesia,” affa.co.id, 2023.

counterarguments. This condition opens up the possibility that the aspect of significant difference is not examined in the industrial design protection process in Indonesia. Fourth, the assessment of significant difference is basically conducted through visual observation. However, there is a difference in the benchmark: Japanese law assesses aesthetic appeal from the perspective of consumers (including traders), while the Industrial Design Act does not explain what is meant by aesthetic appeal or from whose perspective the assessment should be made.

Table 1. Comparison of Industrial Design Protection in Singapore and Indonesia

Country	Legal Rules
Indonesia	Law No. 31, concerning Industrial Design, December 20, 2000 Government Regulation (PP) No. 1 of 2005, concerning the Implementation of Law No. 31 of 2000 concerning Industrial Design Law No. 19 of 2002, concerning Copyright Guidelines – Substantive Examination of Industrial Designs – 2015.
	• Protection Period of 10 years from the date of acceptance, the holder of exclusive industrial design rights has the exclusive right to exercise their rights and prohibit others from manufacturing, using, selling, importing, and/or distributing related products without their consent.¹³ The term of protection for Industrial Designs as stipulated in Article 5 paragraph (1) of the Industrial Design Law is 10 years from the date of receipt, namely the date of receipt of the Application that has met the administrative requirements. (after 10 years there is no extension, public domain)
Singapore	Design Registration Law (Chapter 266) (Original enactment: Law No. 25 of 2000, November 13, 2000, Revised Edition July 31, 2005) Design Registration Regulations, R1 G.N. No. S 504/2000, November 13, 2000, Revised Edition January 31, 2002 Copyright Law (Chapter 63), Law No. 2 of 1987, Revised Edition January 31, 2006 Implementation Guidelines

¹³ Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I., “Desain Industri,” n.d.

	No. 4 of 2018 – Registration of Graphical User Interface (GUI) - June 20, 2018 IP2SG Implementation Guide No. 1 of 2018 – Electronic Online System (EOS), October 30, 2018. ¹⁴
	• Initial Protection: The protection period for registered industrial designs is 5 years from the date of filing. • Extension: Protection can be extended for 2 (two) additional periods, each lasting 5 years, with a maximum total protection period of 15 years. • Renewal Process: Renewal applications must be submitted within the last six months of the five-year registration period. Late payments are possible within a grace period of six months after paying the appropriate additional fees (IP Coster).¹⁵

The impact that will provide input through PNBP is the regulation of the process of extending a registered industrial design and international registration if Indonesia becomes a member of the Geneva Act 1999 (Hague Agreement). In addition, PNBP from the process of fiduciary registration of intellectual property certificates can be used as collateral in obtaining bank credit. In terms of costs that would require additional financial burdens on the state, these include costs related to the administration of industrial design right extensions and costs for implementing an international industrial design registration system, which covers infrastructure, human resources, and other necessary administrative equipment. Furthermore, there is the potential to increase state revenue through non-tax state revenue (PNBP), including from regulations regarding the extension of registered industrial design protection and from international registration if Indonesia joins the 1999 Geneva Act (Hague Agreement). In addition, PNBP can also be obtained from the process of fiduciary registration of intellectual property certificates, which can be used as collateral to obtain bank credit.

Indonesia also faces challenges in aligning its Industrial Design Law with international standards, as stipulated in the Hague Agreement. One form of alignment is the extension of the term of protection for industrial designs from 10 (ten) years to 15 (fifteen) years, as has been

¹⁴ Sekretariat ASEAN, *Pedoman Umum Pemeriksaan Substantif Desain Industri* (Jakarta: Sekretariat ASEAN, 2018).

¹⁵ Law Gratis, "Industrial Designs Law in Singapore," 30 May 2025, 2025.

implemented in Singapore through the Registered Designs Act (Cap. 266) and in Japan through the Design Act of Japan.¹⁶ In addition, the publication and objection mechanisms also need to be strengthened to increase transparency and expand public participation, in line with international practices. In terms of expenditure, the state requires additional budget to support the administration of industrial design rights extensions and to implement an international registration system. These costs include infrastructure, human resources, and various other administrative requirements.

The Hague Agreement is a system that allows design owners to register their designs centrally in various countries and/or intergovernmental organizations (including the Community Design Office) without having to submit separate applications for each country or organization. In practice, there are three Hague Agreement instruments that are still in force, namely the London Act (June 2, 1934), the Hague Act (November 28, 1960), and the Geneva Act (July 2, 1999). These three instruments are independent, so a country can be a member of only one, two, or even all three.¹⁷

The change from the current provision, namely protection for 10 years which can be extended for 5 (five) years, needs to be adjusted to the international registration system in Article 17 of the Hague System, which stipulates an initial protection period of 5 (five) years that can be extended. This adjustment is also expected to encourage designers to be more creative and innovative in producing industrial designs.¹⁸ In drafting the procedures, consideration should be given to the possibility of Indonesia joining the international industrial design registration system agreement, namely the Geneva Act 1999 (Hague Agreement). Through this system, the extension of industrial design protection is possible because the protection period is divided into several periods, with a minimum period of 15 (fifteen) years.¹⁹ In addition, international agreements in the field of intellectual property that specifically regulate industrial designs include the Hague Agreement Concerning the

¹⁶ Dewo Broto Joko Putranto, *Peta Jalan Reformasi Hukum Ekonomi Dalam Rpjmn 2025 – 2029 Jalan Reformasi Hukum Ekonomi* (Jakarta: Direktorat Hukum dan Regulasi Kementerian PPN/Bappenas, 2024).

¹⁷ WIPO, *The Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs* (Mewburn: WIPO Publication Nomor 453 (E), Geneva: 1999., 1999).

¹⁸ Enny Nurbaningsih, *Laporan Akhir Penyelarasan Naskah Akademik Rancangan Undang Undang Tentang Desain Industri* (Jakarta: Badan Pembinaan Hukum Nasional Kementerian Hukum Dan Hak Asasi Manusia, 2015).

¹⁹ *Article 17 of Geneva Act 1999 (Hague Agreement Concerning the International Registration of Industrial Designs)*, n.d.

International Registration of Industrial Designs and the Locarno Agreement Concerning the International Classification of Industrial Designs.²⁰ Furthermore, Indonesia needs to consider ratifying international agreements in the field of industrial design, particularly the Geneva Act and the Locarno Agreement.²¹

Research conducted by Setyaningtyas and Mia Yunisa revealed several important findings: (1) both Indonesia and Japan implement a constitutive system in granting industrial design rights protection, meaning that such rights are only obtained after registration. However, there are differences in the process: Indonesia uses a registration system, while Japan implements a full examination system; (2) in its application, Indonesia uses a copyright approach to industrial design, while Japan uses a patent approach. In Indonesia, various problems or disputes often arise caused by parties with bad intentions who exploit procedural weaknesses in the substance of the Industrial Design Law. Therefore, this study recommends that the government revise Law No. 31 of 2000 on Industrial Design by improving deficiencies in the procedure and adding substantive examination of each industrial design registration application.²²

Research conducted by Hidayat Feri shows several important findings: (1) Currently, regulations concerning industrial design in Indonesia are governed by Law No. 31 of 2000. However, there are also several other regulations that touch on aspects of industrial design, such as Law No. 23 of 1992 concerning Health, Law No. 9 of 1995 concerning Small Businesses, and Law No. 7 of 1996 concerning Food. In general, the law only addresses the development of the industrial sector, not the protection of industrial designs as exclusive rights. (2) Based on a comparison with the legal system in the United States, there are a number of things that can be adopted from the application of Trade Dress protection in that country. Indonesia can learn lessons related to Trade Dress regulations in trademark and industrial design laws. However, several important principles such as inherent distinctiveness, non-functionality, and potential consumer confusion

²⁰ Nurbaningsih, *Laporan Akhir Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Desain Industri*.

²¹ Cita Citrawinda, "Naskah Akademik Rancangan Undang-Undang Tentang Desain Industri" (Jakarta, 2013).

²² Mia Yunisa Setyaningtyas, "Analisis Perbandingan Pemeriksaan Substantif Dalam Proses Pendaftaran Desain Industri (Studi Perbandingan Hukum Ketentuan Undang-Undang Desain Industri Negara Indonesia Dan Jepang)" (Universitas Brawijaya, 2018).

that are applied in the United States have not been fully regulated in Indonesian law. (3) In Law No. 31 of 2000 concerning Industrial Designs, the term “industrial design” is recommended to be changed to “industrial product design” in order to better describe the substance of activities that focus on the products produced through industrialization processes. Furthermore, the term industrial design cannot be translated literally as *desain industri*. Overall, this study emphasizes the need for further evaluation of the application of industrial design rights in Indonesia as regulated in Law No. 31 of 2000, especially when compared to the protection system in the United States.²³

International regulations that can be used as references by Indonesia in the field of industrial design include the Paris Convention, the Berne Convention, and the ratification of the TRIPs Agreement as a general basis. More specifically, Indonesia can also refer to the Hague Agreement and the Locarno Agreement in regulations concerning industrial design rights. Indonesia has signed international agreements established by WIPO, including the Convention Establishing WIPO, signed in 1979, the Paris Convention for the Protection of Industrial Property in 1950, the Berne Convention for the Protection of Literary and Artistic Works in 1997, and the Hague Agreement Concerning the International Registration of Industrial Designs in 1950.²⁴

On September 30, 2019, Vietnam's Minister of Science and Technology, representing the Government of Vietnam, officially submitted the instrument of accession to the Geneva Convention (1999) of the Hague Convention to the Director General of the World Intellectual Property Organization (WIPO). The submission was made at the WIPO General Assembly held in Switzerland. With this deposit, the Geneva Agreement (1999) entered into force in Vietnam on December 30, 2019. Since that date, applicants from Vietnam have been able to use the Hague System to obtain protection for their industrial designs in countries that are parties to the Geneva Convention (1999). Conversely, foreign applicants have also been able to apply for industrial design protection in Vietnam through the Hague System since the same date. Vietnam's participation in the Geneva Agreement (1999) The Hague Agreement reflects the commitment of ASEAN countries to join the Hague System, with the aim of simplifying and standardizing industrial design registration procedures. Pending changes to relevant

²³ Feri Hidayat, “Studi Komparasi Pengaturan Desain Industri Di Indonesia Dan Amerika Serikat Prespektif Hukum Hak Kekayaan Intelektual” (UIN KH Achmad Siddiq Jember, 2023).

²⁴ Erlina, *Penegakan Hukum Kekayaan Intelektual*.

national regulations, Vietnam plans to directly apply the provisions of the agreement to international applications addressed to Vietnam or originating from Vietnam. The examination process at the national level will be carried out using the same procedures as for design applications submitted directly within the country.²⁵

1. *Quo Vadis, Indonesian Industrial Design Law?*

The establishment of the World Trade Organization (WTO) has been ratified by Indonesia, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), with Law Number 7 of 1994. The ratification is also supported by Indonesia's commitment to ratify the Paris Convention for the Protection of Industrial Property through Presidential Decree Number 15 of 1997, as well as the forerunner of Indonesia's participation in the Hague Agreement (London Act) regarding the international deposit system of industrial designs.²⁶

This has consequences for Indonesia, which must formulate legislation governing the protection of intellectual property (IP) and adjust its legal system to comply with the standards set out in the TRIPS Agreement. Developing countries were given a transition period of five years from the establishment of the WTO in Morocco in 1994 to prepare and formulate regulations in the field of IP. Therefore, in order to be recognized as part of the civilized international community, particularly in the field of global trade, Indonesia must have a comprehensive set of IP laws and be able to implement them effectively within that time frame.²⁷

Currently, Indonesia has not yet ratified the Hague System on the grounds that there are still considerations that need to be examined more deeply. In terms of industrial design intellectual property, Indonesia should comply with the provisions contained in the TRIPS Agreement and the Paris Convention. This is a legal consequence of participating in and signing these agreements.²⁸ With the

²⁵ Le Hong Minh, "Vietnam Joins the Hague System for the International Registration of Industrial Designs," 29 Oktober, 2019.

²⁶ Fathoni Fathoni, "Paradigma Hukum Berkeadilan Dalam Hak Kekayaan Intelektual Komunal," *Jurnal Cita Hukum* 2, no. 2 (2014), <https://doi.org/10.15408/jch.v1i2.1469>.

²⁷ Dina Susiani, *Hukum Hak Kekayaan Intelektual* (Jember: CV. PUSTAKA ABADI, 2019).

²⁸ Dewi Maulina, Aura Maria, and Alyieva Artakumara, "Urgensi Penerapan Dan Prosedural Sistem Hague Pada Desain Industri Di Indonesia," *Diponegoro Private Law Review* 11, no. 2 (2024): 134–56.

implementation of the Hague System, applicants can obtain protection for up to 100 designs in more than 90 countries through a single international application.²⁹ Through international registration under the Hague System, industrial design certificates will be valid in all member countries of the World Intellectual Property Organization (WIPO) and receive legal protection.³⁰ By applying for registration through a single application submitted directly to the WIPO International Bureau or through an intergovernmental organization, applicants can obtain protection for their industrial designs in various member countries and intergovernmental organizations.³¹

The Hague Agreement of 1925 is a highly technical agreement because it regulates the procedures for registering designs, the term of protection, and the publication of Industrial Design bulletins. Since its initial ratification, the Hague Convention has undergone several amendments, namely in 1934 in London, then in 1960 through the signing of the Hague Act 1960, which was subsequently supplemented by additional provisions in Monaco in 1961, and finally through the Complementary Act 1967 signed in Stockholm.³² In the context of the Hague Agreement, Indonesia is not bound by the Hague Act 1960 or the Complementary Act 1967, either through ratification or participation. As a result, neither provision applies in Indonesia, meaning that Indonesia is not yet able to provide international registration for industrial designs. To date, Indonesia has also not joined the Locarno Agreement 1968. This situation is unfortunate because Indonesia does not yet have its own Industrial Design classification system, even though classification based on the Locarno Agreement could serve as an important reference for all parties with an interest in the field of Industrial Design.

In comparison, Industrial Design Protection under the Paris Convention only applies in the country where such protection is granted, in accordance with the principle of territoriality. If a designer wishes to obtain protection in several countries, he or she must submit separate registration applications to the intellectual property office in

²⁹ Maulina, Maria, and Artakumara.

³⁰ Ushiki Riichi, *Legal Protection of Industrial Designs* (Japaj: Japan Patent Office, 2004).

³¹ ASEAN IP, "Hague Agreement."

³² Laurensius Arliman S, "Perlindungan Hukum Terhadap Karya Desain Industri Di Indonesia," *Lex Jurnalica* 15, no. 2 (2018): 153–61.

each desired country.³³ The Hague System is an international concept initiated and pioneered by WIPO.³⁴ The main purpose of the Hague System is to facilitate the filing of applications for the registration and protection of one or more industrial designs in multiple countries through a single centralized application.³⁵ There is a strong relationship with international industrial property rights registration systems, such as the Patent Cooperation Treaty for patents, the Madrid Protocol for trademarks, and the Hague Agreement for industrial designs.

Based on the provisions of the Hague System, the term of protection for industrial designs can last between 15 (fifteen) and 20 (twenty) years, with the option of renewal every 5 (five) years. Market demand also influences the ratio legis of the provisions for term renewal. Through this policy, designers can more easily determine whether their industrial designs are still relevant in the market or need to be updated. In addition, the Hague System also makes it easier for companies to extend intellectual property protection in various countries, enabling them to more efficiently protect and utilize their industrial designs at the international level.

If the Hague System is fully implemented in Indonesia, this system has the potential to attract foreign designers to register their industrial designs with the Directorate General of Intellectual Property (DJKI). In essence, this system provides greater flexibility in determining the term of protection obtained by designers.³⁶ This system allows citizens, residents, or legal entities established in accordance with the regulations of countries that have ratified the Hague Agreement to apply for industrial design protection in various other member countries through a more concise registration procedure.³⁷

The Hague Agreement Concerning the International Deposit of Industrial Designs is an international agreement governing industrial

³³ Dina Widyaputri Kariodimedjo, "Perlindungan Hak Cipta, Hak Terkait, Dan Desain Industri," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 22, no. 2 (2012): 265, <https://doi.org/10.22146/jmh.16222>.

³⁴ Secha Wulida Adz-Hiya And Others, "Urgensi Pengaturan Hukum Indonesia Menggunakan Hague System Guna Melindungi Hak Kekayaan Intelektual Bidang Desain Industri," *Diponegoro Private Law Review/Private Law Review* 9, no. 2 (2023): 181.

³⁵ WIPO Distance Learning DL101, *WIPO World Wide Academy*, Module 8, 2004.

³⁶ Fivi Faiqotul Himmah et al., "Tinjauan Filsafat Hukum Perlindungan Desain Industri Di Indonesia: Hambatan Dan Tantangan," *Jurnal Pendidikan Dasar Dan Sosial Humaniora* 3, no. 8 (2024): 529–40.

³⁷ Rizqi Tsaniati Putri, "Syarat Kebaruan Pada Desain Industri Sebagai Dasar Gugatan Pembatalan Desain Industri," *Jurnal Program Magister Hukum FHUI* 1, no. 4 Desember (2021): 2111–28.

designs, which was agreed upon on November 6, 1925, in The Hague. This agreement is also often referred to as the Hague Agreement and includes a number of agreements related to industrial designs, namely the London Act of 1934, the Hague Act of 1960, the Additional Act of Monaco of 1961, the Complementary Act of Stockholm of 1967, and the Protocol of Geneva of 1975.³⁸ The procedures and administrative aspects are not yet in line with the international industrial design registration mechanism through the Hague Agreement – Geneva Act 1999. In addition to being regulated in The Hague Agreement Concerning the International Deposit of Industrial Designs, provisions related to Industrial Designs are also contained in Part II Section 4 of the TRIPs Agreement, specifically the section on Standards Concerning the Availability, Scope and Use of Intellectual Property Rights, which contains Articles 25 and 26. Article 25 of TRIPs (Agreement on Trade Related Aspects of Intellectual Property Rights) regulates Requirements for Protection. This system has been adopted by more than 90 countries that are members of WIPO.³⁹

In general, legal protection for intellectual property (IP) is territorial in nature, meaning that registration must be carried out in each country where protection is desired. However, with the changing times, international IP registration systems have emerged, such as patents through the Patent Cooperation Treaty (PCT), trademarks through the Madrid Protocol, and industrial designs through The Hague Agreement. Through this international system, IP owners need only file a single application to obtain protection in several desired countries. The international IP registration system offers various advantages, particularly in terms of efficiency, as it enables cross-border protection with a simpler process, more effective costs, and flexibility in determining the main features of industrial designs.⁴⁰

In 2020, ARISE+ IPR provided legal and technical support to ASEAN member states in preparation for accession and post-accession implementation of the Hague Agreement Concerning the International

³⁸ Rachmadi Usman, *Hukum Hak Atas Kekayaan Intelektual* (Bandung: PT. Alumni, 2003).

³⁹ Kementerian Hukum Dan Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual, *Modul Kekayaan Intelektual Lanjutan Desain Industri* (Jakarta: Direktorat Jenderal Kekayaan Intelektual, 2020).

⁴⁰ Direktorat Jenderal Kekayaan, Kementerian Hukum dan Hak Asasi Manusia, and Republik Indonesia, *Modul Penunjang Kurikulum Kekayaan Intelektual Permohonan Kekayaan Intelektual Dengan Mekanisme Internasional* (Yogyakarta: Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2023).

Registration of Industrial Designs (Geneva Convention), which was carried out through two main components. The first component includes gap analysis activities for Indonesia, the Lao People's Democratic Republic, Malaysia, and Myanmar to assess the compatibility of national regulations and legal systems with the provisions of the Hague Convention (Geneva Convention). This analysis also presents recommendations to address the gaps identified and formulates possible declarations that could be made after accession to the Hague System. The second component involves organizing regional workshops on the Hague Agreement, followed by practical workshops for the business sector in Vietnam. The regional workshop was held online on June 2–3, 2020, where ARISE+ IPR invited design examiners from the ASEAN Intellectual Property Office to participate in a learning activity with senior design experts to deepen their understanding of the accession process and post-accession implementation of the Hague Agreement. This event also served as a forum for the exchange of experiences between design officials from countries that are parties to the Hague Agreement and ASEAN member countries that have not yet joined. Meanwhile, a practical workshop for the Vietnamese business sector is scheduled to take place in Vietnam in the second half of the year.⁴¹

All parties to the Hague Agreement (Geneva Act), including Vietnam, are members of the Hague System. Membership includes 63 countries and two intergovernmental organizations, namely the European Union and the African Intellectual Property Organization, whose jurisdiction covers 90 countries. Through the Hague System, these countries provide a mechanism for design protection and represent a significant portion of global trade flows, making them a highly potential market for Vietnamese exports. A number of Vietnam's major trading partners are also members of the Hague Union. Of the ten largest importers of Vietnamese products, which cumulatively accounted for more than 70% of Vietnam's total exports in 2018, six are from countries that are members of the Hague System, namely the United States, Japan, the Republic of Korea, Germany, France, and the United Kingdom. In addition, other Hague Union member countries that have contributed significantly to Vietnam's export value include the Netherlands, Singapore, the Russian Federation, Mexico, Spain, Poland, Belgium, Canada, Turkey, and Switzerland. The Hague System and

⁴¹ ARISE+, “ARISE+ IPR Supports the Accession of ASEAN Member States to the Hague Systems through Gap Analysis and Regional Workshops,” European Union Intellectual Property Office (EUIPO), 2020.

Geneva Act have 65 members, including the European Union and the African Intellectual Property Organization (OAPI), whose membership covers a total of 90 countries as of January 2021.⁴²

Industrial Design Rights include exclusive rights that can be granted to a designer for his or her own work.⁴³ Regarding exclusive rights as stipulated in Article 9 of the Industrial Design Law, there are still differences of opinion among rights holders and designers, particularly regarding the understanding of the terms “use” and “export.” In addition, the term of protection for industrial designs needs to be considered for extension as a precautionary measure in the interests of commercial interests. This possible extension is also in line with international practice as stipulated in The Hague Agreement (Geneva Act 1999).⁴⁴ In this system, the extension of industrial design protection is possible because the protection period is divided into several periods, with a minimum total protection period of 15 (fifteen) years.

WIPO's efforts to streamline the administrative process for industrial design registration are known as the Hague System. However, it can only be implemented by countries that have approved and ratified the Hague Agreement. The Indonesian government is currently committed to ratifying the Hague Statute, and of course this must not deviate from the plan. The role of the Indonesian government in ensuring the success of the Hague system is currently at the discussion stage in the DPR (House of Representatives). Indonesia's level of compliance with the Hague system and the 1961 Hague Convention can be said to be not yet fully compliant.

Since 2018, the Indonesian government has been drafting amendments to Law No. 31 of 2000 on Industrial Design, which has been included in the National Legislation Program (Prolegnas). The protection of intellectual property has a significant impact on a country's economic growth. Examples can be seen in developed countries such as Japan, where the development of industrial design has contributed to national economic growth. In an effort to strengthen the IP protection system, particularly in the field of industrial design,

⁴² ARISE+ IPR, *A Practical Guide for Vietnamese Design Creators & Entrepreneurs*, Intellectu (Hanoi: ARISE+ IPR Project, 2021).

⁴³ Zico Armanto Mokoginta, “Perlindungan Hukum Atas Desain Industri Berdasarkan Undang - Undang Nomor 31 Tahun 2000 Tentang Desain Industri,” *Lex Privatum V*, no. 5 Juli (2017).

⁴⁴ Citrawinda, “Naskah Akademik Rancangan Undang-Undang Tentang Desain Industri.”

provisions related to the Hague Agreement have been added. The Hague Agreement system is characterized by simplicity, efficiency, cost-effectiveness, and flexibility. Through this system, design owners can centrally register their work for protection in various countries or intergovernmental organizations (such as the Community Design Office), without having to submit separate applications in each country or organization.⁴⁵

In the 2018 National Development Planning Program (Prolgenas), the Directorate General of Intellectual Property (DIP) prepared a draft law (RUU) on Industrial Designs, which is currently in the final stages of drafting. This was conveyed at the Industrial Design Bill consignment forum. On that occasion, the Supreme Court (MA) proposed that the concept of landlord liability, or the responsibility of shopping center owners, be included in the regulations regarding Intellectual Property (IP) violations. Landlord liability provisions are deemed necessary to be included in the Industrial Design Bill, as similar provisions are already in the Copyright Law. This concept, which falls under the criminal law, applies if the industrial design produced is used for a crime or constitutes the proceeds of a crime, and therefore, the goods in question can be destroyed. The Industrial Design Bill itself is one of 50 bills listed in the 2018 Priority National Legislation Program (Prolegnas), with the title Bill on Amendments to Law Number 31 of 2000 concerning Industrial Design on the initiative of the Government.⁴⁶

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⁴⁵ Ditjen Kekayaan Intelektual Kementerian Hukum, "Sistem Hague Permudah Pelindungan Desain Industri," 2018.

⁴⁶ Sipilawfirm, "RUU Desain Industri: Sudah Masuk Tahap Finalisasi," Sipilawfirm, 2018.

Industrial Design Bill itself is one of 50 bills listed in the 2018 Priority National Legislation Program (Prolegnas), with the title Bill on Amendments to Law Number 31 of 2000 concerning Industrial Design on the initiative of the Government.⁴⁷

In addition, the Industrial Design Bill also introduces a number of new substances, including regulations for appeals examination through the Industrial Design Appeal Commission, the implementation of industrial design rights by the government, adjustments to international agreements, regulations on the responsibilities of shopping center managers, and the recognition of industrial design rights as objects of fiduciary guarantee. This bill is expected to provide certainty and effective protection in the implementation and enforcement of the law, particularly to prevent potential piracy of intellectual property with high economic value. The Industrial Design Bill was drafted as an effort to update Law Number 31 of 2000, which has been in effect for more than two decades. Therefore, the substance of the regulations needs to be improved so that they remain relevant to current developments, including provisions regarding the protection and application of Industrial Design Rights, examination of industrial designs, certification of industrial designs, and extension of the protection period for these rights.⁴⁸

Furthermore, Law Number 31 of 2000 concerning Industrial Design needs to be adjusted to reflect developments in national and international law. The Industrial Design Bill contains several new elements, including provisions regarding the appeals mechanism through the Industrial Design Appeals Commission, the implementation of Industrial Design Rights by the government, and adjustments to provisions in international agreements. Furthermore, this bill regulates the responsibilities of shopping center managers and establishes Industrial Design Rights as an object of fiduciary guarantee. The bill aims to update Law Number 31 of 2000 concerning Industrial Design, which is deemed no longer fully relevant to current legal developments and needs.⁴⁹

The Directorate General of Intellectual Property (DJKI) routinely establishes an intellectual property regime each year as a primary focus in efforts to increase public understanding. Following 2019, the DJKI has again designated 2025 as the Year of Industrial Design. This

⁴⁷ Siplawfirm.

⁴⁸ Siplawfirm.

⁴⁹ Ady Thea DA, "Sejumlah Perubahan Dalam RUU Desain Industri," Hukum Online, 2023.

designation is intended to strengthen understanding and align stakeholders' perceptions on various issues related to the industrial design protection system in Indonesia. In addition, a national discussion was also held regarding the industrial design protection system as well as a technical discussion forum at the regional level covering 3 (three) regions. The Directorate of Copyright and Industrial Design is also preparing a number of regulations to strengthen the national intellectual property system, including the preparation of implementing regulations related to the mechanism for closing content and/or restricting access for users who violate Industrial Design Rights in electronic systems, regulating procedures for applying for registration and recording of Industrial Design Rights, including international registration through the Hague System (Hague Agreement), as well as implementing regulations regarding procedures for resolving appeals at the Industrial Design Appeal Commission.⁵⁰

In 2025, the House of Representatives (DPR) officially ratified changes to the list of Priority National Legislation Programs (Prolegnas) for 2026, which now includes 64 Draft Laws (RUU). The decision was made in the 10th Plenary Session of the Indonesian House of Representatives for the Second Session Period of 2025. One of the bills contains amendments to Law Number 31 of 2000 concerning Industrial Design.⁵¹ The meeting took place on November 12, 2025, to establish a Special Committee (Pansus) to discuss the Draft Law on Industrial Design.⁵²

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⁵⁰ Siplawfirm, "RUU Desain Industri: Sudah Masuk Tahap Finalisasi."

⁵¹ DA, "Sejumlah Perubahan Dalam RUU Desain Industri."

⁵² Kompas.com, "Resmi, DPR Tetapkan Pansus RUU Desain Industri Dan Pansus RUU Hukum Perdata Internasional," Kompas.com, 2025.

⁵³ Patrolmedia.co.id, "6 RUU Disahkan, Prioritas Legislasi 2026 Diumumkan," Patrolmedia.co.id, 2025.

⁵⁴ Kompas.com, "Resmi, DPR Tetapkan Pansus RUU Desain Industri Dan Pansus RUU Hukum Perdata Internasional."

intelligence (AI) in the Industrial Design Bill as an added-value element for products to improve the standards of industrial design innovation. Through industrial design rights protection, rights holders are granted exclusive rights to prevent unauthorized duplication or imitation, thereby preventing unfair business competition and protecting consumers from potential misuse.⁵⁵

The purpose of making changes to Law Number 31 of 2000 concerning Industrial Design is to align national provisions with international agreements in the field of Intellectual Property (IP) relating to industrial design, such as TRIPs, as well as other international agreements that may be ratified in the future, for example The Hague Agreement (Geneva Act 1999). In addition, this update is also intended to ensure that the industrial design protection system in Indonesia is in line with developments and best practices implemented in various countries, such as the European Union, Japan, Australia, and the United States, while still taking into account Indonesia's national interests. In addition, this update is also intended to ensure that the industrial design protection system in Indonesia is in line with developments and best practices implemented in various countries, such as the European Union, Japan, Australia, and the United States, while still taking into account Indonesia's national interests.⁵⁶

The bill was proposed as an effort to improve various weaknesses in Law Number 31 of 2000, both in terms of regulatory substance, registration procedures, and legal enforcement mechanisms for protecting industrial design rights. The urgency of proposing the Industrial Design Bill is driven by the rapid dynamics and development of industrial society, technological advances, and developments in international law. Furthermore, this bill is intended to accommodate the interests of Indonesian industry, particularly small and medium-sized enterprises (SMEs), in obtaining industrial design rights to enhance their competitiveness in both national and international trade. The amendments to the Industrial Design Bill also aim to clarify and improve the criteria for novelty of industrial designs in the granting of rights, thereby preventing unfair business competition and misleading consumers.

The regulatory updates in the field of industrial design are expected to provide added value to a product, making it more attractive to

⁵⁵ Hukum Online, "Pemerintah Masukkan AI Dalam RUU Desain Industri," Hukum Online, 2025.

⁵⁶ Cita Citrawinda, "Laporan Akhir Naskah Akademik Peraturan Perundang-Undangan Rancangan Undang-Undang Tentang Desain Industri" (Jakarta, 2008).

consumers, and creating uniqueness as a selling point. Through the protection of Industrial Design Rights (HDI), rights holders obtain exclusive rights to prohibit other parties from imitating or plagiarizing designs without permission. The main changes in Law Number 31 of 2000 include changes to the definition of Industrial Design and the duration of HDI protection, the implementation of substantive examination of the novelty of industrial designs, the establishment of the Industrial Design Appeal Commission, and regulations on the use of HDI in multimedia media in response to developments in information and communication technology. Systematically, the bill consists of 16 chapters and 95 articles, which regulate, among other things, the scope of HDI protection and applications, industrial design inspection and certification, and the extension of HDI protection. It also regulates HDI transfers and licensing, HDI deletions and cancellations, HDI dispute resolution, and temporary court orders.⁵⁷

The proposed revision of Law Number 31 of 2000 concerning Industrial Designs not only needs to be based on the reasons explained previously, but must also contain clearer and more explicit substance in order to create legal certainty. This update needs to be aligned with the definitions and provisions of international agreements such as TRIPs and the Hague Agreement, as well as the practice of implementing laws in developed countries such as the United States, the European Union, and Japan. Furthermore, the revision aims to address various issues arising from administrative procedures, industrial design registration, and the enforcement of industrial design rights, while also addressing public concerns regarding legal protection and the certainty of the scope of industrial design rights. This is because the TRIPs-WTO Agreement regulates Intellectual Property (IP) provisions comprehensively, not limited to industrial design. Furthermore, more comprehensive regulations regarding industrial design can be found in several international conventions, such as the Paris Convention, the Berne Convention, the Hague Agreement of 1925, and the Locarno Agreement of 1972. International regulations related to industrial design include several important instruments, including the Paris Convention which regulates the protection of industrial property rights, the Berne Convention which protects literary and artistic works, the Hague Agreement on the international registration of industrial designs, the

⁵⁷ Kementerian Perindustrian, “RUU Desain Industri Dorong Daya Saing Dan Akomodir Kemajuan Teknologi,” Kementerian Perindustrian, 2019.

Locarno Agreement which establishes an international classification for industrial designs, and the 1994 TRIPs-GATT Agreement.⁵⁸

Looking at the European Union, as of May 1, 2025, the Industrial Design Reform has officially been implemented through Regulation (EU) 2024/2822 and Directive (EU) 2024/2823. This policy marks a significant milestone in the renewal of the design protection system, aimed at simplifying procedures, expanding the scope of protection, and adapting to advances in digital technology. It should be emphasized that the reform applies to designs that fall under the Industrial Design regime, not designs that fall within the Copyright realm. Therefore, the term "design" refers to the visual appearance of a product or interface, whether physical or digital, that can be officially registered as an Industrial Design in the European Union.⁵⁹

Several Asian countries that have ratified The Hague Agreement include Japan, South Korea, North Korea, Singapore, and Vietnam. Meanwhile, Indonesia has not yet ratified the agreement. However, Indonesian industrial designers can still submit applications through international bureaus. The international registration fee for industrial designs under The Hague Agreement varies, depending on the number of designs submitted and the number of countries seeking protection. For example, the cost of protection for five designs in eleven countries through the Hague system is estimated at around 900 Swiss Francs.⁶⁰

Indonesia is not the only country that has not ratified the Hague System, but Malaysia and Thailand have also not ratified the Hague System, making it a law that applies in their countries (*ius constitutum*). The Hague System shortens the industrial design registration process that applies to WIPO member countries. Industrial Design Law in Indonesia still has a mismatch in the concept of protection in the provisions of the TRIPs agreement with the substance of Law No. 31 of 2000 concerning Industrial Design, especially the first to file and first to use mechanisms. Harmonization is needed between international agreements and Law No. 31 of 2000 concerning Industrial Designs, so that they do not conflict with the laws and regulations of other countries that have ratified the Hague System as a legal consequence of

⁵⁸ Surya Praha, *Hak Kekayaan Intelektual (Perlindungan Foklor Dalam Konteks Hak Kekayaan Komunal Yang Bersifat Suigeneris)* (Padang: LPPM Universitas Bung Hatta, 2021).

⁵⁹ Affa.co.id, "Reformasi UU Desain Industri Uni Eropa Mulai Berlaku – Apa Dampaknya Bagi Pebisnis & Desainer Indonesia?," affa.co.id, 2025.

⁶⁰ Kekayaan, Manusia, and Indonesia, *Modul Penunjang Kurikulum Kekayaan Intelektual Permohonan Kekayaan Intelektual Dengan Mekanisme Internasional*.

Indonesia's accession to the WTO. In addition, ratification of the Hague system needs to be accompanied by an expansion of the cooperation project area (Indonesia – Malaysia – Thailand-land Growth Triangle) IMT-GT, which must be synchronized with the strategic steps of each WIPO member country.⁶¹ It is crucial for Indonesia to be able to adapt to the dynamics of the legal and political climate of the TRIPs agreement so as not to conflict with national (Indonesian) law.

International regulation of industrial designs began in the 19th century through the establishment of various multilateral treaties (treaties involving three or more countries). The conventions resulting from these treaties then became a reference for the participating countries.⁶² The main objective of the Hague System is to facilitate the process of protecting one or more Industrial Designs in various countries through a single application.⁶³ Only industrial designs that are original and novel are eligible for legal protection. An industrial design is considered new if it significantly differs from previous designs. However, problems arise when designs whose protection period has expired or have become public domain are then re-registered through the Copyright regime, which has a much longer protection period, thus opening up opportunities for monopolies by rights holders over other parties.⁶⁴

The international agreement under the auspices of the United Nations, WIPO, has an active role as an institution managing intellectual property rights in the global sphere, as well as being the initiator of the Paris Convention, the Berne Convention, and the Hague Agreement.⁶⁵ The problem that often arises is educational and outreach activities to the small industrial sector, especially MSMEs (Micro, Small and Medium Enterprises) regarding the importance of industrial design protection by the Directorate General of Intellectual Property (DJKI),

⁶¹ Cita Yustisia Serfiyani, "Hague Systems on Industrial Designs Protection as an Optimization of IMT-GT ASEAN Economic Cooperation," *Law and World* 11, no. 2 (2025): 17–28, <https://doi.org/10.36475/11.2.2>.

⁶² Mia Yunisa Setyaningtyas, "Analisis Perbandingan Tahap Pemeriksaan Substantif Dalam Proses Pendaftaran Desain Industri (Studi Perbandingan Hukum Ketentuan Undang-Undang Desain Industri Negara Indonesia Dan Jepang)" (Universitas Brawijaya, 2018).

⁶³ Kariodimedjo, "Perlindungan Hak Cipta, Hak Terkait, Dan Desain Industri."

⁶⁴ Dewi Sulistianingsih and Bagas Bilowo Nurtantyono Satata, "Dilema Dan Problematik Desain Industri Di Indonesia," *Jurnal Suara Hukum* 1, no. 1 (2019): 1, <https://doi.org/10.26740/jsh.v1n1.p1-14>.

⁶⁵ Cita Citrawinda Noerhadi, "The Weak Aspects of the Industrial Design Protection System in Indonesia," *Indonesia Law Review* 2, no. 3 (2013).

in Indonesia, Industrial Design protection is regulated in Law Number 31 of 2020 concerning Industrial Design.⁶⁶ Foreign designers hope that Industrial Design regulations in Indonesia can immediately ratify and adapt to international agreements, especially the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs 1999 (Hague Agreement 1999), and can provide better legal certainty in the aspect of Industrial Design protection.⁶⁷

The ASEAN IP Action Plan 2016–2025 affirms the need to adopt the Hague Convention as a revision to Indonesia's Industrial Design Law. This step is necessary as a manifestation of the principle of full compliance with international agreements, which not only reflects adherence to the provisions of TRIPs, the 1961 Hague Agreement, and the 1999 Geneva Convention Act, but also demonstrates Indonesia's commitment to supporting the ASEAN IP Action Plan. The substance of the Industrial Design Bill is also in line with the Action Plan. Therefore, all WIPO member states and ASEAN countries committed to the ASEAN IP Action Plan, including Indonesia, Malaysia, and Thailand, are obligated to immediately ratify the Hague System in their national legal systems. In addition to complying with international agreements or conventions, this step also serves to strengthen regional trade cooperation among these countries in the ASEAN region.⁶⁸

2. *Industrial Design Problems in Indonesia*

The Industrial Design Law does not provide a clear definition or definition of what constitutes aesthetic value. This creates considerable confusion in assessing aesthetic aspects. Determining whether a creation has aesthetic value is not a simple matter, as such assessment is subjective, both from the perspective of the examiner and the design creator.⁶⁹ Therefore, legal certainty is needed to establish an aesthetic impression. This is also recognized as one of the obstacles and weaknesses of the Industrial Design Law.⁷⁰ Industrial designs submitted

⁶⁶ Muhammad Djumhana dan R. Djubaedillah, *Hak Milik Intelektual, Sejarah, Teori Dan Prakteknya Di Indonesia* (Bandung: Citra Aditya Bhakti, 1997).

⁶⁷ Patrick Martin, "Urgensi Pembentukan Komisi Banding Desain Industri Untuk Menjamin Kepastian Hukum : Studi Komparatif Desain Industri Di Indonesia Dengan Jepang Dan Australia," n.d., 71–80.

⁶⁸ Serfiyani, "Hague Systems on Industrial Designs Protection as an Optimization of IMT-GT ASEAN Economic Cooperation."

⁶⁹ Endang Purwaningsih, *Perkembangan Hukum Intellectual Property Rights* (Bogor: Ghalia Indonesia, 2005).

⁷⁰ Citrawinda, "Naskah Akademik Rancangan Undang-Undang Tentang Desain Industri."

for registration must be distinct from previously disclosed designs. However, this provision does not provide definitive clarity regarding the application of the novelty principle to such designs. Consequently, in practice, the interpretation of the novelty principle is left to judges in court disputes.⁷¹ The determination of the element of novelty raises quite significant problems.⁷²

Further research conducted by Vensarina Salsabila shows that the concept of novelty in the Republic of Indonesia Law Number 31 of 2000 concerning Industrial Design still has an ambiguous meaning, thus creating legal uncertainty for the public. Therefore, it is necessary to update the Law and its derivative regulations to strengthen the regulation of Intellectual Property Rights, especially in the field of Industrial Design, in the future.⁷³ Muhammad Naufal Azmi's research reveals that the provisions regarding the principle of novelty in Law No. 31 of 2000 concerning Industrial Design still create uncertainty, particularly regarding the phrase "not the same," which is not comprehensively explained. This ambiguity leads to variations in decisions between judges, as each panel of judges at various levels of the court interprets the phrase "not the same" differently when assessing the novelty of an industrial design. As a result, at the Judicial Review stage, the Plaintiff's lawsuit was rejected after the Panel of Judges found that there were conflicting Supreme Court decisions.⁷⁴ Suyud Margono explained that the principle of novelty in industrial design is different from the principle of originality that applies to copyright. The element of "newness" in an industrial design is determined based on the first registration application filed, as long as no other party can prove that the design is no longer new or has previously been disclosed or published, either in writing or orally. Meanwhile, originality in copyright means that a work must come directly from its creator, or be the result of the creation of someone who can prove the source of its originality.⁷⁵

⁷¹ Agitya Kresna Adiyana, "Penerapan Prinsip Kebaruan (Novelty) Dalam Perlindungan Desain Industri Di Indonesia," *Jurnal Ilmiah Fakultas Hukum Universitas Bramijaya*, 2013.

⁷² Budi Santoso, *Butir-Butir Berserakan Tentang Hak Atas Kekayaan Intelektual (Industri)* (Bandung: CV. Mandar Maju, 2005).

⁷³ Vensarina Salsabila, "Implikasi Hukum Akibat Ketidakjelasan Makna Kebaruan Dalam Undang-Undang Desain Industri" (Universitas Kristen Satya Wacana, 2025).

⁷⁴ Azmi, "Ambiguitas Prinsip Kebaruan Dalam Regulasi Desain Industri (Studi Putusan Mahkamah Agung Nomor 235 Pk/Pdt.Sus-Hki/2018)."

⁷⁵ Sudjana, "Penerapan Stelsel Konstitutif Terhadap Desain Industri Yang Cepat Berubah (Fast Moving) Berdasarkan Undang-Undang Nomor 31 Tahun 2000

Trevor Black states that the term “original” or “authentic” indicates that an industrial design is not something common or customary in a particular design field. Design is understood as a plan that covers all or part of an object, including its shape or configuration, both on the outside and inside. In order to be categorized as a protected design, a design must be original and fulfill the requirement that the object was created based on the design.⁷⁶ These provisions do not provide clarity regarding the principle of novelty of a design. The lack of clarity in the Industrial Design Law regarding the method for assessing novelty elements has led to legal uncertainty. There is no single provision in Law Number 31 of 2000 concerning Industrial Design that specifically explains the principle of novelty for registered designs. As a result, in practice, the interpretation of this article is entirely up to the judge when a design dispute is brought to court.⁷⁷

The application of the constitutive system to designs in Law No. 31 of 2000, when linked to the TRIPs–WTO provisions, is actually able to guarantee legal certainty. However, for fast-moving industrial designs, this system creates obstacles because the protection provided is less effective. This is inconsistent with the original purpose of the Industrial Design Law and does not fully meet the legal principles of certainty, fairness, and utility. Law Number 31 of 2000 concerning Industrial Design, which uses a constitutive system that requires registration and applies the first-to-file principle, is considered neither efficient nor effective. Therefore, regulatory changes are needed to implement double protection. In this scheme, industrial designs whose form or configuration does not undergo rapid changes (slow moving) can still be protected through the constitutive system. Conversely, for designs that change rapidly (fast moving), it is more appropriate to use the declarative system, where registration is not mandatory and protection is granted based on the first to use principle, as stipulated in Law Number 28 of 2014 concerning Copyright. The implementation of this dual protection system not only achieves legal objectives more comprehensively—namely, certainty, fairness, and utility—but also does not conflict with TRIPs provisions because it adheres to the principle of free determination. Therefore, this approach is an option

Dihubungkan Dengan Perjanjian TRIPs-WTO,” *Bina Mulia Hukum Journal* 1, no. 2 (2017): 112, <https://doi.org/10.23920/jbmh.v1n2.2>.

⁷⁶ Ranti Fauza Mayana, *Perlindungan Desain Industri Di Indonesia Dalam Era Perdagangan Bebas* (Jakarta: Grasindo, 2004).

⁷⁷ Kresna Adiyana, “Penerapan Prinsip Kebaruan (Novelty) Dalam Perlindungan Desain Industri Di Indonesia.”

that can provide a sense of fairness, increase utility, and still support economic benefits for designers.⁷⁸

Eddy Damian is of the opinion that the potential for overlap between industrial design and copyright can arise because a design in the form of a concept or design for the appearance of a product is generally also included as an artistic work that is protected by copyright.⁷⁹

3. *Overlapping of Trademark and Industrial Law*

One of the issues that has been debated regarding the concept of 3-dimensional branding in Indonesia concerns the registration of Coca-Cola carbonated beverage bottles as a trademark. In this case, the Coca-Cola bottle was not granted full trademark protection, but only the graphic element attached to it. In addition, the view has emerged that there is an overlap between brand protection and other Intellectual Property Rights regimes, particularly industrial designs, because the shape of the bottle has the main characteristic of a 3 (three) dimensional shape configuration which is often more appropriately categorized as an object of industrial design protection. Protection for 3-dimensional marks is known as Three-Dimensional Marks. Many argue that there is a possibility of overlapping protection for these 3-dimensional marks, especially with other intellectual property rights regimes, namely industrial designs. The potential for overlap between the protection of 3-dimensional marks and industrial designs is indeed unavoidable, but there are a number of indicators that can be used to distinguish whether a 3-dimensional mark should be protected as a mark or as an industrial design.⁸⁰

A trademark is a sign that has a distinguishing function and is used in the trade of goods and services. Three-dimensional trademarks are a form of intellectual property protection granted to signs with a three-dimensional configuration. These marks encompass spatial elements consisting of height, width, and depth. The term three-dimensional sign itself refers to the shape or curve of a product, and can even refer to the shape of the product's packaging.⁸¹ A three-dimensional mark can

⁷⁸ Eddy Damian, *Glosarium Hak Cipta Dan Hak Terkait* (Bandung: Alumni, 2012).

⁷⁹ Damian.

⁸⁰ Ezra Tambunan Xavier Nugraha, "Analisis Yuridis Potensi Overlapping Antara Merek Tiga Dimensi (Three Dimensional Marks) Dengan Desain Industri Dalam Hukum Hak Kekayaan Intelektual," *Journal of Intellectual Property* 3, no. 2 (2020): 1–15.

⁸¹ Ana Wahyu, "Konsep Merek Tiga Dimensi Dalam Hukum Merek Indonesia" (Universitas Kristen Satya Wacana, 2018).

obtain trademark protection if it meets the main requirement, namely having a distinctive character. This means that the three-dimensional mark must be able to distinguish similar goods or services produced by one company from those produced by another company. If a mark lacks this distinguishing element, it cannot be recognized or registered as a trademark.⁸² The concept of differentiating power plays an important and fundamental role in the existence of a brand.⁸³ Industrial design has its own concept related to three-dimensional forms. Design is a person's work, born from their intellectual abilities, not merely in the form of a plan on paper, but also manifested in the form of a tangible object that has utility for human life.⁸⁴

These developments indicate the difficulty in distinguishing between trademark protection and industrial design protection.⁸⁵ Three-dimensional forms fall under the purview of two laws: the Trademark Law and the Industrial Design Law, creating potential overlap in their regulations. Therefore, a clear understanding of which three-dimensional forms are classified as trademarks or industrial designs is crucial to prevent such overlap. Misunderstanding the concept of three-dimensional forms can lead to errors in granting or denying Intellectual Property (IP) protection for these forms.⁸⁶ To make a brand widely known and able to reflect the quality assurance and reputation of a particular product is not an easy thing, because it requires a long process and large costs.⁸⁷ This aspect is protected through trademark rights, because it is possible that a well-known trademark can be copied by parties with bad intentions to exploit or piggyback on the reputation that has been built.⁸⁸

The intersecting relationship between 3 (three) dimensional brands and industrial designs has raised concerns in certain circles, and this has even become a concern in the process of drafting the

⁸² Fajar Nurcahya Dwi Putra, "Perlindungan Hukum Bagi Pemegang Hak Atas Merek Terhadap Perbuatan Pelanggaran Merek," *Jurnal Ilmu Hukum*, 2014, 98.

⁸³ Wauran dan Kurnia, "Confusion Dan Pembatalan Merek Oleh Pengadilan," *Mimbar Hukum* 27 (2015): 276.

⁸⁴ Muhammad Djumhamna, *Aspek – Aspek Hukum Desain Industri Di Indonesia* (Bandung: Citra Aditya Bakti, 1999).

⁸⁵ Saidin, *Aspek Hukum Hak Kekayaan Intelektual*.

⁸⁶ Indirani Wauran Natalia Arinasari Nadeak, "Tumpang-Tindih Pengaturan Bentuk Tiga Dimensi Dalam Undang-Undang Merek," *JH IUS Quia Lustum* 26, no. 1 (2019): 21–43, <https://doi.org/10.20885/iustum.vol26.iss1.art2>.

⁸⁷ Natalia Arinasari Nadeak.

⁸⁸ Insan Budin Maulana, *Sukses Bisnis Melalui Merek, Paten Dan Hak Cipta* (Bandung: Citra Aditya Bakti, 1997).

Trademark Law. In the academic paper, it is explained that protection for 3 (three) dimensional brands must be carried out with caution so that there is no overlap with industrial design protection which has a limited validity period and cannot be extended, and to avoid excessive monopoly over a brand.⁸⁹

4. *Harmonization of Copyright and Industrial Design Laws in Indonesia*

The artistic element in industrial design is the primary cause of overlap with copyright. The difference lies in the nature of the art: industrial design art is applied and mass-produced, while copyright art is pure art. Other factors contributing to the overlap include the existence of blueprints, piracy, weak law enforcement, low appreciation of works, and a lack of public understanding of the law. Indonesia adopts a separate protection system, while the UK uses a partial dual protection system. This separate protection system has the potential to lead to disputes, particularly when an artistic work is implemented as an industrial design and ownership of the copyright and industrial design lies with different parties. The solution to this overlapping issue is the implementation of a partial dual protection system. This system could be implemented by adding a provision to the Copyright Law stating that applied works of art used in industrial applications retain copyright protection as long as they meet the requirements for originality. Furthermore, a provision should be included in the Industrial Design Law that allows for the cancellation of industrial designs if they are proven to infringe copyright.⁹⁰ In Indonesia, protection of industrial designs is regulated by Law Number 31 of 2000 concerning Industrial Design. Copyright infringement can occur if someone uses a registered industrial design without obtaining permission from the copyright holder, or if they violate the exclusive rights of the copyright holder. However, several provisions in the law contain limitations that could potentially create overlap between copyright and industrial design. Therefore, careful and precise interpretation of the articles in the law is necessary to prevent copyright infringement.⁹¹

⁸⁹ Badan Pembinaan Hukum Nasional, *Laporan Akhir Naskah Akademik Peraturan Perundang-Undangan Rancangan Undang-Undang Tentang Merek* (Jakarta, 2008).

⁹⁰ Novita Ratna Cindi Filianky, "Sinkronisasi Perlindungan Hukum Hak Cipta Dan Desain Industri Di Indonesia" (Univeritas Sebelas Maret, 2023).

⁹¹ Deanne Carmel Ukus, "Akibat Hukum Atas Penyalahgunaan Desain Pakaian Untuk Kepentingan Komersial Tanpa Izin Berdasarkan Undang- Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," 2017.

A legal dilemma exists in Indonesia because the Industrial Design Law and the Copyright Law do not explicitly regulate the protection relationship between the two. This situation often gives rise to disputes when a single object is claimed by two parties on different rights grounds. The lack of clarity in these regulations has led to overlapping protections and legal uncertainty. Therefore, regulatory revisions and improvements are needed to create a clearer, more integrated, and less conflicting protection system between industrial designs and copyright. This update is also crucial for clarifying boundaries and protection mechanisms to prevent abuse of rights. In Indonesia, there are two main approaches to protecting industrial designs. First, a copyright-based approach that focuses on originality and automatic protection upon registration. Second, a patent-based approach that emphasizes substantive examination and fulfillment of the element of novelty. These three methods aim to balance protection of innovation with the need to avoid overlap between intellectual property rights, such as copyright and trademark.⁹²

Design plays a crucial role in attracting consumer attention. Trade dress and industrial design developed parallelly in the history of intellectual property protection, beginning with protection for two-dimensional designs and eventually encompassing three-dimensional designs. In the competitive world of commerce, products generally have distinct product and packaging designs. However, in some cases, product designs also function as packaging designs, as in the cases of Henry Ford, Christian Louboutin, Crocs, and Gibson. If fraudulent practices, imitation, or reputational piracy of these designs occur, this indicates an overlap between the violations of Trade Dress Passing Off and Industrial Design Passing Off.⁹³

Disputes between copyright and industrial design can arise when both parties have legitimate rights to the same object. One common solution is Alternative Dispute Resolution (ADR), such as negotiation, mediation, or conciliation. In practice, the issue of overlapping enforcement between copyright and industrial design often generates pros and cons among Intellectual Property (IP) practitioners. Those

⁹² Putri Permata, Faiz Husni Abillah, and Qisthi Fauziyyah Sugianto, "Kompleksitas Perlindungan Desain Industri Di Indonesia: Antara Inovasi, Kebaruan, Dan Tantangan Dalam Hukum Kekayaan Intelektual," *JHN: Jurnal Hukum Nusantara* 1, no. 3 (2025): 305–13.

⁹³ Michael Alexander, "Problem Tumpang-Tindih Antara Konsep Trade Dress Dan Desain Industri Di Indonesia = Overlapping Problems of Trade Dress and Industrial Design's Concept in INdonesia" (Universitas Indonesia, 2020).

who support the use of ADR argue that this mechanism is more effective because it can spare the parties from complicated, time-consuming, and expensive court proceedings, while still respecting the basic rights of each party. As Aprilianna Silvia Berkat Gea put it, it is better to "search for food with sharks than to fight for food with sharks."⁹⁴ However, opponents argue that ADR is inappropriate as the primary solution. They argue that in such cases, copyright infringement has occurred, even if the other party already holds an industrial design certificate. For example, if Party A already holds copyright before Party B obtains an industrial design certificate, then B's ownership of the underlying copyright does not automatically eliminate the infringement of A's copyright.

The problem that often confuses intellectual property (IP) experts and law drafters in various countries is related to the overlapping relationship between Copyright and Industrial Design.⁹⁵ The overlapping relationship between Industrial Design and Copyright arises from a number of causal factors. Some of these include:

- a. Existence of blueprints;
- b. Piracy;
- c. Low appreciation of creative works and public understanding of legal aspects; and
- d. Weak enforcement of laws governing the protection of intellectual property rights.⁹⁶

An example of an overlapping case between Industrial Design and Copyright can be seen in Decision Number 238 K/Pdt.Sus-HKI/2014. In this case, Bun Bun Khui (Radiman) as the plaintiff and copyright holder of the painting entitled "RIBBON", sued PT Tunisco which registered an industrial design entitled "PACKAGING". The lawsuit was filed because PT Tunisco's design was deemed to lack novelty, as it incorporated elements from the copyrighted work "PITA" into its industrial design. However, the court dismissed the lawsuit and declared that PT Tunisco's request to cancel the industrial design was inadmissible, despite indications of copyright infringement of Bun Bun Khui's work "PITA." However, under the Copyright Act, the painting "PITA" has moral and economic rights that should be legally protected. The Industrial Design Act stipulates that the element of novelty will be

⁹⁴ Aprilianna Silvia Berkat Gea, "Analisis Cross Rezim Hak Cipta Dan Desain Industri Di Indonesia," *Premise Law Journal* 5 (2016).

⁹⁵ Tim Lindsey et All, *Hak Kekayaan Intelektual* (Bandung: Alumni, 2006).

⁹⁶ Novita Ratna, Cindi Filianky, and Hernawan Hadi, "Perlindungan Hukum Sengketa Desain Industri Dan Hak Cipta," *Privat Law Volume* 9, no. 1 (2021): 155–63.

deemed lost if the design has been published in any way and in any country.⁹⁷

Protection against overlapping regulations in Intellectual Property (IP) between Industrial Design and Copyright has not been optimally implemented. This indicates a legal loophole that leaves works that are legally protected still vulnerable to infringement without adequate protection. Satjipto Rahardjo explained that the law's function of protecting human rights and ensuring the enjoyment of legally guaranteed rights has not been reflected in cases of overlap between copyright and industrial design.⁹⁸ In practice, works already protected by copyright do not always receive effective protection, even though the copyright holder is clearly harmed by the use of their work by the industrial design rights holder. Normatively, repressive legal protection is indeed regulated through criminal provisions for parties who imitate copyrighted works. However, these provisions do not cover protection if the imitated work is used as an industrial design, thus rendering the criminal provisions inapplicable and legal protection ineffective. Meanwhile, preventative legal protection for cases of overlapping rights like this also lacks a clear regulatory basis, thus opening the opportunity for numerous copyright violations.

In essence, the concept of Intellectual Property (IP) protection utilizes the territorial principle, meaning that the legal protection limits correspond to a country's borders. If an industrial design has been registered in Indonesia and wishes to be recognized and protected in another country, the applicant must register the industrial design in the destination country. This is stipulated in Law No. 31 of 2000 concerning Industrial Design. This is because Indonesia has not yet ratified the Hague System. WIPO divides industrial design protection into three categories⁹⁹:

1. National Route

Applicants can register industrial designs at each IP office in a WIPO member country.

2. Regional Route

Applicants can apply for registration in member countries of a regional convention, thereby registering their designs in more countries. Regional IP representatives are as follows:^aThe African Regional Industrial Property Office (APIPO), which has the authority to register

⁹⁷ Liona Isna Dewanti, "Tolok Ukur Kebaruan Dalam Desain Industri," *Ius Quia Iustum Law Journal of Islamic University of Indonesia* 14, no. 1 (2007): 88.

⁹⁸ Satjipto Rahardjo, *Ilmu Hukum*, Revisi (Bandung: PT Citra Aditya Bakti., 2012).

⁹⁹ WIPO, "Hague System – The International Design System," 2008.

industrial designs for African countries.b.The Benelux Design Office (BDO), a WIPO representative office located in Belgium, the Netherlands, and Luxembourg.c.The Office for Harmonization in the International Market (OHM), is a WIPO representative office that handles European Union countries.

3. International Route

Companies or businesses wishing to register their industrial designs internationally in various countries can utilize the procedures stipulated in the Hague Treaty, an agreement on the international registration of industrial designs. This agreement provides convenience for businesses by offering lower costs and a simplified process. The Hague Treaty is a treaty administered by the World Intellectual Property Organization (WIPO), where applicants from member countries can submit a single international application through WIPO, thereby granting the design protection in member countries.¹⁰⁰ Provisions regarding priority rights, as applicable to other forms of IP, also apply to industrial design rights and must meet formal administrative requirements in Indonesia, based on the Paris Convention. However, complete registration documents must still be completed in Indonesia. The provisions regarding priority rights are set out in Articles 16 to 170.¹⁰¹ Thus, protection of industrial designs is a form of appreciation given to designers for their work which is new and original.¹⁰²

D. Conclusion

Indonesia has not yet ratified the Hague System because the Industrial Design regulations in Law Number 31 of 2000 are not yet aligned with international standards, in terms of novelty, overlap between institutions related to Intellectual Property and the effectiveness of examination and registration. Compared to other countries that have joined the system, Indonesia's own is still inefficient and is only national in nature. The Hague System itself offers a simpler international registration and can benefit designers and the creative industry. Regulatory harmonization and institutional strengthening are needed with the aim of Indonesia being able to immediately ratify the

¹⁰⁰ Khoirul Hidayah, *Hukum HKI (Hak Kekayaan Intelektual)* (Malang: Setara Press, 2007).

¹⁰¹ Endang Purwaningsih, *Perkembangan Intelektual Property Rights (Kajian Hukum Terhadap Hak Atas Kekayaan Intelektual Dan Kajian Komparatif Hukum Paten)* (Bogor: Ghalia Indonesia, 2005).

¹⁰² Ranti Fauza Mayana, *Perlindungan Desain Industri Dalam Era Perdagangan Bebas* (Jakarta: PT Gramedia Widiarsama, 2004).

Hague System for convenience for designers (designers) and the creative industry.

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All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

Generative AI Statement

This paper utilizes generative artificial intelligence to aid data analysis and literature searches. Although AI was not used in the analysis, all interpretations, conclusions, and recommendations presented remain the result of the author's critical thinking. The use of AI is intended to optimize the research process, not to replace human expertise, responsibility, and intellectual contributions throughout this study.