ABSTRACT

Economically, “industrial design” is, for consumers, one of the factors to decide to buy any goods or product. Moreover, it is a significant element for manufacturers to make more profit as industrial design can be used as the business strategy to attract the interest of the consumers. Consequently, many countries have tried to introduce and enact the law which has its aim to protect industrial designs from being infringed by other persons who do not have any right over such industrial designs.

Basically, the legal system of the protection for industrial design of each country is similarly based on the principle of “territoriality”. Under the said principle, industrial-design right including other intellectual property rights is only recognized and protected by domestic law and in the territory of each country, not be automatically protected in other countries. In other words, based on the principle of “territoriality”, if manufacturers would like to obtain the protection for their industrial design in other jurisdictions, they have to conduct or register, under conditions and regulations of each country, for such a protection in every country they want to obtain the right. Due to the different domestic law relating to the protection for industrial design of each country and the principle of territoriality, these problems have caused by the difficulty for the manufacturers who would like to expand their businesses and export their products to foreign countries.

As a result of such a difficulty, a lot of manufacturers have asked for a system in which they can obtain the protection for their industrial designs in several countries by means of a single international application. Under this system, one international application replaces a whole series of applications which would otherwise have to affect with different national authorities. Accordingly, World Intellectual Property Organization (WIPO) has established the system of international registration of industrial designs subject to the Hague Agreement Concerning the International Registration of Industrial

Designs. Under this system, manufactures can conveniently register and file a single international application for protecting their industrial designs, but the registration can be enforced within many designated Contracting Parties in which protection is sought. The Hague Agreement (Hague System) is constituted by three different Acts along with the Geneva (1999) Act which is the last amendment adopted on July 2, 1999 and entered into force on December 23, 2003. Subject to the Geneva Act, the system has been made more practical, flexible and enforceable; additionally it has been consistent with the system of protection for industrial design of many countries, together with the system of European Union.

Consequently, since being one of the Contracting Parties of The Hague Agreement under Geneva Act (1999) will be one of the methods to protect Thai manufacturers' industrial-design rights from the infringement in foreign countries and will be able to encourage Thai exporters to expand their businesses to the world market without concern about the violation of their rights, it is primary responsibility of the government to consider to be the Contracting Party of the Agreement. Nevertheless, for gaining highest advantages from being a Contracting Party, it is necessary for the government to have much consideration about the benefits and shortcomings of taking part in the members of the Agreement. Therefore, to support such a consideration, this thesis will study the measures and conditions of the international registration under such an Agreement and will give suggestion for improving Thai legal system of the protection for industrial designs and enacting Thai law relating to such a protection to be consistent with international standard, especially under The Hague Agreement Concerning the International Registration of Industrial Designs and to prepare for any problem which may occurs in the future.