

IP Viet Nam's New Design Regime Supporting Creativity and Innovation



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IP Viet Nam
27 November 2023

1. Accession to the Hague system



2. Recent amendments in design regulations

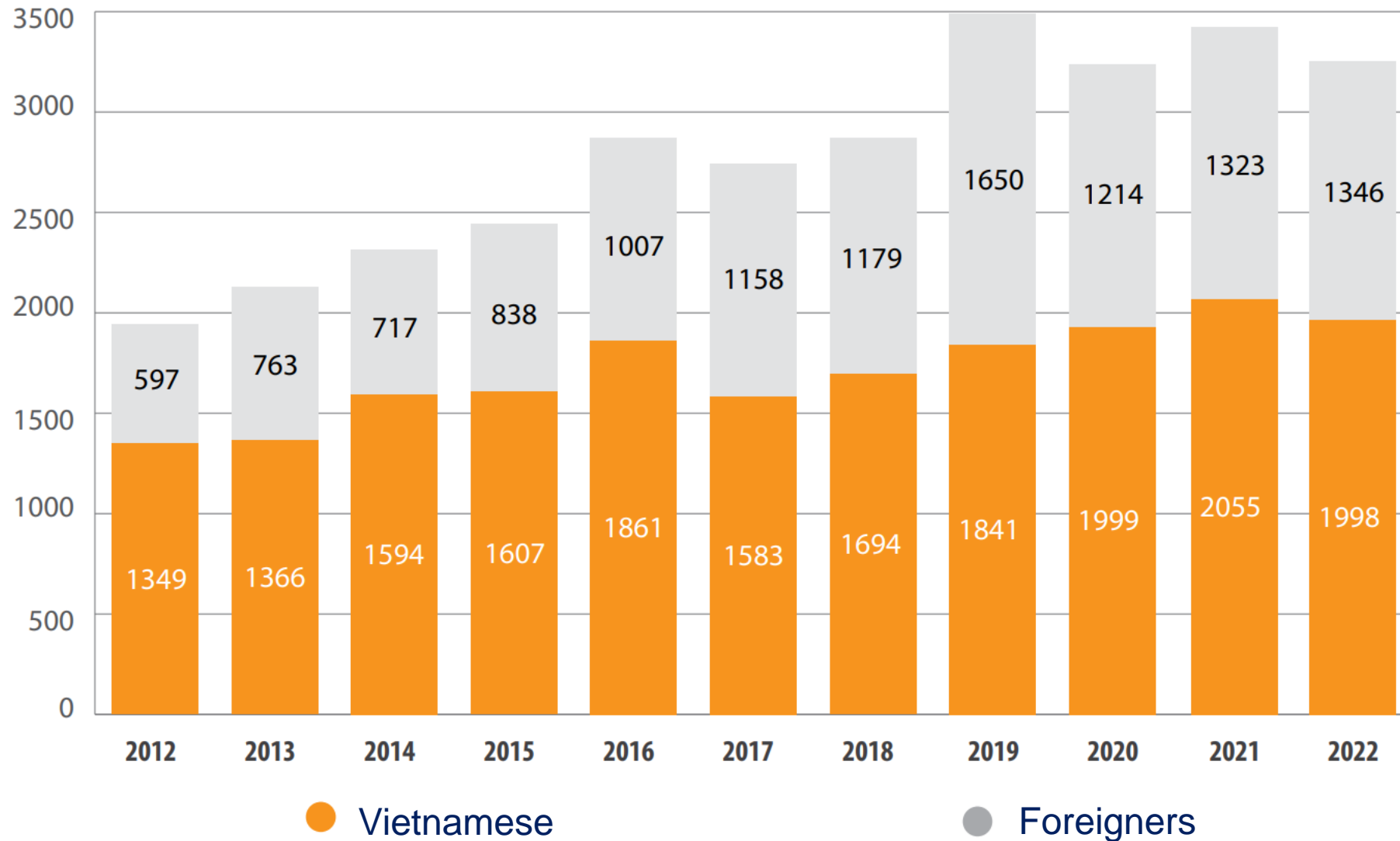


3. Future outlook

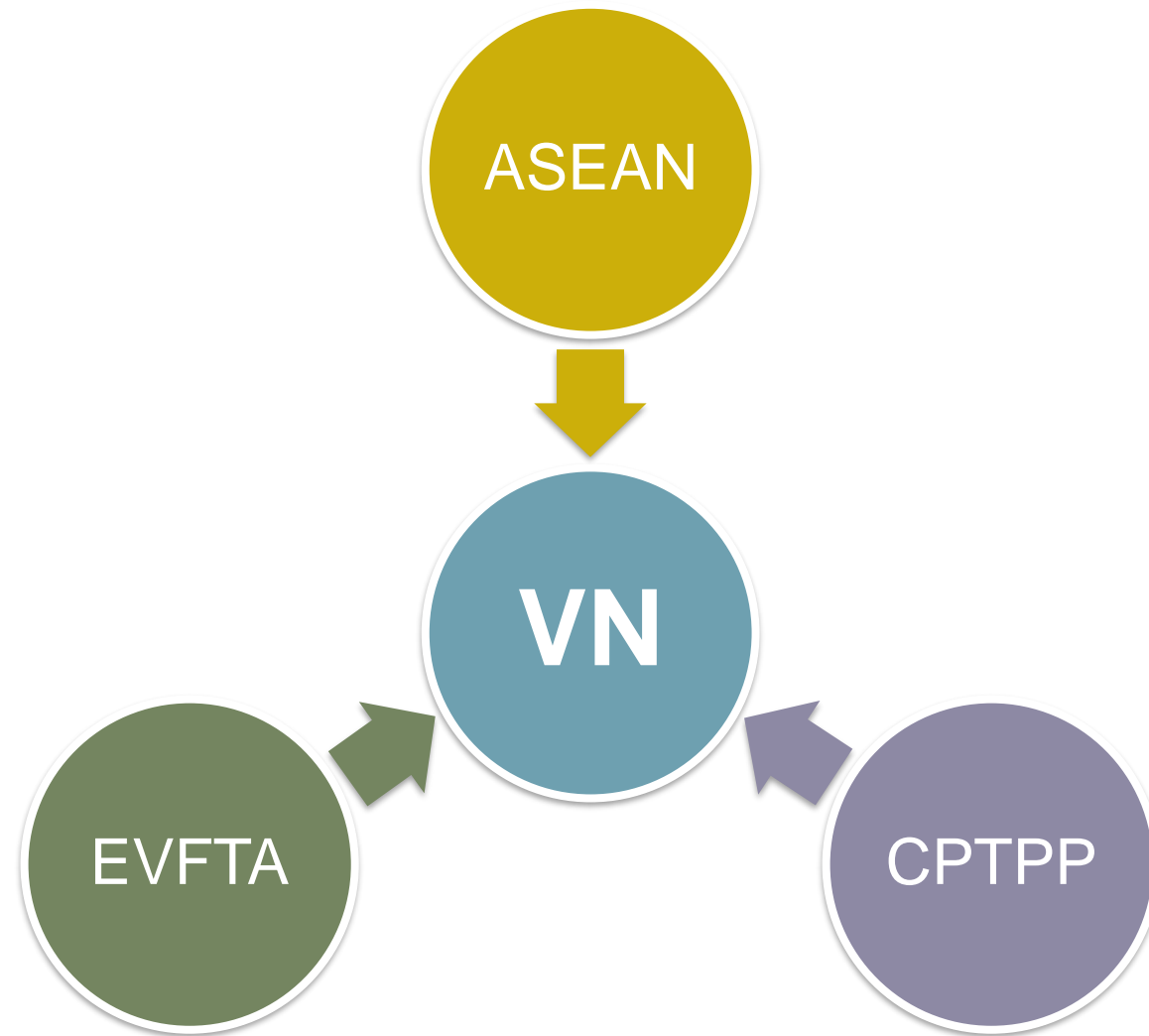


ACCESSION TO THE HAGUE SYSTEM

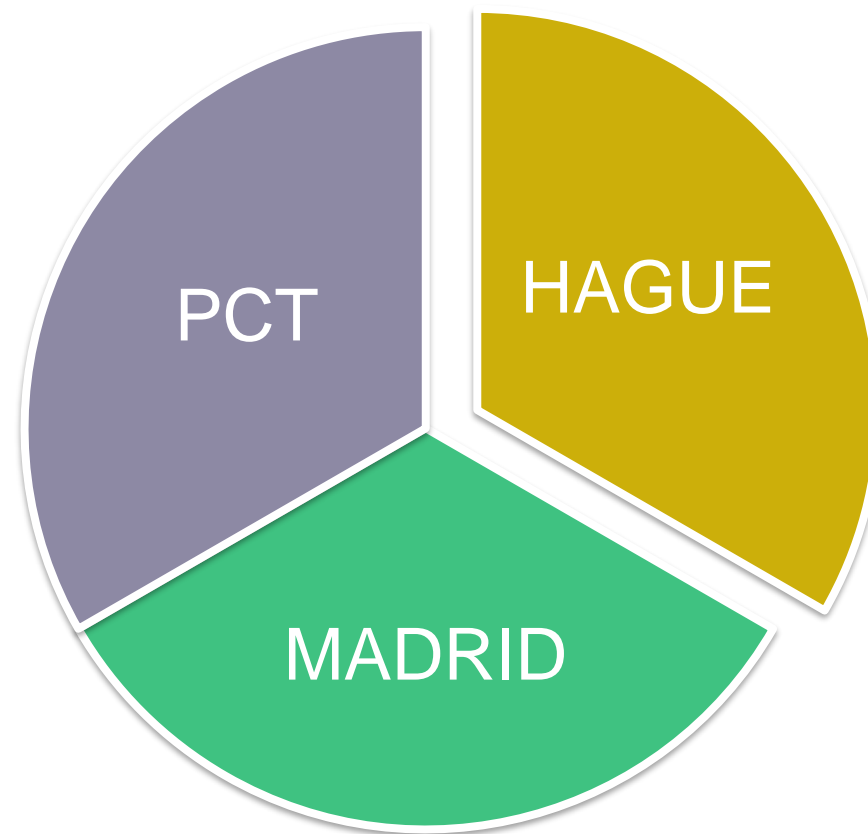
STATISTICS – NUMBER OF DOMESTIC APPLICATIONS



ACCESSION TO THE HAGUE SYSTEM (GENEVA ACT 1999)



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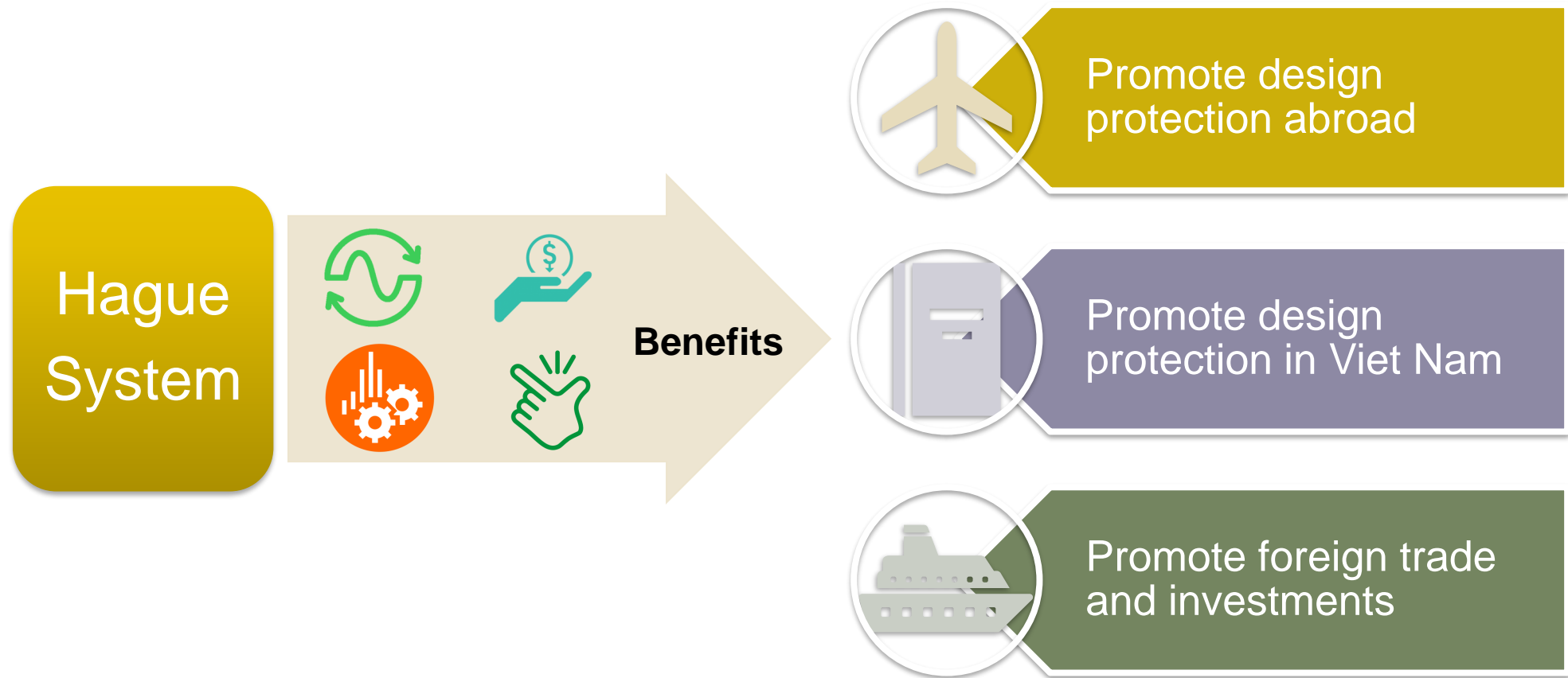
30 September 2019

ACCESSION TO THE HAGUE SYSTEM (GENEVA ACT 1999)

Benefits to the Applicants



ACCESSION TO THE HAGUE SYSTEM (GENEVA ACT 1999)





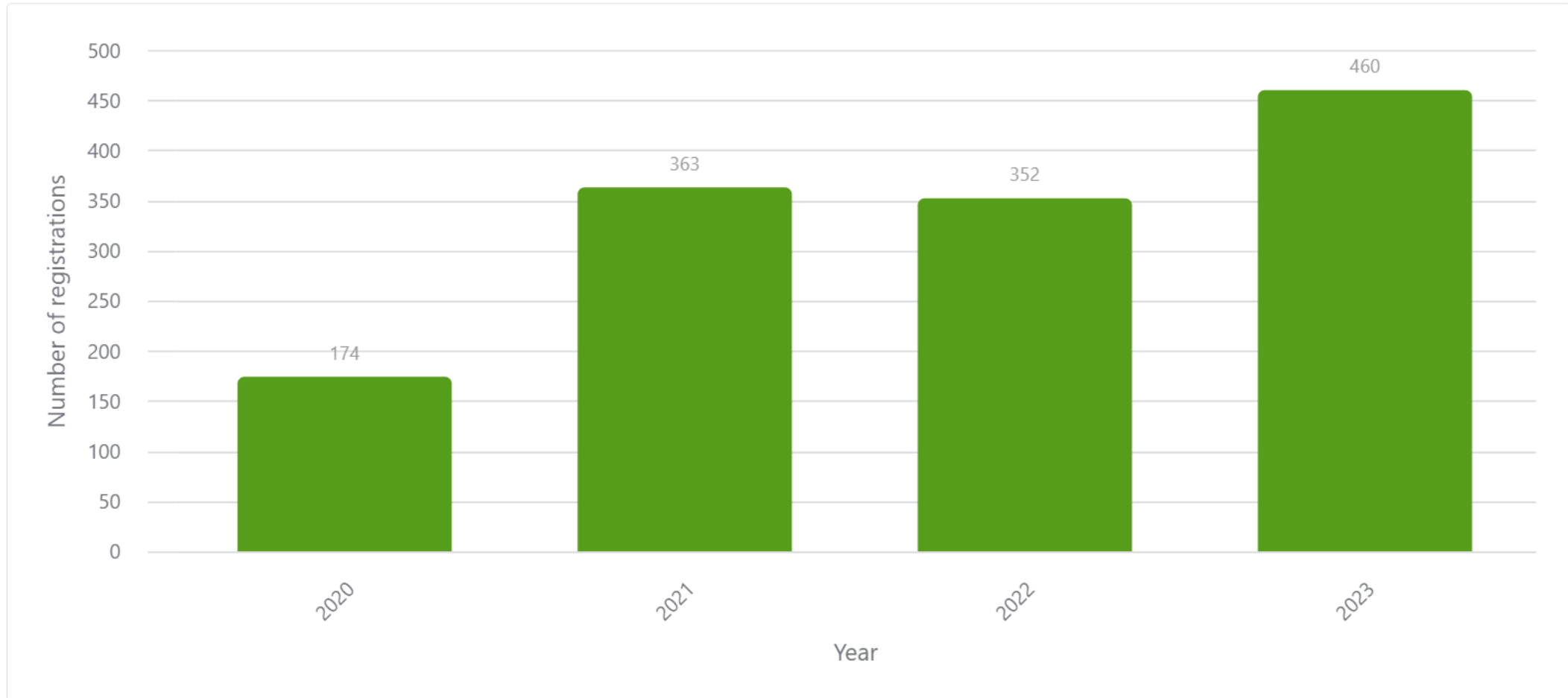
- ❑ Promoting innovation by simplifying the entry process for domestic industries and owners of industrial designs into international markets
- ❑ Vietnam's economy will reap the advantages of investments from foreign businesses that have protected industrial design rights

- ❑ Giving advice to national applicants:
 - ❖ Advantages of the Hague system to obtain design protection in various countries
 - ❖ How to prepare and file an International Application
 - ❖ How to deal with irregularities and refusals of protection
 - ❖ How to manage the International Registration
- ❑ Role as transmittal Office in case of indirect filing of International Application

IP VIET NAM AS THE OFFICE OF THE APPLICANT'S CONTRACTING PARTY

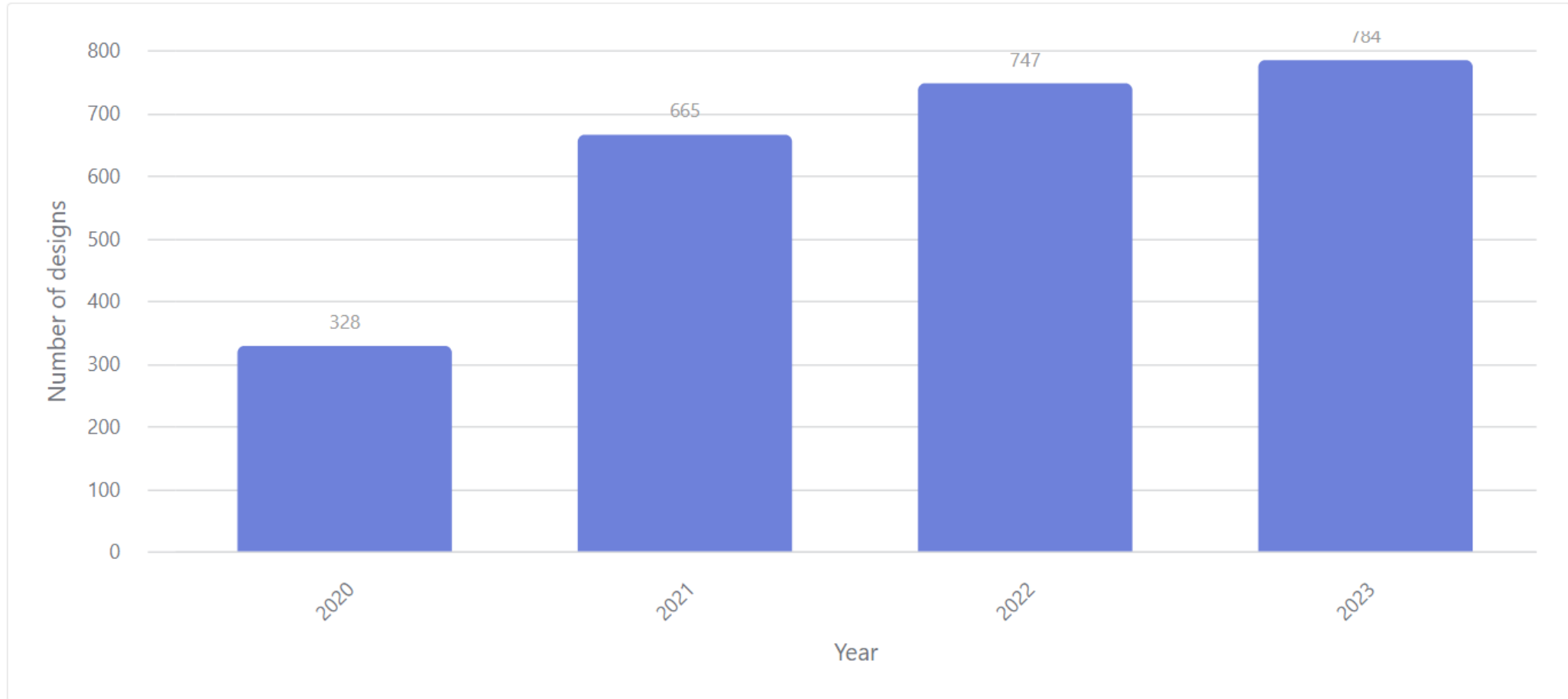


STATISTICS – NUMBER OF HAGUE APPLICATIONS



2023: up to 17 November

STATISTICS – NUMBER OF DESIGNS IN HAGUE APPLICATIONS



2023: up to 17 November

AMENDMENTS IN DESIGN REGULATIONS

AMENDMENTS IN DESIGN REGULATIONS

- ❑ Amended IP Law 2022 (has been enforced since 1 January 2023)
 - ❑ Create favorable conditions for the process of establishing industrial property rights
 - ❑ Ensure the full and serious implementation of Viet Nam's international commitments on intellectual property protection during the international integration process (CPTPP, EVFTA)
- ❑ Regulations regarding examination of Hague applications provided in Decree (has been enforced since 23 August 2023)
- ❑ Revised Guidelines on Examination of Industrial Design applications (May 2022)

IP LAW

2005

2022

› Subject Matters

- Industrial design is the external appearance of a product represented by shapes, lines, dimensions, colors or any combination thereof.
- Industrial design must be visible during the use of the product

› Subject Matters

- Industrial design is the external appearance of a product **or part thereof to be assembled into a complex product**, represented by shapes, lines, dimensions, colors or any combination thereof and **visible in the process of exploiting the use of a product or a complex product.**

AMENDMENTS IN DESIGN REGULATIONS

IP LAW

2005

2022

➤ Claim

- Mandatory to secure the filing date

➤ Description

- Required to secure the filing date
- Written description to describe in detail all essential appearance features

➤ Claim

- Not required

➤ Description

- Required to secure the filing date
- Only list of essential appearance features is required

AMENDMENTS IN DESIGN REGULATIONS

IP LAW

2005

2022

› Deferment of publication

- No deferment is allowed
- An industrial design application shall be published within 2 months as from the date of formality acceptance.

› Deferment of publication

- Allow applicants to delay publication of industrial design applications up to 7 months
- The applicant must submit a deferment request at the time of filing application

AMENDMENTS IN DESIGN REGULATIONS

IP LAW

2005

2022

➤ Opposition

- Before decision of grant/refusal

➤ Opposition

- Before decision of grant/refusal but within 4 months from publication date
- No opposition regarding Hague applications (provided in Decree)



FUTURE OUTLOOK

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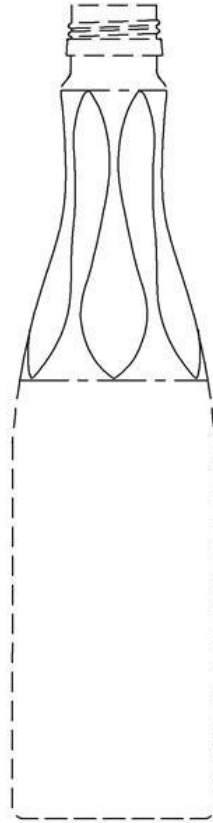
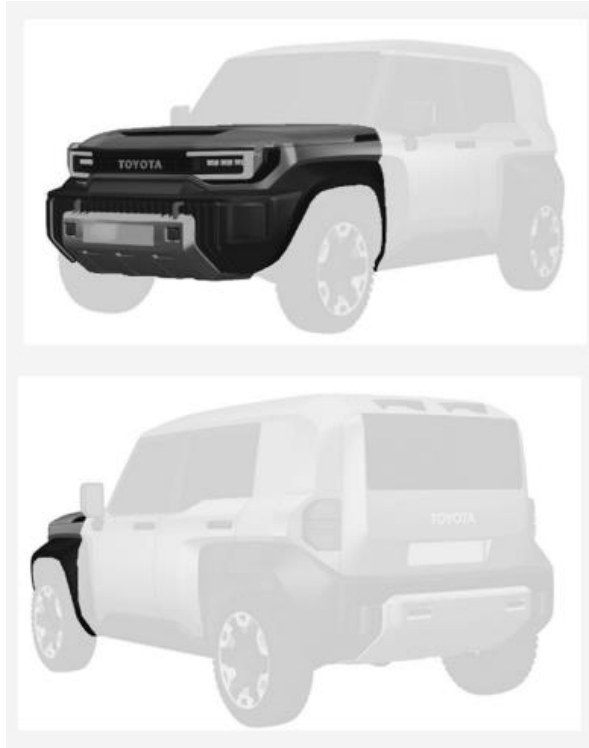
- ❑ Vietnam is not participating in the WIPO Digital Access Service (DAS)
- ❑ Therefore, applicants must submit certified paper copies of priority documents
- ❑ Hague applicants must submit these documents directly to IP Viet Nam
- ❑ 63% Hague applications designating Vietnam has priority claim
- ❑ So, in order to engage with IP Vietnam, the majority of applications typically need to go through domestic IP Attorneys, thereby diminishing the benefits of the Hague system
- ❑ Solution: Viet Nam should participate in DAS for the customer's interest

FUTURE OUTLOOK

- ❑ A description of the design is necessary to secure the filing date of a design application in Vietnam.
- ❑ Consequently, upon joining the Hague, Vietnam made the declaration that all Hague applications designating Vietnam must include a description.
- ❑ Nevertheless, within the Hague system, an additional fee of CHF 2 is imposed for each word beyond the first 100 words for descriptions exceeding 100 words.
- ❑ As a result, Hague applications lack a comprehensive description.
- ❑ Consequently, these applications have received provisional refusal notifications, and the applicants must appoint domestic attorney to response.
- ❑ Solution: Amend the IP Law, the description should be optional, not mandatory.

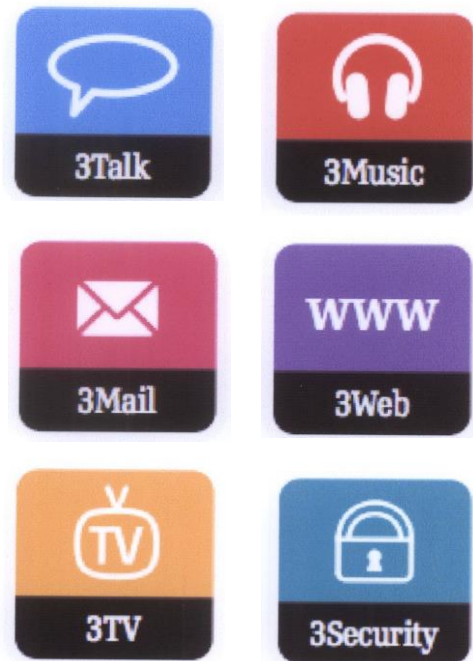
FUTURE OUTLOOK

- ❑ Viet Nam should consider providing protection for partial designs.



FUTURE OUTLOOK

- ❑ Viet Nam should consider providing protection for non-traditional designs.





Q&A



THANK YOU!