

Design Examination Guideline

- Part II : Chapter 1 ~ 10
- Part VI : Chapter 1

Korean Intellectual Property Office



KIPO currently provides **Part II** and **Part VI** (Chapter 1).
The remaining parts will be updated next year.

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Part II

Requirements for Design Registration and Grounds for Refusal

Chapter 1 Industrial applicability

1 Purpose

A "design applicable to industrial use" under Article 33(1) of the Design Protection Act refers to a design that can be mass-produced as identical articles through industrial production methods. The reason for requiring industrial applicability as a design registration requirement is that designs without the possibility of mass production do not align with the purpose of the Design Protection Act, which aims to contribute to industrial development through mass production.

2 Requirements for Designs Applicable to Industrial Use

2.1 Ability to mass-produce identical articles through industrial production methods

2.1.1 Designs that cannot be industrially used due to the impossibility of mass production through industrial production methods cannot be registered as designs in violation of the main clause of Article 33(1) (Requirements for Design Registration) of the Act.

(1) "Industrial production method" refers to the manufacturing of useful articles by applying physical or chemical changes to raw materials, and "mass production" means repeatedly and continuously producing articles of the same form.

*** Reference: Supreme Court Decision 93Hu1247 (Decided on September 9, 1994)**

Article 5(1) of the former Design Protection Act stipulates that design registration can be granted for designs applicable to industrial use, so "industrial applicability" is one of the positive requirements for design registration. "Industrial applicability" means that it can be mass-produced by industrial methods. Industrial methods refer to manufacturing useful articles by applying physical or chemical changes to raw materials, and mass production means repeatedly and continuously producing articles of the same form.

(2) "Industrial production methods" include not only machine production but also handicraft production.

(3) "Designs that can mass-produce identical articles" do not necessarily mean designs that can mass-produce physically identical articles. It refers to designs that can mass-produce articles with a level of sameness that can be reasonably interpreted as the same article based on the knowledge of a person with ordinary skill in that design field.

2.1.2 For partial designs, the article that is the subject of the design should also be capable of repeated mass production by machine production methods or handicraft methods.

2.1.3 Even when figures displayed on the display part of an article, such as an LCD screen, are temporarily implemented in the article, the article is treated as a design applicable to industrial use in the state of displaying the screen design.

2.1.4 Based on Article 2(2-2) of the Design Protection Act, "graphic designs" independent of articles are treated as designs applicable to industrial use when the same form of graphic is repeatedly and continuously produced using digital technology or electronic methods.

2.1.5 In principle, creations belonging to the field of fine arts such as paintings and sculptures, or those using natural objects themselves as main components, such as taxidermy animals or suseok (viewing stones), are not considered capable of mass production by industrial production methods. However, whether something belongs to the field of fine arts or uses natural objects as main components is primarily determined by considering the list of articles by design classification.

(1) Items using natural objects as main components that cannot be mass-produced

<Example>

[Denied] Taxidermy animals, flower arrangements, suseok (viewing stones)

(2) Works belonging to the field of fine arts

[Denied] Paintings, glass art works, ceramic works, installation art works

(3) Service designs created in the process of commercially handling articles

<Example>

[Denied] Methods of displaying, arranging, or placing products, or ideas related to these

[Examiner's Reference]
[Approved] According to the current list of articles by design classification (as of January 1, 2024), names such as 'decorative insect specimen collections', 'pictures for frames', 'picture postcards', 'small decorative items', 'decorative crafts', 'ceramics', 'advertising sculptures', 'outdoor sculptures', 'bridge sculptures' are recognized.

2.2 The design expression should be concrete The scope of protection for a registered design is determined by the design expressed according to the details stated in the design application, the drawings, photographs, or samples attached to the application, and the description of the design. Therefore, designs that cannot be industrially used due to lack of concrete expression, as in any of the following cases, cannot be registered as designs in violation of the main clause of Article 33(1) (Requirements for Design Registration) of the Act.

2.2.1 When the essential feature of the design cannot be grasped even after a reasonable interpretation based on a comprehensive judgment of the application details and attached drawings, etc., using ordinary knowledge in the field to which the design belongs.

2.2.2 When an explanation of materials or size is deemed necessary but not provided in the "Description of the Design" section.

2.2.3 When the description of the design is omitted for designs of articles that are not obviously designed, manufactured, and used in left-right symmetrical form, such as shoes, earphones, earrings, etc.

<Example>

[Accepted]

In cases such as Bluetooth earphones, even if only one side (left or right) of the earphone shape is shown in the drawing and the description of the other side is omitted, it is not considered to lack concreteness.

2.2.4 When an explanation of the possibility of repeated production or transportability is deemed necessary for designs related to civil engineering and architectural products such as bridges or houses, but such explanation is not provided in the "Description of the Design" section.

2.2.5 When the purpose or use of the design is stated in the "Description of the Design" section, but it goes beyond the normal range of mixed use for the article in question.

<Example>

[Denied]

When applying for a "car" and stating in the "Description of the Design" section that "This design can be produced as a car model"

[Denied]

When applying for a "label" and stating in the "Description of the Design" section that "This design can be used as a graphic design"

[Accepted]

In the case of a "mobile phone case" with the following form, the possibility of mixed use with a "wallet" is recognized.



2.2.6 When submitting only the drawing of the part where the graphical user interface (GUI) is displayed (e.g., a drawing representing the front view) for a GUI design application expressed as part of an article, but not providing an explanation about it in the 'Description of the Design' section. However, in cases where the feature of the design creation can be sufficiently grasped with a single drawing, such as GUI designs displayed on display panels or information communication devices, it can be considered sufficiently concrete even without a separate explanation.

2.2.7 In the case of a "graphic design" independent of an article based on Article 2(2-2) of the Design Protection Act, when a clear explanation about the graphic design being used for device operation or function performance is not provided in the "Description of the Design" section.

2.2.8 For designs related to clothing and fashion accessories, when auxiliary items such as mannequins are used to fully show the shape, but an explanation about this is not provided in the "Description of the Design" section.

2.2.9 When the overall shape of the design is not clear due to omitted parts in the drawing, and an explanation is deemed necessary but not accurately provided in the "Description of the Design" section. However, when submitting only partial drawings in any of the following cases, the reason should be stated in the "Description of the Design" section. {Refer to Rule [Appendix 2] (Items to be stated in the Description of Design section)} In this case, when expressing a flat article with no pattern on the back, it can be stated as "No pattern on the back part", and if the drawing of the back part is not submitted or no explanation is provided, it is considered to have no pattern.

<Example>

[Accepted]

In the case of a 'clothing' design expressed in a flat state spread on the floor, considering the morphological characteristics of the clothing, etc., the concreteness of expression can be recognized even if drawings viewed from the left and right sides, etc., are omitted.

<Example>

Cases of submitting partial drawings and how to fill in the "Description of the Design" section

Category	Required drawings	How to fill
(1) When the front and back parts are the same or symmetrical	Front part or back part	"The back part is omitted as it is identical (symmetrical) to the front part" or "The front part is omitted as it is identical (symmetrical) to the back part"
(2) When the left and right side parts are the same or symmetrical	Left side part or right side part	"The right side part is omitted as it is identical (symmetrical) to the left side part" or "The left side part is omitted as it is identical (symmetrical) to the right side part"
(3) When the top and bottom parts are the same or symmetrical	Top part or bottom part	"The bottom part is omitted as it is identical (symmetrical) to the top part" or "The top part is omitted as it is identical (symmetrical) to the bottom part"
(4) When there are multiple identical parts other than (1), (2), (3)	One of the identical parts	Explain the relevant reason
(5) When a specific part cannot be seen due to permanent installation or fixation	The remaining parts excluding the specific part	Explain the relevant reason
(6) Thin three-dimensional articles (e.g., packaging pouches, etc.)	Main parts	Explain the relevant reason
(7) In case of flat articles (wrapping paper, labels, fabric, etc.)	Surface view ※ Reverse view can be omitted if there is no pattern on the reverse side	Explain the relevant reason
(8) In case of GUI design expressed on part of an article	The part where the GUI design is displayed	Explain the relevant reason

2.2.10 When the overall shape of the design [including the drawing viewed from the back part of the article (back perspective view) and the drawing viewed from the bottom part (bottom perspective view)] is not clearly expressed in the drawings, leaving some parts in a state of conjecture, making it impossible to fully grasp the design.

2.2.11 When the drawings are inconsistent with each other, and even after a comprehensive judgment based on the empirical rules of a person with ordinary knowledge in the field to which the design belongs, the feature of the design creation cannot be specified.

* Reference: Supreme Court Decision 2004Hu2123 (Decided on September 15, 2005)

Even if there are inconsistencies in parts of the drawings attached to a design registration application, if such inconsistencies arise from differences in expression methods such as perspective in the isometric view and six-side views, or if they are not easily noticeable and are only matters not directly related to the key points of the design creation, such that an Ordinary designer (person having ordinary skill in the art) can sufficiently specify the Essential Features of the Design based on empirical rules, it can be said that identical articles can be mass-produced by industrial production methods. Therefore, such a design should be considered as a design applicable to industrial use.

2.2.12 When drawings (including photographs submitted as substitutes for drawings), samples, etc. are not clear. However, this does not apply if the Essential Features of the Design can be grasped and an Ordinary designer (person having ordinary skill in the art) can implement the design when supplementing the lack of design expression based on empirical rules. (1) When drawings, samples, etc. are too small or unclear to grasp the Essential Features of the Design (2) In case of photographs, when the background of the article, shadows, or shapes of other articles are captured, making it impossible to clearly specify the design for which registration is sought

2.2.13 When it is impossible to grasp the Essential Features of the Design due to excessive use of letters or symbols in the application or drawings, abstractly explaining the shape, pattern, and color

2.2.14 When there are uncolored parts in some parts of color drawings. However, this is an exception if the following is stated in the "Description of the Design" section of the drawings regarding the uncolored parts. If it is obvious that it falls under (1), (2), or (3) below, it may not be stated. (1) Stating the color as white, gray, or black (2) Stating it as a transparent part (3) Stating it as a perforated part

2.2.15 When the design cannot be sufficiently grasped only with the submitted drawings such as front and rear views, top and bottom views, left and right side views, perspective views, etc., and it falls under the following {Refer to the instructions for filling out [Form No. 4] (Design Drawings) of the Rules}

(1) When there are no sectional views, enlarged views, cross-sectional views of cut parts, or views showing the state of use

[Examiner's Reference]		
 Drawings such as sectional views should be submitted according to the following table, and an explanation of the relevant drawings should be provided in the Description of the Design section. Drawings that are not prepared according to the classification below are considered as reference drawings.		
Category		Note
Drawings	(Cut part) sectional views	Prepared according to ( 2.2.16) below
	(Partial) enlarged views	Prepared according to ( 2.2.17) below
	E x p l o d e d perspective views	Excluding those showing the state of use
	Flat pattern view	When submitted as main drawings, drawings of the completed state are considered as views showing the state of use
Reference drawings	Views showing the state of use	Other drawings to aid understanding of the design's usage, etc.

(2) In case of composite objects such as assembly toys

(a) When the drawings of each component alone are not sufficient to fully express the state of use, but there are no drawings showing the assembled state or storage state

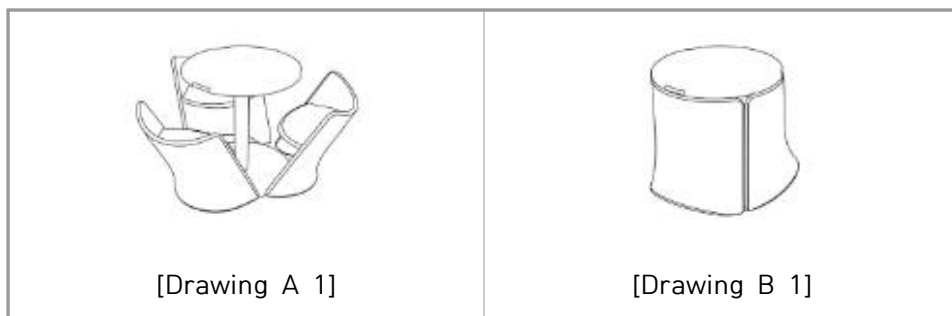
(b) When the drawings of the assembled state alone are not sufficient to fully express the disassembled state, but there are no drawings of each component

(3) For designs of articles that change shape, such as opening and closing or unfolding and folding (transitional/dynamic designs), when it is not possible to fully express the design without showing the states before and after the change, but there are no drawings showing each state before and after the change, or when an explanation is deemed necessary but not provided in the "Description of the Design" section

<Example>

[Accepted]

Drawings of a "chair with attached table" in both unfolded and folded states

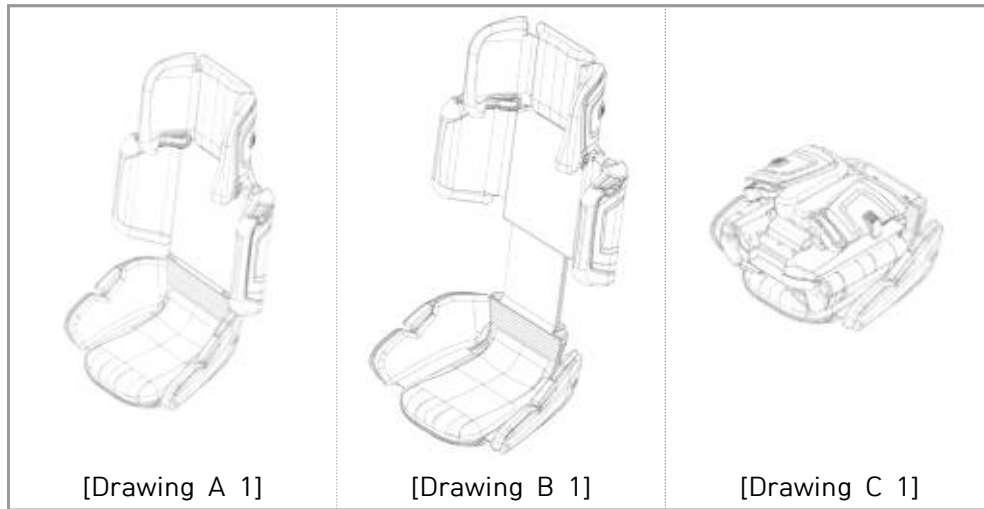


(4) For designs of articles that change shape through a continuous series of processes, when it is not possible to fully grasp the design without expressing the moving state, but there are no drawings of the stationary state and drawings showing the motion state (basic postures during motion, trajectories indicating motion content, etc.), or when an explanation is deemed necessary but not provided in the "Description of the Design" section

<Example>

[Accepted]

A series of drawings showing the continuous motion of shape change for a "foldable child car seat"



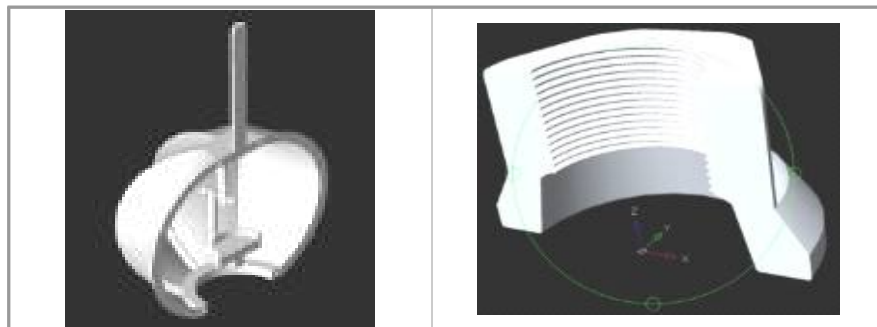
2.2.16 When the indication of the cut surface and cutting location in sectional views, etc. falls under the following:

(1) When the representation of the cut surface with parallel diagonal lines (hatching) or an equivalent method is incompletely indicated or not indicated at all

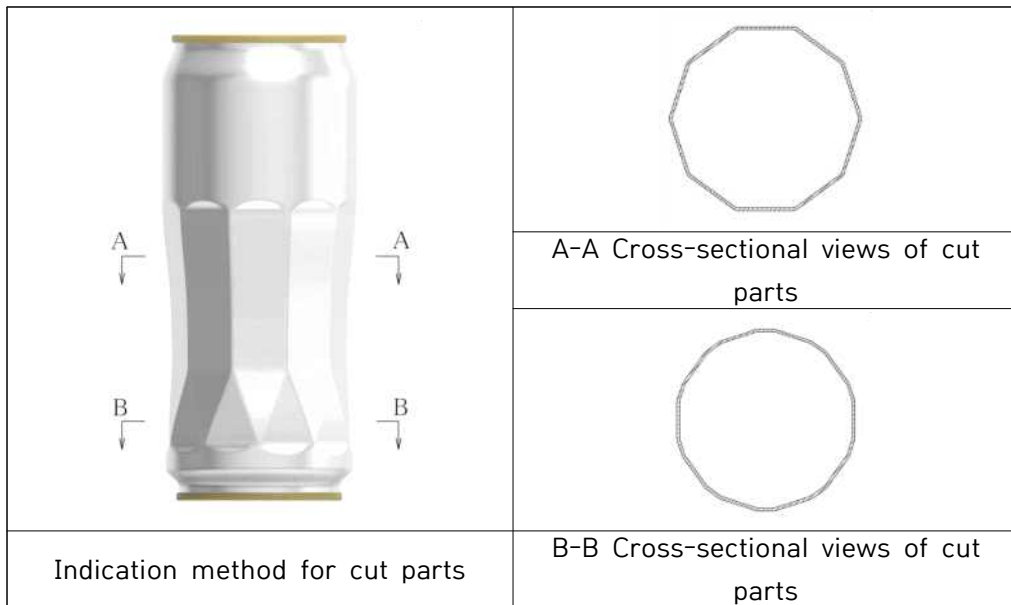
<Example>

[Accepted]

When sectional views are expressed in 3D graphics or photographs as follows, they are considered appropriate.



(2) When the cut part is not indicated with dashed lines or equivalent methods (cutting lines, symbols, and arrows) on the original drawing. However, an exception is made when a specific drawing is designated and described in the Description of the Design section as "Central longitudinal sectional view", "Central cross-sectional view", or in an equivalent manner.



2.2.17 When the enlarged part is not indicated with dashed lines or an equivalent method on the original drawing of the partial enlarged view. However, if the position, size, and range of the enlarged part can be clearly understood, it may not be indicated on the original drawing.

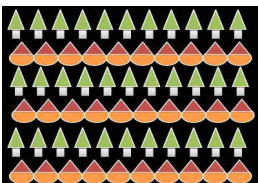
2.2.18 For separable articles such as those composed of a cover and a main body, when the combined state alone is not sufficient to fully express the design, but there are no drawings of the combined state and individual drawings of each component.

2.2.19 For three-dimensional articles with continuous shapes or flat articles with continuous or repetitive patterns, when they fall under the following:

(1) When the drawing is not illustrated to show the continuous state (the unit pattern must be repeated at least 1.5 times). However, this does not apply if the unit pattern is shown once, the repetition state (combination and arrangement of unit patterns) is described in the "Description of the Design" section, the drawing and the description of the design are consistent, and the repetition state can be clearly understood.

<Example>

Illustration showing the state of continuous and repetitive patterns vertically and/or horizontally in the drawing of a "fabric" design

Incorrect illustration	Correct illustration
	<Example of a case where the unit pattern is shown once, the repetition state is described in the "Description of the Design" section, and the repetition state can be clearly understood:>  Article: Fabric Description of the Design: The submitted drawing is a unit pattern that repeats in all directions (up, down, left, and right) 

(2) When there is no explanation in the "Description of the Design" section about the state of the shape or pattern continuing or repeating in one direction or in all directions (up, down, left, and right)

<Examples of Description of Design entries>

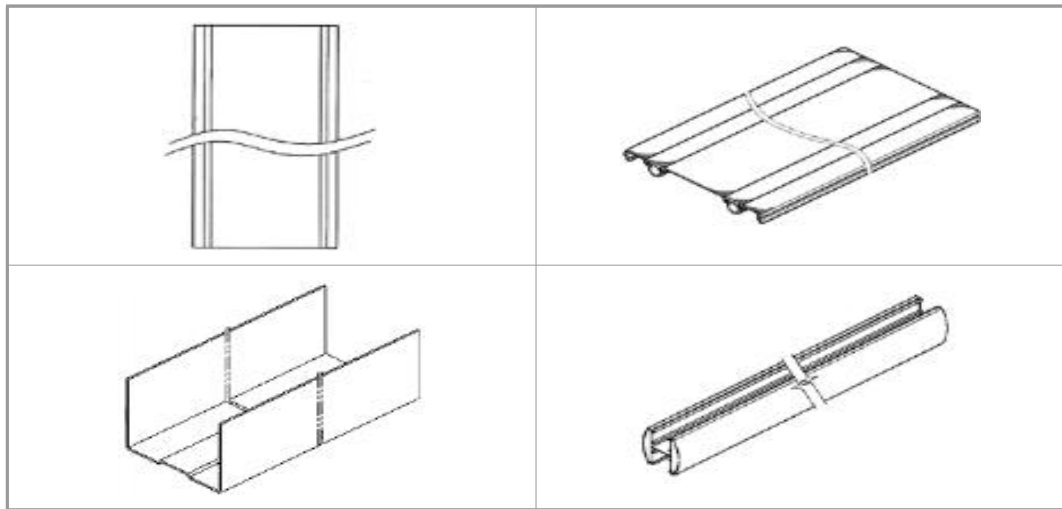
Category	Entry Method (Example)
Flat design with continuous or repetitive patterns	"The pattern of this design repeats continuously in all directions (up, down, left, and right)" or "Repeats continuously left and right, full width up and down"
Three-dimensional design with continuous shape	"This design is continuous in the longitudinal direction" or "This design is continuous from left to right"

2.2.20 For drawings with the middle part of a length-limited article omitted, those that fall under the following:

(1) When the omitted part is not indicated by cutting with two parallel single-dot chain lines or an equivalent method, making it impossible to clearly understand the design

<Example>

[Accepted] Industrial applicability is recognized even when cut with two curved lines, double-dot chain lines, or zigzag lines



(2) When the overall shape of the design is not clear and an indication of the omitted length is deemed necessary, but the intent that a certain number of mm or cm has been omitted based on the size of the actual product is not stated in the "Description of the Design" section. However, when omitting the length of ancillary components that are not the main constituents of the article, such as electric wires, strings, or cords, in the drawing, the omitted length may not be stated.

* For articles that can be cut and used as needed, this can be stated in the description section (e.g., window frame, architectural profile, etc.)

2.2.21 For designs where all or part of the article is transparent, when the drawing falls under one of the following:

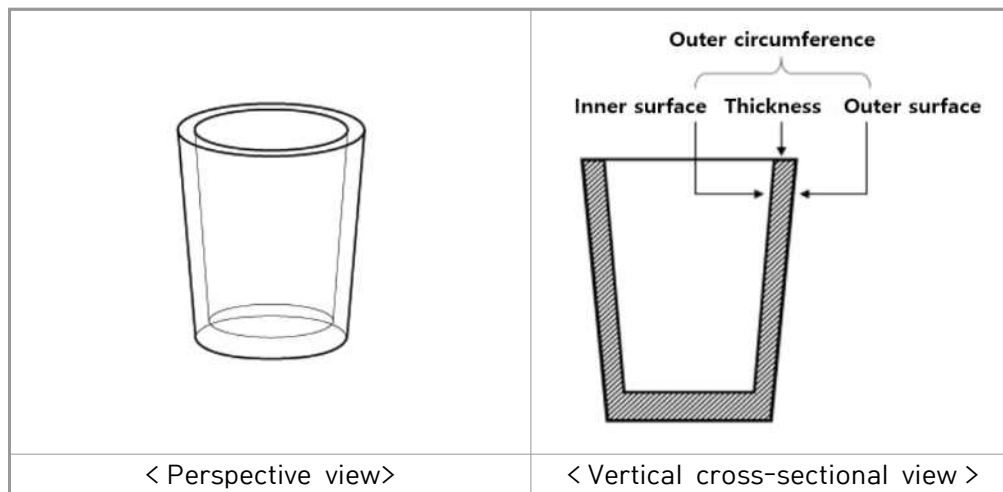
(1) If there is no color or pattern on the outer surface, the transparent-looking part should be represented as it appears, and if deemed necessary, this intent should be stated in the "Description of the Design" section, but it is not. However, if it is obvious that all or part of the article is transparent due to its characteristics, this may not be stated.

[Examiner's Reference]		
 [Accepted] Even if there is no statement in the "Description of the Design" section indicating transparency, industrial applicability can be recognized in obvious cases like the following:		
		
Eyeglasses	Light bulb	Wristwatch body

(2) If a pattern or color is expressed on either the outer surface, inner surface, or thickness of the outer periphery, drawings should be submitted representing the transparent-looking parts as they appear, along with drawings that clearly show the pattern or color (front view without the pattern or color of the back projected, top view without the pattern or color of the bottom projected, or flat pattern view of the patterned part, etc.). If deemed necessary, this intent should be stated in the "Description of the Design" section of the drawings, but it is not. However, if it is sufficiently expressed by the drawings alone, this may not be stated.

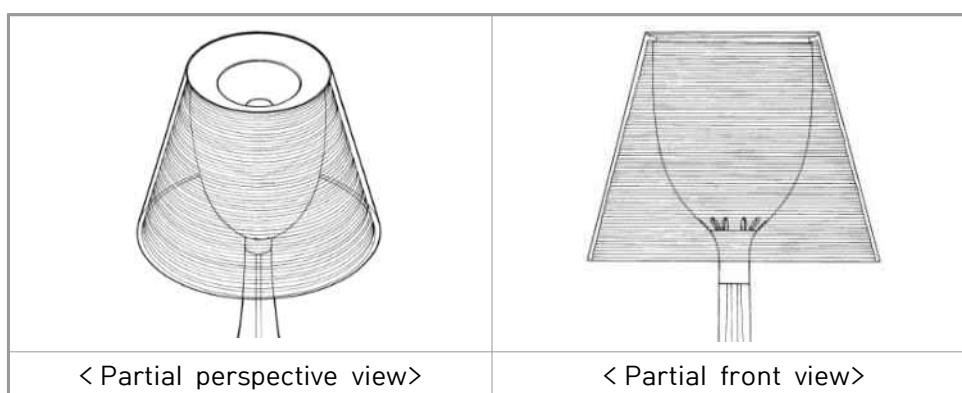
<Example>

1) Position of outer periphery, inner surface, thickness, and outer surface in a transparent three-dimensional article



<Example 2>

[Accepted] In the case of an 'electric stand lamp' design where stripes are formed only on the inner surface of a transparent lampshade as shown below, the design can be considered sufficiently expressed with just the description of the material and the drawings.



(3) If two or more shapes, patterns, or colors are expressed anywhere on the outer surface, inner surface, thickness of the outer periphery, or inside surrounded by the outer periphery, drawings should be submitted representing the transparent-looking parts as they appear, along with drawings showing each surface (outer surface of

the outer periphery, inner surface, or inside its thickness, inside surrounded by the outer periphery) where those shapes, patterns, or colors are expressed. If deemed necessary, this intent should be stated in the "Description of the Design" section of the drawings, but it is not. However, if it is sufficiently expressed by the drawings alone, this may not be stated. Example) Cups, etc. with patterns on both the outer and inner surfaces of the outer periphery

(4) For transparent three-dimensional objects with a pattern or color only on one surface, the pattern or color should be expressed only on that surface (not expressed even if visible by projection from other surfaces), but it is not done so, or when a "Description of the Design" is deemed necessary but the intent is not stated. However, if it is sufficiently expressed by the drawings alone, this may not be stated.

(5) When the thickness of the transparent part is not expressed and the content of the design cannot be clearly understood, but a cross-sectional view showing the shape of the thickness of the transparent part is not attached, or hatching (continuous diagonal lines) is not used for the cut part

2.2.22 When drawings representing a partial design fall under the following:

(1) When the scope of the part intended for partial design registration is not clearly specified

(a) When the method of representing the part intended for partial design registration in solid lines and the rest in broken lines is not followed, or an equivalent representation method is not used

<Example>

[Accepted] Cases where the part intended for partial design registration can be recognized as clearly specified through coloring or boundary lines, etc.



In the case of the "Sneakers" design, the boundary between the part intended for partial design registration and the part that is not is indicated with a single-dot chain line. For the "Tractor" design and the "Tape dispenser" design, the parts excluded from the partial design registration are colored.

(b) When an explanation of the method for specifying the part intended for partial design registration is deemed necessary, but this intent is not stated in the "Description of the Design" section.

(c) When the boundary between the part intended for partial design registration and the part that is not is unclear, but it is not illustrated with a single-dot chain line or an equivalent method, or when an explanation is necessary but this intent is not stated in the "Description of the Design" section.

(2) When the overall shape of the part intended for partial design registration is not clearly shown in the drawings. However, if only a part of the portion not intended for partial design registration is shown in the partial design drawings, but it is sufficient to derive the position, size, and scope of the part intended for partial design registration, it can be judged that concreteness is not lacking.

<Example>

[Accepted] In the case of a partial design for a wristwatch as shown below, even if the 'band' part of the watch is not fully illustrated, from the perspective of a designer with ordinary knowledge, if the position, size, and scope of the 'movement' part intended for partial design registration can be sufficiently derived within the whole wristwatch, it can be judged that concreteness is not lacking.



[Drawing 1]

2.2.23 When the drawings of a set of articles' design fall under the following:

- (1) When a set of drawings that can sufficiently express the design for each component article is not illustrated
- (2) When a set of drawings showing the state where the component articles are combined to express a unified shape, pattern, or concept is not illustrated

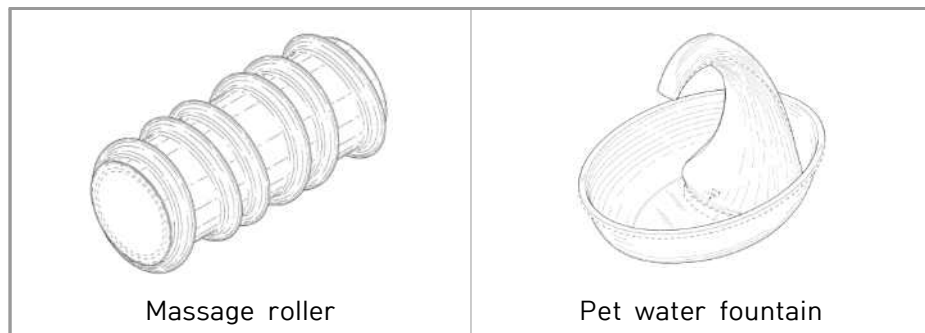
2.2.24 When 3D modeling files are submitted instead of drawings:

- (1) When 3D modeling drawings are expressed only in wire frame state, not in shading state, or when drawings are expressed in a two-dimensional state that does not allow three-dimensional rotation
- (2) When the overall shape of the article is not clearly shown in the 3D modeling drawings, making it difficult to grasp the shape
- (3) When executing the 3D modeling drawings results in broken drawings or bursting of computer-generated surfaces, making it difficult to grasp the article

2.2.25 When there are thin lines for indicating center lines, base lines, horizontal lines, etc. that do not constitute the design, or indicator lines, symbols, or letters for content explanation within the figures in the drawings. However, shadows, dots, or shades can be used limitedly in the drawings (including 3D modeling drawings and referring to all submitted drawings) to express planes, curves, concave and convex surfaces, etc., to the extent that they are not confused with patterns. If they are confused with patterns, this should be stated in the "Description of the Design" section.

<Example 1>

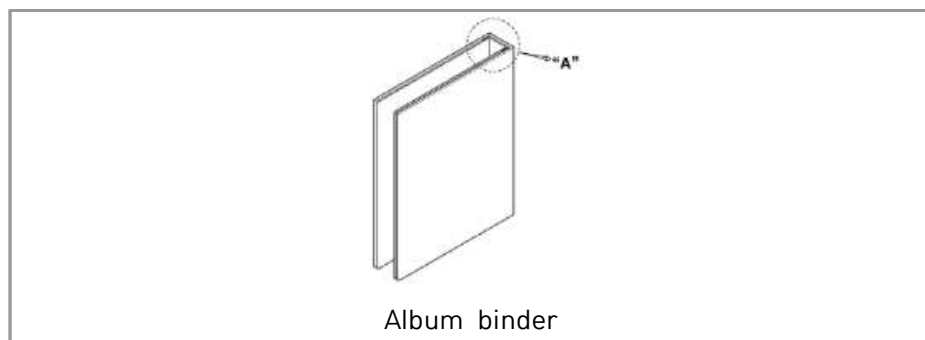
[Accepted] The following is a case where shading lines are used to express the three-dimensionality of curved surfaces in the drawing, which can be considered not to be confused with patterns.



<Example 2>

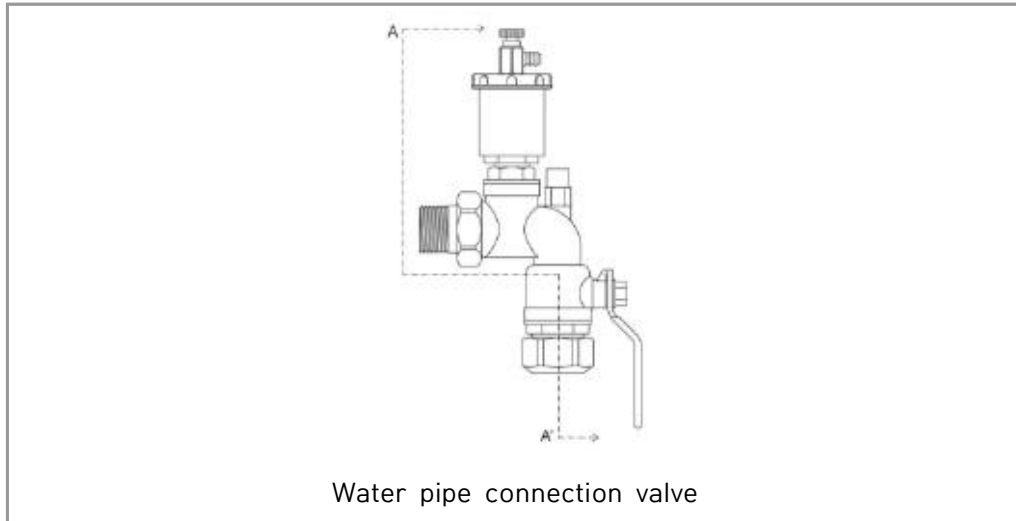
[Accepted]

Cases where an enlarged part is indicated within the figure in the drawing, and it is possible to grasp the essential features



[Accepted]

Cases where it is possible to grasp the essential features as it indicates (complex) cross-sectional parts in the drawing



[Examiner's Reference]

☞ The following cases can be judged as shading lines that do not constitute a pattern: (1) When thin lines finer than those mainly used to express the design are overlapped (2) When thin lines not connected to shape or pattern lines are used

☞ When broken lines are used to represent pattern lines that are not part of a partial design, if the intent is deemed unclear, it should be stated in the "Description of Design" section. (Example) The broken lines on the visor part are not intended for registration, and the broken lines on the body part indicate seam lines



☞ Letters and signs expressed on the article are treated as follows: (1) Among letters and signs expressed on the article, the following are treated as constituting the design, considering them as patterns: a. Those that are substantially figurative and only function to decorate the article b. Those that function both to convey information and to decorate the

article (2) Among letters and signs expressed on the article, those used solely for information delivery, such as the following cases, are not considered as patterns and are not treated as constituting the design. However, they do not need to be deleted even if expressed on the article.

a. Text portions of newspapers and books

b. <Example>

[Accepted] Letters and signs representing ingredient labels, usage instructions, certification marks, etc. in ordinary forms

	
"Mobile phone" with text displayed	"Wrapping paper" with certification mark displayed

Chapter 2 Novelty

1 Purpose

The design protection system grants exclusive rights to implement a design for a certain period as compensation for those who register and disclose their created design instead of keeping it secret. However, granting exclusive rights to a specific individual for a design that has already been disclosed and freely available to the public before the application would be contrary to the original purpose of the Design Protection Act (to contribute to industrial development by encouraging the creation of designs through promoting the protection and utilization of designs). Therefore, the Design Protection Act aims to protect designs that are recognized as having novelty.

2 Requirement

2.1 A design falling under any of the following or a design similar thereto cannot be registered as it falls under each subparagraph of Article 33(1) (Requirements for Design Registration) of the Act.

2.1.1 A design that was publicly known or publicly worked in Korea or a foreign country before the filing of the application for design registration

(1) A design that could have been known by an unspecified number of persons before the filing of the application for design registration is considered a publicly known design.

*** Reference: Supreme Court Decision 2000Hu3012 (Decided on December 22, 2000)**

A "publicly known design" does not necessarily need to have been recognized by an unspecified number of persons, but refers to a design that has been placed in a state where an unspecified number of persons could recognize it. A "publicly worked design" refers to a design that has been worked in a state where its content is publicly known or could be known to an unspecified number of persons.

(2) If the date of public disclosure of the design and the filing date are the same, and the order of hours, minutes, and seconds is unclear, novelty is not lost due to that disclosure.

(3) A registered design is considered a publicly known design from its registration date until the day before its publication date. However, for an internationally registered design, it is considered disclosed on the date the internationally registered design is published. In cases where a design is disclosed by a disclosure agency according to Article 2(2) of the "Public Notification on Designation and Operation of Specialized Institutions for Design Disclosure and Utilization of Examination Materials", if the disclosure date of the design can be confirmed through catalogs, etc., it is based on the publication date; if confirmation is impossible, the date when the design became available for public viewing online or offline is considered the disclosure date. A registered secret design is considered a publicly known design from the day after the expiration of the confidentiality period.

(4) A design that has been worked in a state where it could be known to an unspecified number of persons before the filing of the application for design registration is considered a publicly worked design.

***Reference: Supreme Court Decision 2002Hu2969 (Decided on December 23, 2004)**

A "design publicly known in Korea" as stipulated in Article 33(1)(1) of the Design Protection Act does not necessarily need to have been recognized by an unspecified number of persons, but refers to a design that has been placed in a state where an unspecified number of persons could recognize it. A "publicly worked design" refers to a design that has been worked in a state where its content is publicly known or could be known to an unspecified number of persons.

(5) If a notice of submission of opinion is issued with the drawings of an unpublished prior application attached as grounds for rejection of a subsequent application, the design of the prior application is considered a publicly known design as it has been disclosed to unspecified persons without confidentiality obligations.

2.1.2 A design that was described in a publication distributed in Korea or a foreign country or made publicly available through telecommunication lines before the filing of the application for design registration

(1) A design described in a publication

(a) "Publication" refers to documents, drawings, and photographs, etc., that are produced and distributed by mechanical or electrical printing or reproduction means.

Examples: Official gazettes, books, magazines, newspapers, catalogs, pamphlets, user manuals, CD-ROMs, microfilms

*** Reference: Supreme Court Decision 89Hu2120 (Decided on August 28, 1990)**

In the case of user manuals, as they are distributed to help consumers use the product when it is sold, they are considered the same as catalogs and therefore fall under the "publication" specified in Article 5(1)(2) of the former Design Protection Act.

(b) "Distribution" means that the publication has been placed in a state where an unspecified number of people can access it in Korea or a foreign country.

(c) The extent of description in the publication is sufficient if it is expressed in a way that a person with ordinary knowledge in the field to which the design belongs can easily understand its overall form.

*** Reference: Supreme Court Decisions 94Hu1206 (Decided on October 14, 1994) and 98Hu706 (Decided on November 26, 1999)**

In determining the novelty of a design, regarding the "design described in a publication" as specified in Article 33(1)(2) of the Design Protection Act, which is the subject of comparison with the registered design, the extent of description is sufficient if it is expressed in a way that a person with ordinary knowledge in the field to which the design belongs can easily create the design based on it. It is not necessary that all aspects of the shape and pattern be described in six-sided views or reference perspective views (refer to Supreme Court Decision 94Hu1206, decided on October 14, 1994). Even if the expression in the material is insufficient, if it is possible to grasp the feature of the design creation by supplementing it with empirical rules, it can be the subject of comparative judgment (refer to Supreme Court Decision 98Hu706, decided on November 26, 1999).

(d) Published designs and registered designs are considered to be publicly known through publication from their publication date or registration announcement date. However, after the registration date, a design can be considered publicly known if it is placed in a state where an unspecified number of people can recognize the content of the design.

*** Reference: Supreme Court Decision 99Hu2020 (Decided on July 27, 2001)**

It is reasonable to consider that a design becomes publicly known after its registration date when it is placed in a state where an unspecified number of people can recognize the content of the design, and it is not necessary to wait for the issuance of the design gazette for the design to be considered publicly known.

(e) In the case of catalogs, once produced, they are considered to be distributed unless there are special circumstances.

*** Reference: Supreme Court Decision 98Hu508 (Decided on September 4, 1998)**

It is a social norm that catalogs are distributed once produced, and it is not credible from empirical rules that produced catalogs would be left unused without distribution. Therefore, even without specific evidence regarding the scope of distribution or places of placement, it cannot be denied that the catalog has been distributed in relation to Article 33(1)(2) of the Design Protection Act. In determining whether it falls under Article 33(1)(2) or (3) of the Design Protection Act, if it is recognized that the publication was distributed abroad, that is sufficient, and there is no need to determine whether the publication was distributed domestically.

(f) Presumption of the time of distribution of publications

- ① If only the year of publication is stated, the last day of that year
- ② If only the year and month of publication are stated, the last day of that month

(g) If a prior application is published under Article 52 (Publication of Application) before it becomes invalid, withdrawn, abandoned, or a decision or trial decision to reject becomes final, that prior application is considered a design described in a publication.

(2) Designs made publicly available through telecommunication lines

(a) "Telecommunication lines" refer to transmission routes capable of two-way transmission and reception by wire, wireless, optical, or other electrical or magnetic methods.

Examples: Internet, interactive cable television

(b) Being made publicly available means being placed in a state where unspecified persons who have no obligation to maintain confidentiality can view it.

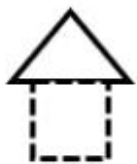
Example: When a link is established on the Internet and registered with search engines, allowing unrestricted public access

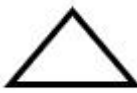
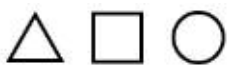
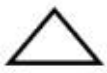
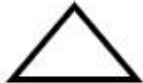
(c) Presumption of the time when a design becomes publicly available through telecommunication lines

① For presuming the time when a design becomes publicly available through telecommunication lines, refer to the "(f) Presumption of the time of distribution of publications" in "(1) Designs described in publications" above.

3 Judgment Method

3.1 Specific types of loss of novelty

Public Design	Application Design			
				-
Finished product design	Finished product design	Partial design of finished product design	Component design	-

				
Partial design of finished product design	Component design	Component design	Finished product design	Partial design of finished product design
				
Set of articles design	Set of articles design	Component design	Component design	Component design
				
Dynamic design	Dynamic design	Design	Design	Design

3.2 For methods of judging design similarity, refer to "Chapter 1 Judging Similarity of Articles" and "Chapter 2 Judging Similarity of Designs" in Part 3 Similarity of Designs.

3.3 Judging novelty requirements for partial designs

3.3.1 If any of the following designs were publicly known, publicly used, described in a publication, or made available to the public through telecommunication lines in Korea or a foreign country before the filing of an application for design registration of a partial design, the application for the partial design cannot be registered for design as it falls under any subparagraph of Article 33(1) (Requirements for Design Registration) of the Act:

- (1) A whole design including a part identical or similar to the relevant partial design
- (2) A partial design including a part identical or similar to the relevant partial design

3.4 For designs of a set of articles, novelty requirements are judged only for the set as a whole.

3.5 For applications for design registration with partial examination, a rejection decision is not made based on the subparagraphs of Article 33(1) according to Article 62(2) (Decision to Reject Design Registration). However, if information and evidence are provided under Article 55 (Provision of Information), a rejection decision can be made based on this under Article 62(4) (Decision to Reject Design Registration).

4 Application Examples

4.1 Method of judging novelty for a publicly known design of others on the Internet that was accessible in the past but is currently inaccessible

 A publicly known design that was previously accessible without restriction through a link established on the Internet and registered with search engines can be used as material for novelty judgment based on its supporting documents.

4.2 Method of applying provisions related to novelty and creativity when a design in a design registration application could be easily created based on a publicly known design A before the application, and is also similar to the publicly known design A

 In this case, according to the content in parentheses of Article 33(2) of the Design Protection Act (excluding designs falling under any subparagraph of paragraph (1)), only the subparagraphs of paragraph (1) (novelty) are applied to notify the grounds for rejection. If the grounds for rejection regarding novelty under paragraph (1) are resolved, the grounds for rejection regarding creativity under paragraph (2) are notified as a principle. However, if it is deemed necessary to notify the grounds for rejection regarding both novelty and creativity together, they can be notified at once.

4.3 Method of applying provisions related to novelty and creativity when a design in a design registration application is identical or similar to a publicly known design A before the application, and could also be easily created based on a publicly known design B before the application

 In this case, novelty is applied to the publicly known design A before the application, and creativity is applied to the publicly known design B before the application to notify the grounds for rejection.

Chapter 3 Exception to Lack of Novelty

1 Purpose

Designs that are identical or similar to those publicly known or publicly used before the application, or designs that can be easily created from publicly known or publicly used designs, are in principle not eligible for design registration under the Design Protection Act. However, strict application of this rule could result in situations where genuine creators who couldn't file an application due to business preparations after developing a design cannot be protected. Therefore, the Exception to Lack of Novelty provision was established to treat a design as if it had not been disclosed, even if it was disclosed before the application, provided that the person with the right to obtain design registration meets certain requirements and procedures within a range that does not harm the rights and interests of third parties.

*** Reference: Supreme Court Decision 2014Hu1341 (Decided on January 12, 2017)**

The Design Protection Act stipulates that designs that are publicly known or publicly used before the application, designs similar to such designs, or designs that can be easily created from publicly known or publicly used designs are, in principle, not eligible for design registration (refer to Article 33 of the Design Protection Act). However, applying this principle of novelty too strictly could be excessively harsh on those with the right to obtain design registration, leading to a loss of fairness or contradicting the purpose of the Design Protection Act, which aims to promote industrial development. Therefore, the Exception to Lack of Novelty provision was established to treat a design as not having lost novelty, even if it was disclosed before the application, provided that the person with the right to obtain design registration meets certain requirements and procedures within a range that does not harm the rights and interests of third parties.

2 Requirements

2.1 If a design is disclosed and an application for design registration is filed within 12 months from the date of the first disclosure by a person who has the right to obtain design registration for that disclosed design, the disclosed design is considered as not having been disclosed in the examination of the application design.

2.2 The Exception to Lack of Novelty applies regardless of whether the disclosed design and the application design are identical or similar, as long as each design meets certain requirements.

[Examiner's Reference]

 Before the 2007 law amendment, it was stipulated that the applied design should be identical or similar to the design subject to the Exception to Lack of Novelty. However, with the partial amendment of the Design Protection Act by Act No. 8187 on January 3, 2007, there is no provision regarding the relationship between the two designs. Therefore, if the disclosed design and the application design each meet certain requirements, the disclosed design is considered as not having been disclosed.

* If the application design is A+B and the previously disclosed designs are A and B, if the Exception to Lack of Novelty is claimed for A and B separately, design A+B will not be rejected for lack of novelty or for being an easily-created combination of A and B.

2.3 Persons who can claim the Exception to Lack of Novelty

2.3.1 A person who has the right to obtain design registration for that design at the time of disclosure (including cases where another person disclosed against the will of the right holder)

(a) The application must be filed by the person who disclosed the design or by a successor who acquired the right after the disclosure.

* If a third party promotes or reviews products applying the design or similar designs online before the application, the applicant can claim the Exception to Lack of Novelty by providing objective evidence for such videos or articles.

2.3.2 If there are multiple parties who disclosed the design, at least one of the applicants should be included. However, this does not apply if the applicant is confirmed to be the creator of the disclosed design or a legitimate successor, even if not included.

2.4 Subject of the Exception to Lack of Novelty claim

2.4.1 The application must be filed within 12 months from the date the design was disclosed.

2.4.2 Even if the design was disclosed against the will of the applicant, the application must be filed within 12 months from the date of disclosure.

* If an application design in an undisclosed state is disclosed as a reference for rejection in a notice of grounds for rejection of a later application, and if this application design is to be re-filed, it must be filed within 12 months to avoid rejection due to lack of novelty.

2.4.3 If the same design is disclosed multiple times, the first disclosure must be within 12 months from the filing date, and only the first disclosure needs to be claimed for the Exception to Lack of Novelty.

2.4.4 Whether the application design is identical or similar to the disclosed design in the supporting documents is not considered.

2.4.5 The Exception to Lack of Novelty cannot be claimed if the design was published or registered under laws or treaties in Korea or abroad (in gazettes related to patents, utility models, designs, or trademarks).

*** Reference: Patent Court Decision 2019Heo2653 (Decided on October 25, 2019)**

This case concerned a 'portable mini fan' design that was disclosed in a Chinese design gazette before the application. The proviso to Article 36(1) of the former Design Protection Act stipulates, "This shall not apply where the design has been laid open or published in Korea or a foreign country in accordance with a treaty or Acts." This is understood to be because there is no need to give an opportunity for re-application for designs that have already been applied for and disclosed, given the purpose of the Exception to Lack of Novelty system, which is to provide an opportunity for application for designs that couldn't be applied for due to business preparations after development.

2.5 Timing and procedure for claiming the Exception to Lack of Novelty

 The timing and procedure for claiming the Exception to Lack of Novelty are possible not only during examination but also during all forms of trial and litigation procedures. However, in the examination procedure, it is possible not only at the time of application but also during the application, before the registration decision, when submitting a written opinion, and in the case of partially examined designs, when responding to an opposition ('23.12.21 implementation)

2.5.1 At the time of application, the claim should be stated in the application. Specifically, a "Novelty Claim" section should be created in the application form, stating the form of disclosure and the date of disclosure of the design.

2.5.2 During the application process, the claim can be made through an amendment or through a written opinion submitted in response to a notice of grounds for rejection based on the disclosed design.

[Examiner's Reference]

 If the applicant claims the Exception to Lack of Novelty through a written opinion or response according to Article 36(2)2 or 3 of the Act, the examiner should directly input the relevant content into the Design Examination System to reflect it. The subsequent procedure is the same as when the Exception to Lack of Novelty is claimed according to Article 36(2)1 of the Act.

2.5.3 It can be argued through a written reply to the opposition or other means in an opposition to a partially-examined design registration based on that publicly known design.

2.5.4 When the same design has been publicly known multiple times, arguing based only on its first public disclosure is sufficient.

*** Reference: Supreme Court Decision 2014Hu1341 (Decided on January 12, 2017)**

If a person with the right to obtain design registration makes multiple disclosures within the 12-month period under Article 36(1) of the Design Protection Act and only claims the Exception to Lack of Novelty for the first disclosed design according to the procedure, it is reasonable to consider that the effect of the Exception to Lack of Novelty extends to the other disclosed designs as long as they are within the scope of identity with the first disclosed design.

3 Submission of Supporting Documents

3.1 When claiming the Exception to Lack of Novelty at the time of application

3.1.1 Supporting documents can be submitted until the decision of registration. If not submitted, the application will be examined as if there was no claim for the Exception to Lack of Novelty, without a separate notice of denial.

3.1.2 Supporting documents should provide objective evidence such as the form of disclosure, date of disclosure, the disclosing party, and design drawings.

3.1.3 If the person who had the right to obtain design registration at the time of disclosure is different from the applicant stated in the application, the fact that the right was succeeded after the disclosure should be specified in the supporting documents and evidence should be provided.

3.2 When claiming the Exception to Lack of Novelty through an amendment (including written opinion)

3.2.1 Supporting documents can be submitted until the decision of registration.

3.2.2 If the Exception to Lack of Novelty is claimed through an amendment but supporting documents are not submitted, the application will be examined as if there was no claim for the Exception to Lack of Novelty, without a separate notice of denial.

3.3 If supporting documents claiming the Exception to Lack of Novelty have been submitted in procedures related to another design, a copy of the relevant documents can be submitted or the intent of citation can be stated in the attachment section of the relevant form to substitute for the certificate, according to Rule 23 (Citation of Documents).

4 Denial of the Exception to Lack of Novelty Claim

4.1 In cases where the Exception to Lack of Novelty claim cannot be recognized, such as the following examples, a notice of denial should be given to provide an opportunity to submit a written opinion.

<Example>

When the disclosing party, form of disclosure, design drawings of the disclosed design, etc. are unclear.

* In judging whether to recognize the Exception to Lack of Novelty claim, whether the application design is identical or similar to the disclosed design is not considered.

4.2 If it is determined that the claim cannot be recognized despite the opinion submitted in response to the notice of denial, a notice of denial should be given.

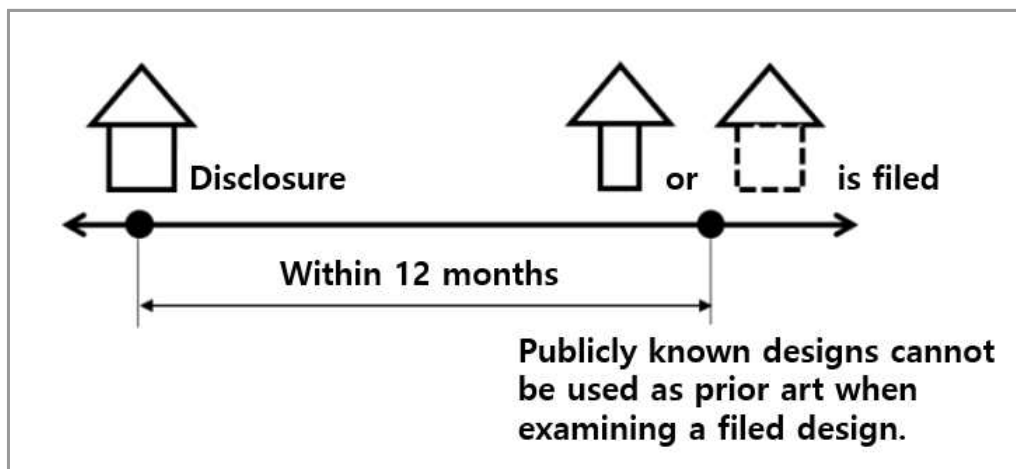
4.3 If supporting documents for the Exception to Lack of Novelty claim are not submitted or if no written opinion is submitted for the Exception to Lack of Novelty claim, the claim has no effect, so no separate procedure is necessary.

4.4 If the Exception to Lack of Novelty is not recognized, the disclosed design can be used as a basis for judging the novelty and creativity of the application design.

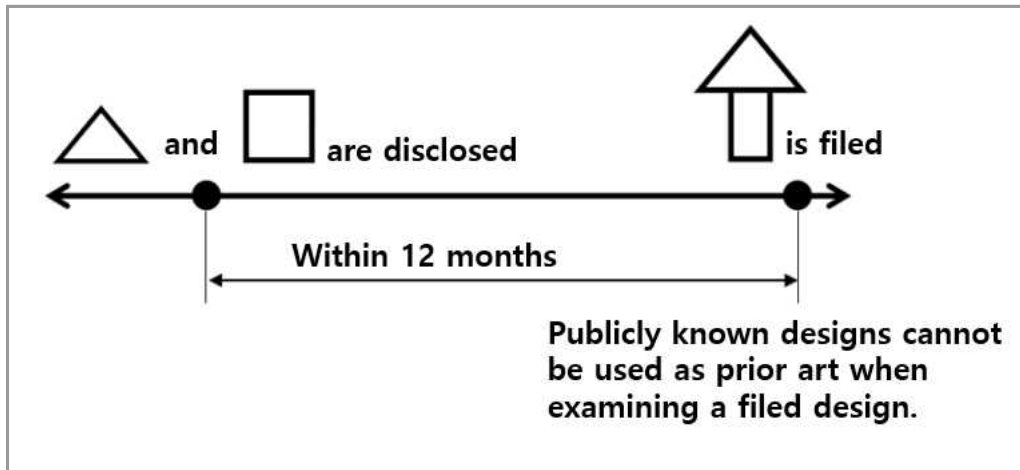
5 Effects of approval

5.1 If the Exception to Lack of Novelty is accepted, the disclosed design is not used as a prior design when judging novelty (Article 33(1)) and creativity (Article 33(2)) for the design applied for by the applicant.

Example 1) When judging novelty under Article 33(1)



Example 2) When judging creativity under Article 33(2)



6 Application Examples

6.1 If similar designs A and A'' were disclosed before the relevant design registration application, but the Exception to Lack of Novelty was claimed only for design A at the time of application or through an amendment, how to judge the novelty of the disclosed designs A and A''

 In this case, design A disclosed before the design registration application is considered as not disclosed for the application design due to the Exception to Lack of Novelty claim. However, design A'' is not a case of the same design being disclosed multiple times (refer to decision 2014Hu1341), so design A'' disclosed before the design registration application can be used as a prior design as there was no claim of Exception to Lack of Novelty.

6.2 How to judge novelty when the Exception to Lack of Novelty was claimed for design A disclosed before the design registration application at the time of application, but not claimed for the disclosed design A when applying for a related design with design A as the basic design

☞ In this case, as there was no Exception to Lack of Novelty claim for the disclosed design A at the time of the related design registration application, it can be used as a prior design. However, if 12 months have passed from the disclosure point at the time of the related design registration application, it's impossible to claim the Exception to Lack of Novelty.

6.3 Review of the judgment date for the Exception to Lack of Novelty claim for a design disclosed on the internet when a creator disclosed a design on the internet on January 17, 2019, filed a design application with the USPTO on January 3, 2020, and filed a design registration application in Korea on April 29, 2020, claiming Paris Convention priority right based on the U.S. application

☞ In this case, the design registration application in Article 36(1) can be interpreted as a domestic design registration application based on the principle of territoriality. Therefore, if the design registration application was filed in Korea after 12 months from the internet disclosure date, the Exception to Lack of Novelty cannot be recognized. In other words, for a design registration application including a claim for Paris Convention priority right, the 12-month judgment criterion in Article 36(1) does not retroactively apply to the filing date of the first application in the U.S.

6.4 Whether it's possible to claim the Exception to Lack of Novelty when filing a design application for an anthropomorphized animal character picture that was disclosed before the design application

☞ The Exception to Lack of Novelty claim is a request by the applicant to consider the fact of disclosure before the application as an exception when judging the registration requirements of their application design. Therefore, it's only possible when the disclosed subject falls under Article 33(1)1 or 2 (meeting the requirements for 'design' under the Design Protection Act). However, if the character picture is not just an abstract picture but was expressed through information communication device display panels or disclosed as a graphic design, it's possible to claim the Exception to Lack of Novelty when filing a graphic design application.

Chapter 4 Creativity

1 Purpose

Even if a design in a design registration application is recognized as novel, it cannot be registered if it is a design that can be easily created by a person with ordinary skill in the field to which the design pertains (a designer) based on designs publicly known or publicly used domestically or internationally. Granting rights to such designs lacking creativity goes against the purpose of the design protection system, which aims to contribute to industrial development by encouraging the creation of designs. Therefore, Article 33(2) of the Act includes provisions on creativity to encourage the development of designs with a certain level of creativity or above.

2 Requirement

2.1 A design that can be easily created by a person with ordinary skill in the field to which the design pertains, based on publicly known designs (designs falling under Article 33(1)1 and 2 of the Act) or combinations thereof, or based on widely known shapes, patterns, colors, or combinations thereof in Korea or abroad, cannot be registered for design under Article 33(2) (Requirements for Design Registration) of the Act.

*** Reference: Supreme Court Decision 2013Hu2613 (Decided on March 10, 2016)**

The purpose of Article 33(2) of the Design Protection Act is to prevent the registration of designs with a low level of creativity, such as those that almost entirely copy or appropriate publicly known forms or widely known forms, those that are merely commercial or functional modifications without any different aesthetic value when viewed as a whole even if partially modified, or those that merely change, combine, or appropriate using common creation techniques or expression methods in that design field. Additionally, designs that combine publicly known forms or widely known forms, or modify, change, or appropriate such combined forms as described above, can also be considered designs with a low level of creativity. When judging the level of creativity, it is necessary to consider whether an ordinary designer could easily arrive at such a combination, in light of the subject matter of the publicly known design or the field in which the widely known form is known, the relevance of the external characteristics of the publicly known design or widely known form, and the general trends in the relevant design field.

2.1.1 "Widely known shapes, patterns, colors" refer to shapes, patterns, etc., that are widely known domestically or internationally to the extent that the general public can recognize them through publications, TV, or the internet.

Example: If characters from cartoons or games appear regularly on TV or the internet, such characters can be considered as widely known shapes and patterns.

2.1.2 "A person with ordinary skill in the field to which the design pertains" refers to a person with average knowledge about the design in the industry (hereinafter referred to as "the relevant industry") that produces, uses, or otherwise implements the article in which the design is expressed (hereinafter referred to as "a person skilled in the art").

2.1.3 "A design that can be easily created" refers to a design with a low level of creativity that almost entirely copies publicly known designs or combinations thereof, or widely known shapes, patterns, or combinations thereof, or one where the changes made are merely simple commercial or functional modifications, or one that merely changes, combines, or appropriates these using common creation techniques or expression methods in that design field.

(1) "Commercial or functional modification" refers to a low-level 'simple design change' that anyone with ordinary skill in the relevant industry could make to maintain the inherent function of the article while satisfying economic constraints such as manufacturing costs. It does not recognize a different aesthetic value from existing designs and can be exemplified as follows:

Example 1: [Denied] When the edge treatment of an article is simply changed from a fillet to a chamfer, and no special aesthetic value is recognized to the extent of this change.

Example 2: [Denied] Making a confectionery container by separating a well-known egg shape into a lid and body.

Example 3: [Denied] Creating a doll by almost exactly replicating a famous character.

Well-known character	Application design 1	Application design 2
	 < Figure toy >	 < Mouse pad >

(2) Common creation techniques or expression methods

(a) "Common creation techniques or expression methods" refer to low-level creativity where common formal expressions adopted by many designs in the relevant article field are almost entirely borrowed, and only the number, arrangement, proportion, curvature, etc. of components are simply modified in part.

(b) Examples of common creation techniques or expression methods include changes in arrangement, changes in composition ratio or number of composition units, simple deletion of some components, substitution, combination of components, etc.

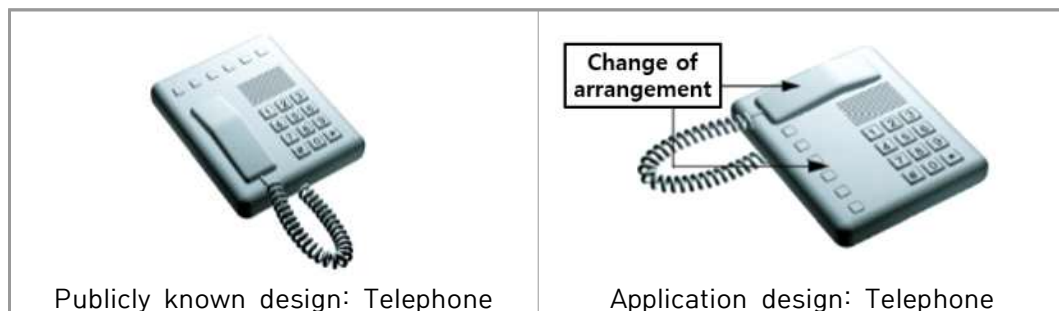
3 Types of Designs That Can Be Easily Created

3.1 Designs that can be easily created based on the shape, pattern, color, or combinations thereof of publicly known designs, etc.

3.1.1 This refers to designs that almost entirely copy or appropriate the shape, pattern, color, or combinations thereof of publicly known designs, etc., or designs that are merely commercial or functional modifications without any different aesthetic value when viewed as a whole even if partially modified, or designs that merely change, combine, or appropriate these using common creation techniques or expression methods in that design field.

(1) Change in the arrangement of design components

Example: "Telephone" that merely changes the arrangement of components of a publicly known design



(2) Change in the proportion of design components or increase/decrease in the number of composition units

Example: "Bench" that merely differs in the number of composition units from a publicly known design



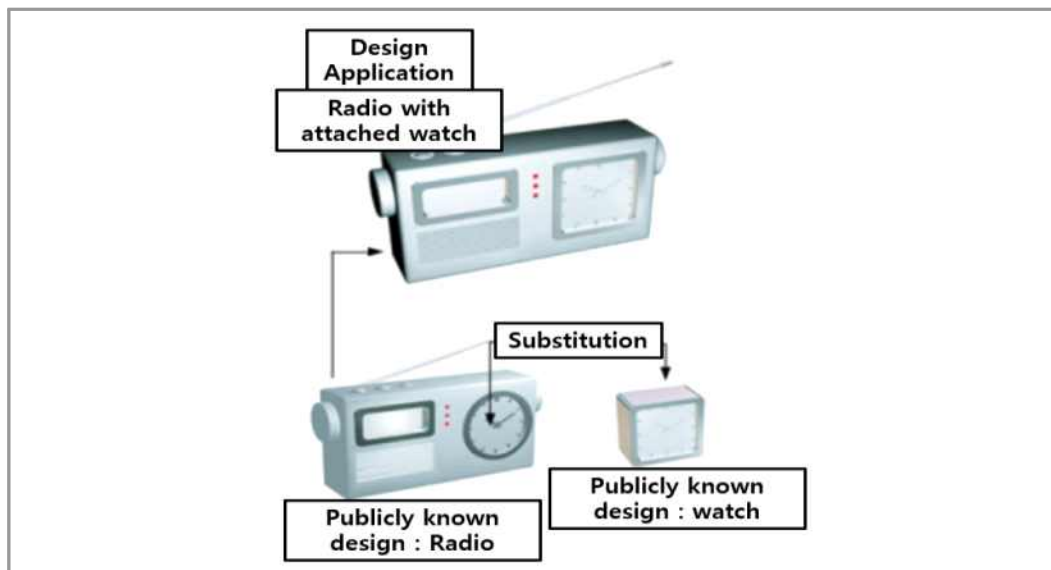
(3) Enlarging or reducing the size while maintaining the dominant features of the design, or changing proportions such as aspect ratio

(4) Simply deleting some components of the design



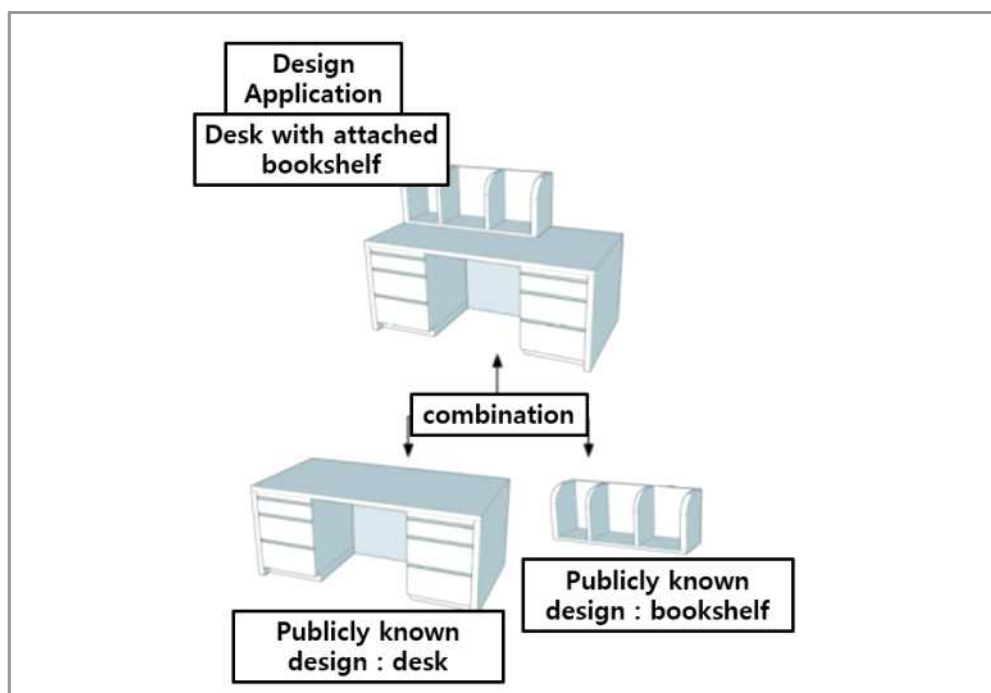
(5) Substituting part of the design components with another design

Example: "Radio with attached clock" where the clock part of a publicly known radio with a clock is simply substituted with the shape of another clock



(6) Combining multiple designs as-is to form a single design

Example: "Desk with attached bookshelf" created by attaching a known bookshelf shape to a known desk shape



3.2 Designs that can be easily created based on widely known shapes, etc. (hereinafter referred to as "well-known shapes, etc.") in Korea or abroad

3.2.1 This includes designs that simply copy or appropriate well-known shapes, etc., almost as they are, or designs that merely use or appropriate well-known shapes, etc. for articles. However, even if it's based on well-known shapes, etc., it doesn't apply if it's not easily creatable by a person with ordinary skill in the field to which the design pertains.

3.2.2 Examples of well-known shapes, well-known patterns, etc. are as follows:

(1) Examples of well-known planar shapes:

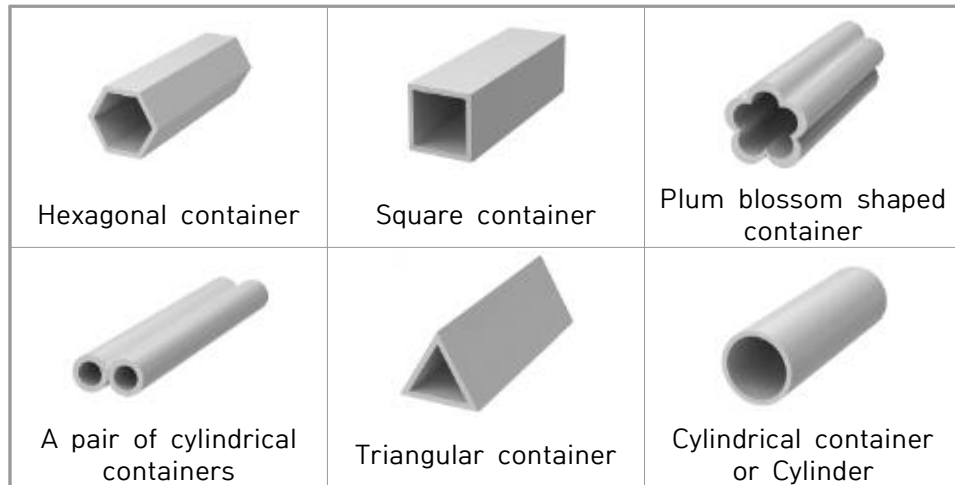
							
Triangle	Square	Hexagon	Circle	Plum blossom	Cocoon	Ring	Star

(2) Examples of well-known three-dimensional shapes:

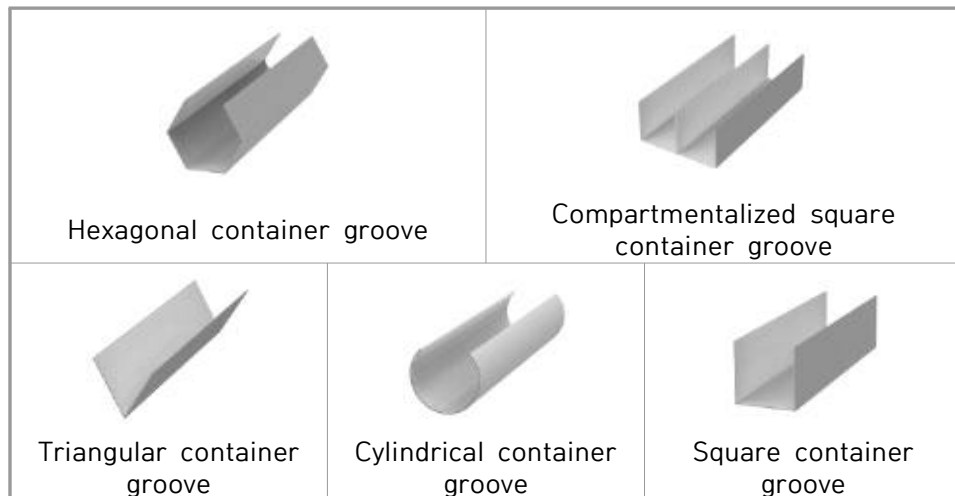
a. Columns

		
Triangular prism	Square prism	Hexagonal prism
		
Plum blossom shaped column	A pair of cylindrical columns	Cylinder or Cylindrical column

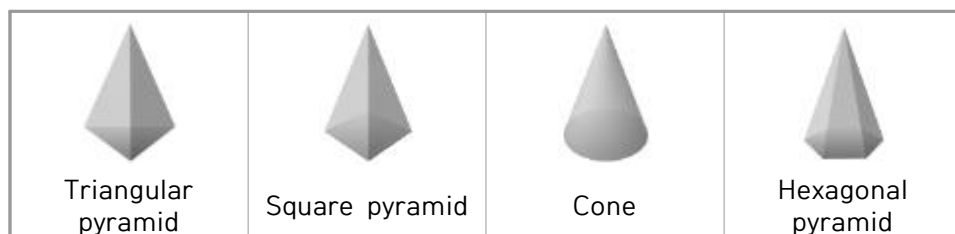
b. Cylinders



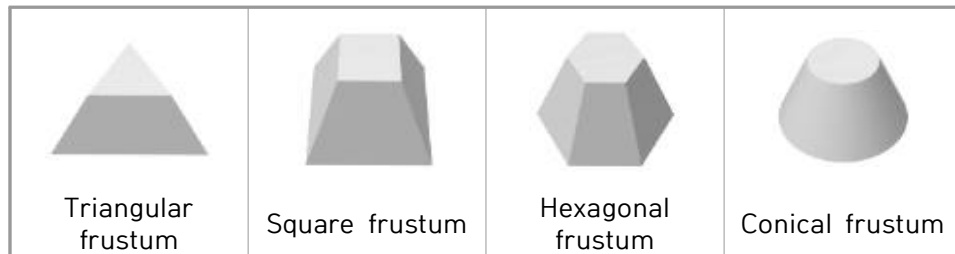
c. Grooves



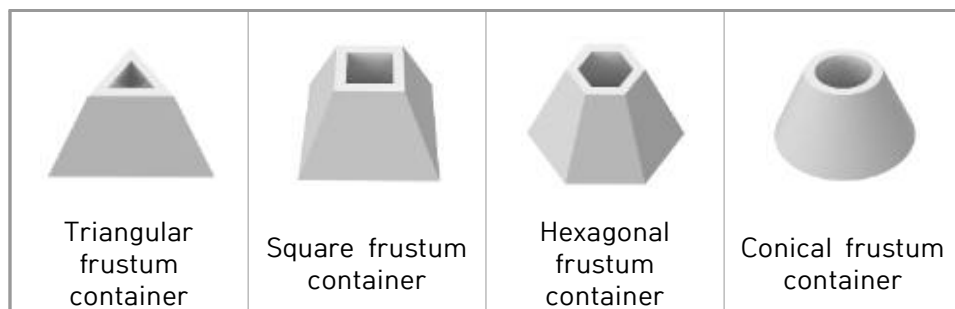
d. Cones



e. Frustums



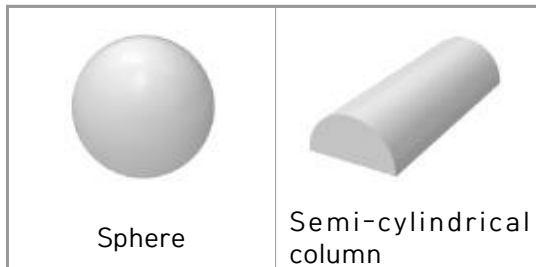
f. Frustum cylinders



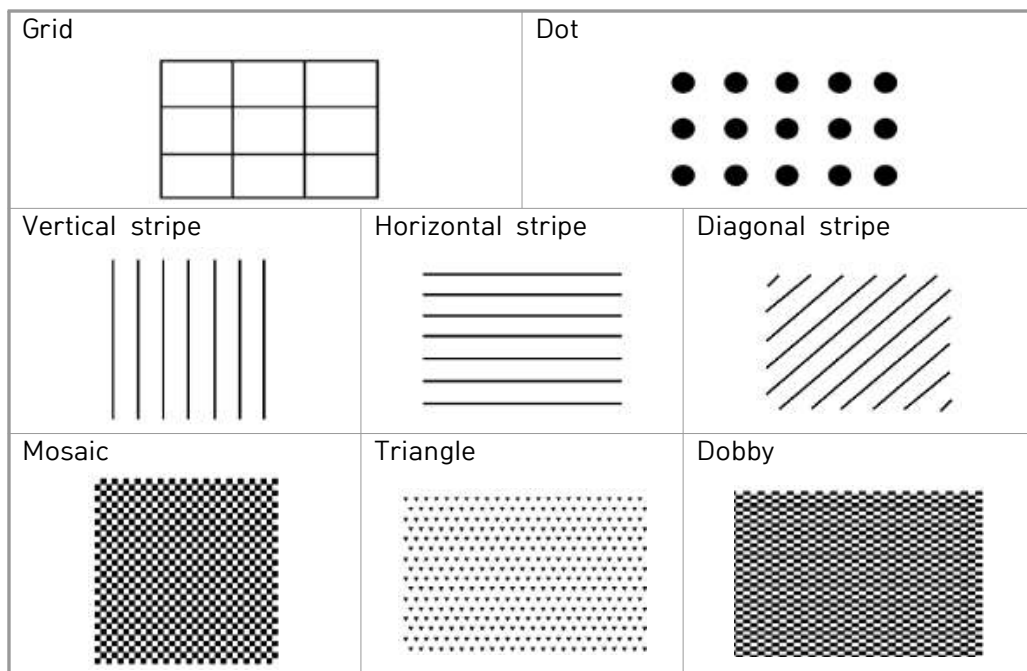
g. Regular polyhedrons



h. Others



(3) Examples of well-known patterns:



(4) Examples of typical shapes of articles: Typical shapes of airplanes, cars, trains, etc

(5) Examples of common patterns: Phoenix pattern, Turtle shell pattern, Checkerboard pattern, Water drop pattern, Swastika pattern, etc.

(6) Natural objects, famous works, famous sculptures, famous scenery, etc.

* [Accepted] Even if it's a common sculpture (e.g., Dol Hareubang) or scenery, if it's expressed with characteristics due to the viewing angle or transformed to evoke a completely different impression rather than realistically representing the original, it doesn't fall under "well-known shapes, etc."

Well-know design	Application Deisgn 1	Application Deisgn 2
	 < Cracker >	 < Acupressure machine >

- a. [Denied] Natural objects such as birds, fish, cows, bamboo leaves, flower petals, pine trees, wood grain, stones, rocks, etc.

*Note: Even for natural objects, those with unique expression methods don't fall under "well-known shapes, etc."

*Example: [Accepted] Magnified photos of parts of natural objects like flower petals or insect legs viewed from a unique angle under a microscope

- b. [Denied] Widely known paintings, sculptures, cartoons, movies, etc. such as Kim Hong-do's genre paintings, Mona Lisa

- c. [Denied] Widely known buildings or sculptures such as Namdaemun, Namsan Tower, Statue of Liberty, Eiffel Tower, Bulguksa Temple, Olympic Main Stadium

- d. [Denied] Famous scenery such as Baekdusan Cheonji, Geumgangsan, Hallasan Baengnokdam, Mount Fuji, Niagara Falls

- e. [Denied] Realistic representations of various event scenes or games such as March 1st Movement event scene, Olympic Games opening scene, soccer game, volleyball game

3.3 Designs that can be easily created by combining publicly known designs, etc. with well-known shapes, patterns, etc.

3.3.1 Designs that combine publicly known designs, etc. with well-known shapes, patterns, etc. can also be considered as designs that can be easily created.

*Reference: Supreme Court Decision 2013Hu2613 (Decided on March 10, 2016)

Even in cases where publicly known forms or well-known forms are combined with each other, or where the combined form is modified, changed, or appropriated as described above, it can be considered a design with a low level of creativity. When judging the level of creativity, it is necessary to consider whether an ordinary designer could easily arrive at such a combination, in light of the subject matter of the publicly known design or the field in which the well-known form is known, the relevance of the external characteristics of the publicly known design or well-known form, and the general trends in the relevant design field.

4 Assessment Criteria

4.1 Subject of judgment for creativity

4.1.1 The creativity of the applied design is judged from the perspective of a person with ordinary skill in the field to which the design pertains (ordinary designer).

4.2 If it is judged that the combination of designs cannot be made as common sense in the industry considering the article's purpose, function, form, etc.

4.3 When judging the level of creativity of a design, consideration is given to whether an ordinary designer can easily arrive at such a design in light of the subject matter of the publicly known design or the field in which the well-known form is known, the relevance of the external characteristics of the publicly known design or well-known form, and the general trends in the relevant design field.

4.4 Designs widely known in the relevant field through publications or TV, etc., are considered as types of "3.2 Designs that can be easily created based on widely known shapes, etc. in Korea or abroad".

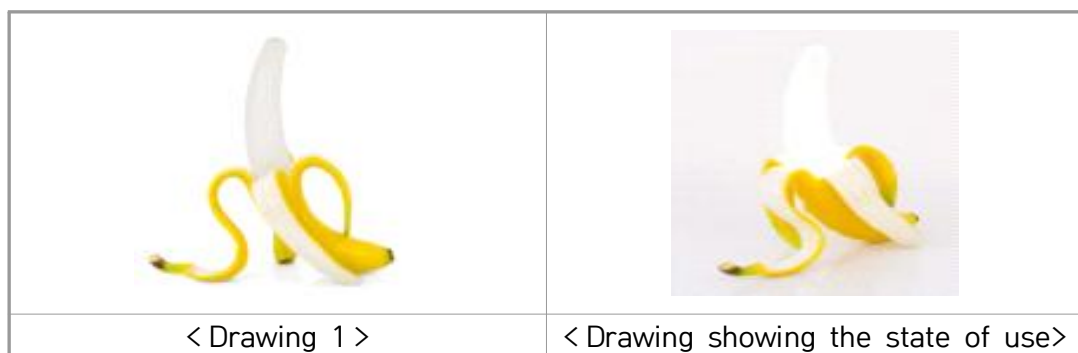
4.5 Color is considered a factor in judgment only when it contributes to a pattern, and when composed of a single color, it is considered to have no effect on the judgment of creativity.

4.6 Even if the components of the applied design include parts that are not well-known or publicly known, if these components are incidental or have low creativity and have little impact on the overall aesthetic impression, it is considered a design that can be easily created.

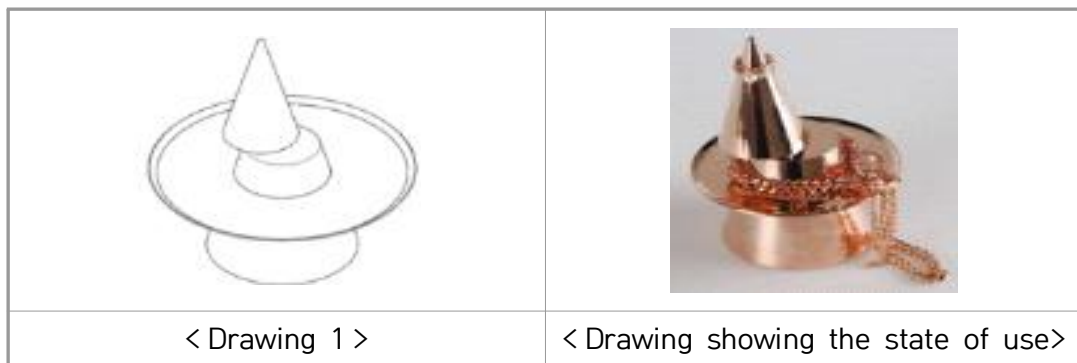
4.7 If the applied design is similar in overall aesthetic impression to a single publicly known design rather than a combination of publicly known designs, the novelty provision is applied in principle. However, if the applied design has a difference in overall aesthetic impression compared to the publicly known design but has a low level of creativity, it can be considered a design that can be easily created.

4.8 If it is not a simple imitation such as using or appropriating publicly known designs or well-known shapes, patterns, etc. almost as they are, but rather a combination of these selected and combined, and when observing the design as a whole, it evokes a new aesthetic impression, it is not considered a design that can be easily created.

Example 1) [Accepted] The following 'desk lamp' design is an appropriation of the well-known banana shape as a desk lamp. If it is judged that the transformation in this appropriation is difficult to consider as a degree of change that any ordinary designer could make, it can be considered not to be a design that can be easily created.

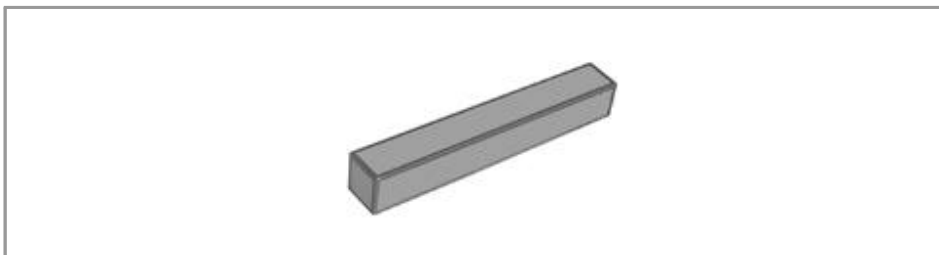


Example 2) [Accepted] In the case of the following 'accessory display stand' design, although it is a combination of well-known shapes such as circles, cones, and frustums, if it is judged that the transformation in appropriating this combination to the relevant article is difficult to consider as a degree of change that any ordinary designer could make, it can be considered not to be a design that can be easily created.



4.9 If there has been no precedent in the past for using basic shapes, patterns, etc. in the field to which the design belongs to compose the form of an article design, this should be considered when judging creativity.

Example) "Hand mirror" registered as not being a design that can be easily created



4.10 The criteria for judging the creativity of a partial design follow the criteria for judging the creativity of a whole design, but the judgment is made by comprehensively considering the function, purpose, location, size, and scope of the part intended for registration as a partial design in the whole.

4.11 The criteria for judging the creativity of a dynamic design follow the criteria for judging the creativity of a design, but the judgment is made by comprehensively considering not only the stationary shapes and patterns that make up the dynamic design but also the uniqueness of the dynamic changes.

4.12 If a person who has the right to obtain design registration claims an exception to lack of novelty for their own design that was disclosed before the application, the applied design will not be rejected due to their own publicly known design when judging creativity.

<Example>

If after the designs of a telephone body and handset are disclosed separately, a design registration application is filed for a telephone combining these, and an exception to lack of novelty is claimed for the telephone body and handset designs, the publicly known designs cannot be used as a basis for judging creativity.



* Note: If one's own application design, despite being in an undisclosed state, is disclosed as a reference for rejection of a later application (Article 46 of the Act) attached to a notice of grounds for rejection, when re-applying for a design that combines or is based on the disclosed designs, if an exception to lack of novelty is claimed for the disclosed design, that publicly known design is excluded from the basis for judging creativity.

4.13 For design applications subject to partial examination, according to Article 62(2) (Decision to Reject Design Registration) of the Act, only whether it can be easily created based on well-known shapes, patterns, etc. among Article 33(2) (Requirements for Design Registration) of the Act [i.e., whether it falls under "3.2 Designs that can be easily created based on widely known shapes, etc. in Korea or abroad" above] is examined.

* If information and evidence are provided according to Article 55 (Provision of Information) of the Act for design applications subject to partial examination, they are examined based on this according to Article 62(4) (Decision to Reject Design Registration) of the Act.

5 Submission of Evidence

5.1 Evidence for Creativity Assessment

5.1.1 When using publicly known designs, etc., published in distributed publications or made available to the public through telecommunication lines as basic materials for judging designs that can be easily created, the bibliographic information and design from the publication where the relevant publicly known design is published, or the address and screen of the website where the design is posted, should be presented by attaching them to the Notice of Provisional Refusal.

5.1.2 When using clearly well-known shapes, patterns, etc., or well-known designs as basic materials for judging designs that can be easily created, there is no need to present evidence.

5.1.3 Concrete evidence showing common creation techniques or expression methods for a person with ordinary skill in the field to which the design pertains is, in principle, presented by the examiner to the applicant through a Notice of Provisional Refusal. However, if the composition of the form of the article design based on those shapes, patterns, etc., is a form composition commonly practiced in the field to which the design pertains, and if it is recognized as a prominent fact to the examiner that it is a common creation technique or expression method for a person skilled in the art, it is not necessarily required to present evidence.

Example: In cases such as the method of appropriating an actual car entirely as a toy car in the toy industry, it is not necessarily required to present evidence.

6 Examples of Application

6.1 Range of publicly known designs that can be cited when assessing creativity

☞ The creativity assessment provision can be applied between all articles including the article for which design registration is applied, but it is only applied when it can be easily created by a person with ordinary knowledge in the field to which the design pertains. That is, it applies to designs with a low level of creativity, such as those that almost entirely copy or appropriate the shape, pattern, color, or combinations thereof of publicly known designs or widely known shapes, patterns, colors, or combinations thereof in Korea or abroad, or those that are merely commercial or functional modifications without any different aesthetic value when viewed as a whole even if partially modified, or those that merely change, combine, or appropriate using common creation techniques or expression methods in that design field.

<Example>

[Denied]

When judging creativity, the applied design and the design compared to it are not necessarily limited to identical or similar articles. If, from the perspective of a designer with ordinary knowledge in the field to which the design pertains, the applied design can be easily created based on the compared design, the applied design cannot be registered. If the applied design is for a 'white board' and the compared design is for a 'bookshelf' for storing books, the subject articles of both designs are different. However, both articles are installed indoors, have similar users, and are likely to be produced by furniture makers or interior decoration product manufacturers. Therefore, it can be judged that a person with ordinary knowledge in the field of the applied design can easily apply the design of a bookshelf to a whiteboard design.

Prior Publicly Known Design	Filed Design
	
< Book shelves >	< White board >

Chapter 5 Expanded first-to-file provision

(Enlarged concept of novelty)

1 Purpose

A later-filed design application that is identical or similar to a part of an earlier-filed design application is merely a part of the design already created by the creator of the earlier-filed design and cannot be recognized as a new design creation. Therefore, granting design rights to such designs goes against the purpose of the design protection system. Consequently, there is an expanded first-to-file provision that applies the first-to-file principle even to a "part" of the design expressed in the application of the earlier-filed design, rejecting the later-filed application.

2 Requirement

2.1 When a later-filed design application that is identical or similar to a part of an earlier-filed design application meets all of the following requirements, Article 33(3) (expanded first-to-file provision) of the Design Protection Act (Requirements for Design Registration) is applied if the applicants of the earlier-filed and later-filed applications are different. However, this does not apply if the applicants are the same at the time of the registration decision.

*** Reference: Patent Court Decision 2019Heo7177 (Decided on March 26, 2020)**

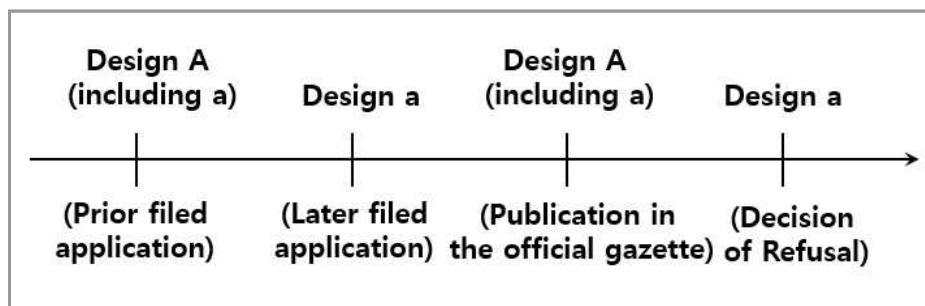
Article 33(3) of the Design Protection Act stipulates that a design in a design registration application cannot be registered under paragraph (1) if it is identical or similar to part of a design expressed in the description or drawings, photographs or specimens attached to the application of another design registration application (limited to those filed before the filing date of the said application) laid open in the Design Gazette under Article 52, 56 or Article 90(3) after the filing of the said application. This provision prevents the registration of a later-filed design application that is identical or similar to part of an earlier-filed design application that is subsequently laid open or published in the registration gazette.

2.1.1 When the part of the earlier-filed design application corresponding to the later-filed design application has commonality in function and purpose, and the shape, pattern, color, or combination thereof is identical or similar to the later-filed design application

2.1.2 When the part of the earlier-filed design application corresponding to the later-filed design application is sufficiently expressed to be comparable

2.1.3 When the earlier-filed design application is laid open [including publication under Article 56 (Publication in Gazette of Rejected Application) of applications rejected due to failure to reach an agreement (including inability to reach an agreement) under the latter part of Article 46(2) (First-to-File)] or the registration is published after the filing date of the later-filed design application

<Example>

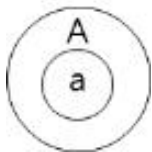
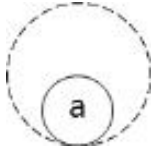
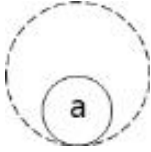
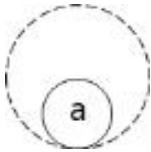
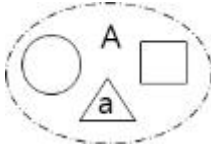


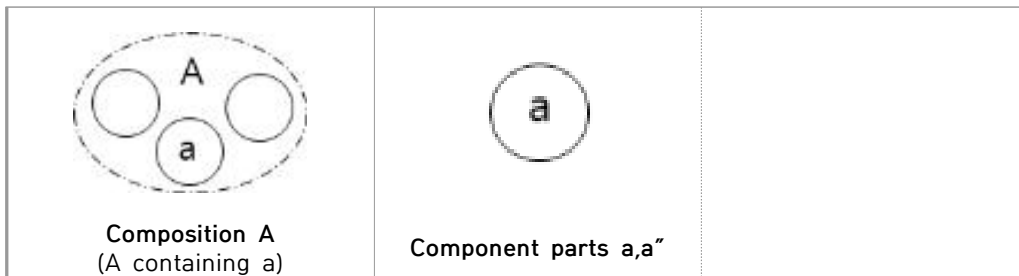
3 Specific Types Subject to the Application of the Expanded First-to-File Provision

Type	Earlier-filed Design Application (A including a)	Later-filed Design Application (a, a')
1	Finished product	Component
2	Finished product	Partial design
3	Component	Partial design
4	Partial design	Partial design
5	Set of articles	Component article
6	Composite article	Each constituent part

* Note: If the earlier-filed design application (A including a) undergoes Publication of Application, Publication of Registration, or is published in the gazette after being rejected due to failure to reach an agreement (including inability to reach an agreement) after the filing of the design application, the later-filed design application (a, a') filed before these publications of the earlier-filed design application is rejected based on the expanded first-to-file provision.

* A>a, a=a'

Prior filed design (A)	Later filed design (a,a')	
 Finished product A	 Component a,a'	 Partial design a,a'
 Component A (A containing a)	 Partial design a,a'	
 Partial design A (A containing a)	 Partial design a,a'	
 Series of article A (A containing a)	 Component a,a'	



4 Assessment Criteria

4.1 The assessment to specify the earlier-filed design application is based on the following drawings submitted at the time of application and amendment:

4.1.1 Drawings expressing the overall form of the design; in the case of typeface designs, designated letter drawings, sample sentence drawings, and representative letter drawings

4.1.2 Development views, cross-sectional views, cut-part cross-sectional views, enlarged views, etc., that express the design more specifically when the overall form of the design alone is not sufficient to fully express the design

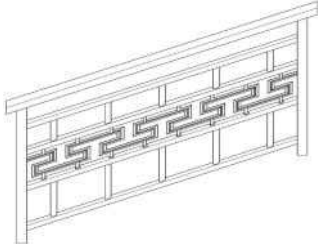
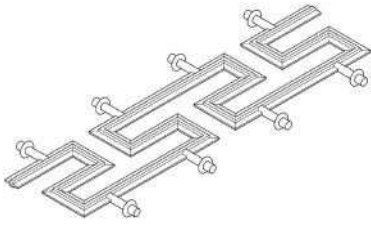
4.1.3 In the case of a partial design registration application, if a part corresponding to the later-filed design application is sufficiently expressed to be comparable within the whole design including parts expressed in broken lines, etc., the essential drawings expressing the whole design such as front and rear views, top and bottom views, left and right side views, perspective views, etc., and development views, cross-sectional views, enlarged views, and views showing the state of use that express the design more specifically and clearly, have the status of an expanded earlier-filed application for the later-filed partial design.

4.1.4 In the case of a design registration application for a set of articles, drawings for each design related to the component articles and a set of drawings combining the component articles

4.1.5 When the earlier-filed application is for a whole design and the later-filed application is for a partial design, front and rear views, top and bottom views, left and right side views, perspective views, and development views, cross-sectional views, detailed enlarged views, and views showing the state of use, etc., of the whole design expressed to a degree sufficiently comparable with the partial design

4.2 Even if the articles of the earlier-filed design application and the later-filed design application are not similar to each other, if the use and function of the article related to the whole or part of the later-filed design application compared with a part of the earlier-filed design application that has undergone Publication of Application or Publication of Registration [including publication under Article 56 (Publication in Gazette of Rejected Application) of applications rejected due to failure to reach an agreement (including inability to reach an agreement) under the latter part of Article 46(2) (First-to-File)] are identical or similar, and the designs are also identical or similar, the expanded first-to-file provision can be applied.

Example: In the following case, the earlier-filed application is for a 'stair railing' design and the later-filed application is for a 'railing piece'. Although they are not identical articles, the expanded first-to-file provision was applied.

Earlier-filed design application (Publication of Application)	Filed Design
 Stair railing	 Railing piece

4.3 If a rejection decision becomes final for a design registration application related to an earlier-filed design application that includes a design identical or similar to the later-filed design application [including cases where it becomes invalid, withdrawn, or abandoned before Publication of Application or publication in the gazette under Article 56 (Publication in Gazette of Rejected Application)], or if the design right is not registered even after the additional period for payment of registration fees under Article 82(1) (Additional Payment of Registration Fees, etc.) has passed following a registration decision, the decision on registration is made without applying Article 33(3) (expanded first-to-file provision) of the Design Protection Act (Requirements for Design Registration).

4.4 When a priority claim under the Paris Convention is recognized, the filing date for the expanded first-to-file provision (Article 33(3)) of the design registration application is judged based on the filing date in the first country stated in the priority claim, in accordance with Article 51(1) (recognizing the filing date in the first country as the filing date in Korea when applying Articles 33 and 46) of the Design Protection Act.

4.5 The filing date for the expanded first-to-file provision (Article 33(3)) of an international design registration application is judged based on the international registration date.

4.6 For the method of judging similarity between the earlier-filed design and the later-filed design for the application of the expanded first-to-file provision (Article 33(3)), refer to "Chapter 1 Judging Similarity of Articles" and "Chapter 2 Judging Similarity of Designs" in Part 3 Similarity of Designs.

4.7 Article 33(3) (expanded first-to-file provision) applies to design registration applications filed from the day after the filing date of the earlier-filed design application until the publication date of the public design gazette [including the design gazette under Article 56 (Publication in Gazette of Rejected Application)] or the registered design gazette for the earlier-filed design (including applications filed on the publication date of the registered design gazette). In this case, the publication date of the design registration gazette for a secret design refers to the publication date of the gazette in which drawings, etc. are published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree.

However, for designs clearly filed after the publication time of the design gazette related to the earlier-filed design, Article 33(1)2 or 3 (Novelty) of the Design Protection Act (Requirements for Design Registration) applies.

4.8 When applying Article 33(3) of the Design Protection Act (Requirements for Design Registration) to a design registration application, a notice of suspension of examination is issued for the later-filed application before the publication date of the public design gazette or the registered design gazette related to the earlier-filed design [in case the earlier-filed design is registered as a secret design, it refers to the date when the gazette containing drawings, etc. is published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree]. If necessary, a statement indicating that it can be viewed is included in the notice, as in the following example. However, for international

design registration applications, a notice of grounds for rejection is issued first, followed by suspension of examination.

Example: Statement when issuing a notice of suspension of examination because the earlier-filed application has not been published, etc.

☞ "As the earlier-filed design (Application No. 30-2011-0000000) of another person has not been published (or has been claimed as a secret design), it is not possible to attach the materials. If necessary, please request to view it for confirmation. However, the content viewed must not be disclosed to others."

4.9 For later-filed applications (excluding international design registration applications) suspended from examination according to 4.8 above, a notice of grounds for rejection is issued after the publication date of the public design gazette or the registered design gazette related to the earlier-filed design that includes a design identical or similar to the later-filed design [in case the earlier-filed design is registered as a secret design, it refers to the date when the gazette containing drawings, etc. is published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree].

4.10 For design applications subject to partial examination, if information and evidence are provided according to Article 55 (Provision of Information) of the Act, a decision to reject design registration can be made based on this according to Article 62(4) (Decision to Reject Design Registration) of the Act.

5 Application Examples

5.1 Criteria for applying the expanded first-to-file provision (Article 33(3) of the Act) when another person's design identical or similar to part of an earlier-filed design is filed on the same date

☞ The application of the expanded first-to-file provision (Article 33(3) of the Act) requires that another application be filed before the filing date of the current application, and that the Publication of Application, etc. of the other application occurs after the filing of the current application. Since this is based on the filing date, it does not apply to applications filed on the same date.

Chapter 6 Related Designs

1 Purpose

As designs can relatively easily infringe on others' rights through imitation or modification, the effect of design rights is stipulated to extend to designs identical or similar to the registered design. However, as the scope of similar designs is abstract and unclear, the related design system is in place to allow registration of similar designs as separate related designs, preventing imitation and infringement in advance and enabling swift action against infringement. Meanwhile, the related design system also strengthens the protection of applicants' rights by allowing the registration of similar designs that have been improved or modified after the design registration application as separate rights.

2 Definition of Related Design

2.1 A "related design" refers to a design that is similar only to one's own registered design or applied design (including applications filed on the same date, hereinafter referred to as the "basic design").

2.2 Related designs under Article 35 (Related Designs) of the Act are as follows:

Example: Cases where designs can be registered as related designs

Type	Basic Design (A)	Related Design (A')
	Registration	Later-filed application
	Earlier-filed application	Later-filed application
	Applications filed on the same date	Applications filed on the same date
1	Finished product	Finished product
2	Component	Component
3	Set of articles	Set of articles
4	Partial design	Partial design

* If design A is similar to a registered design, or if an earlier-filed or same-day filed design A is registered, one's own later-filed or same-day filed design A' that is similar to it can be registered as a related design. (The relationship is $A \approx A'$).

* One of the serial number designs in an earlier-filed multiple design application, or one of the serial number designs in a multiple design application, can be designated as the basic design.

(1) When designating one of the serial number designs in an earlier-filed multiple design application as the basic design:

Earlier-filed multiple design application	Later-filed multiple design application
001. Basic design A 002. Basic design B	001. Related design A' 002. Related design B'

(2) When designating one of the serial number designs in a multiple design application as the basic design:

Multiple design application
001. Basic design A 002. Related design A' 003. Related design A'' 004. Basic design B 005. Related design B' 006. Design C

3 Application Requirements

3.1 As a related design presupposes one's own basic design, the basic design must exist before or on the same date as the related design registration application, and it must be similar only to one's own basic design and not similar to any other person's design (applied design, registered design, publicly known design) that precedes its filing date.

* Note: If the basic design is before registration decision or if the design right has expired, the related design cannot be decided for registration. Also, if a basic design that has been decided for registration is withdrawn due to non-payment of fees, etc., and only the related design is registered, the related design is registered as changed to an independent design.

3.2 If a related design is filed after one year (three years for designs filed after December 21, 2023) has passed from the filing date of the basic design, it cannot be registered according to Article 35(1) of the Act. However, if the related design is amended to an independent design and is similar to the basic design, it can be rejected under Article 33(1)3 or Article 46(1) or (2) of the Act.

3.3 If the basic design is a registered design or applied design before June 30, 2014, and the related design is filed after July 1, 2015, it cannot be registered according to Article 35(1) (Related Designs) of the Act.

* According to the law amendment (Act No. 11848, effective from July 1, 2014), a related design can only be registered if the design registration application is filed within one year from the filing date of the basic design registration application.

3.4 A design that is similar only to one's own related design cannot be registered according to Article 35(2) (Related Designs) of the Act. That is, a related design that uses one's own related design as the basic design cannot be registered.

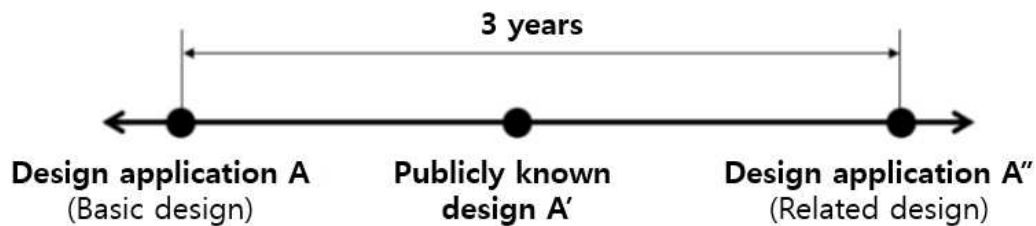
3.5 If an exclusive license is established for the design right of the basic design in a related design registration application, it cannot be registered according to Article 35(3) (Related Designs) of the Act.

4 Assessment Criteria

4.1 A related design registration application is not rejected (novelty requirement of Article 33(1) of the Act) due to one's own basic design that is identical or similar to the design publicly known between the filing date of the basic design registration application and the filing date of the related design registration application.

<Example>

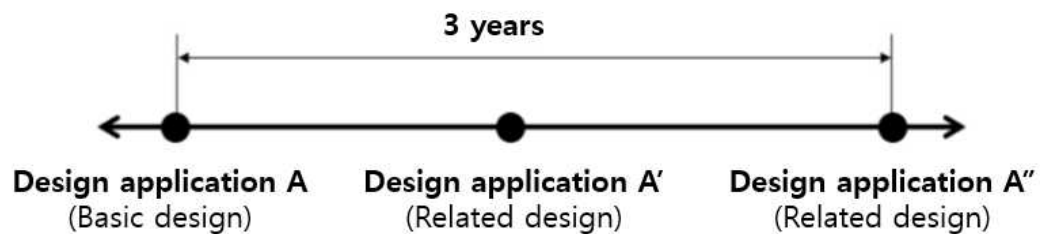
Related design A'' is not rejected due to one's own publicly known design A' that is identical or similar to basic design A. However, it may be rejected if there exists an identical or similar publicly known design of another person.



4.2 A related design registration application is not rejected (first-to-file requirement of Article 46(1) and (2) of the Act) due to one's own another related design filed between the filing date of the basic design registration application and the filing date of the related design registration application.

<Example>

Related design A'' is not rejected due to one's own another related design A' that is similar to basic design A.



4.3 The range of articles eligible for related design registration includes articles that are identical or similar to the basic design. "Similar articles" refer to articles with the same purpose but different functions, or articles that can be used interchangeably despite having different purposes.

* The articles of the basic design and the related design do not necessarily need to belong to the same classification. The similarity of articles is judged based on whether they can be recognized as identical or similar articles in light of their purpose, function, etc., according to common commercial practices.

4.4 When the article name of the basic design differs from that of the related design registration application, it is handled as follows:

4.4.1 If the article name of the basic design is appropriate, the article name of the related design registration application should be made to match that of the basic design.

4.4.2 If the article name of the related design registration application is more appropriate or suitable than that of the basic design, it does not need to be made to match the article name of the basic design.

4.5 If a related design registration application based on a registered design pending in an invalidation trial or opposition is recognized as a related design, the examination is suspended. However, for international design registration applications, a provisional refusal notification is issued first, followed by a notice of suspension of examination.

4.6 If the rejection decision for the basic design application has not been finalized (including cases where an appeal against the rejection decision is pending), the examination of the related design registration application is suspended. However, for international design registration applications, a provisional refusal notification is issued first, followed by a notice of suspension of examination.

4.7 For design applications subject to partial examination that are related design registration applications under Article 35 (Related Designs) of the Act, the examination is conducted by applying Article 62(3) (Decision to Reject Design Registration) of the Act. However, if information and evidence are provided according to Article 55 (Provision of Information) of the Act, a rejection decision can be made based on this.

5 Implementation Examples

5.1 Possibility of registration of a related design when the basic design right is extinguished or the basic design registration application becomes invalid, withdrawn, abandoned, or the rejection decision is finalized after the filing of the related design registration application.

☞ As a related design presupposes a basic design, the related design can only be registered if the basic design has been registered or decided for registration at the time of determining the registration of the related design. Therefore, if the basic design right is extinguished or the basic design registration application becomes invalid, withdrawn, abandoned, or the rejection decision is finalized after the filing of the related design registration application, a notice of grounds for rejection should be issued for that related design according to Article 35(1) of the Act. In this case, an amendment to an independent design can be recommended according to Article 48(2).

* A registered related design continues to exist even if its basic design becomes invalid, withdrawn, or abandoned (e.g., due to non-payment of registration fees).

5.2 When applying for a design subject to partial examination as a related design, Article 62(3) of the Act is applied instead of Article 35(1) when issuing a notice of grounds for rejection, unlike design applications subject to substantive examination.

☞ In the case of designs subject to partial examination, if a related design that has already been registered or applied for is stated in the related design indication section (stated as a related design of a related design), or if the stated basic design becomes invalid, withdrawn, abandoned, or its rejection decision is finalized, a notice of grounds for rejection is issued according to Article 62(3) of the Act.

Chapter 7 Prior-filed Application

1 Purpose

As the design right holder has the exclusive right to implement the registered design or designs similar to it, when two or more identical or similar designs are filed in competition, it is stipulated that the person who filed first can register the design. This is intended to exclude the duplication of design rights.

2 Requirements

2.1 When two or more identical or similar designs are filed on different dates, only the applicant who filed the first design registration application [excluding cases falling under Article 35(1) (Related Designs)] can obtain design registration according to Article 46(1) (First-to-File) of the Act.

2.2 When two or more identical or similar designs are filed on the same date, only one applicant determined by agreement among the applicants (refer to Article 43 of the Enforcement Rules) [excluding cases falling under Article 35(1) (Related Designs)] can obtain design registration according to Article 46(2) (First-to-File) of the Act.

* If an agreement is not reached (or a selection is not made in case of the same applicant), all designs subject to the agreement are rejected and published.

2.2.1 "Cases where agreement is not possible" specifically refers to cases where agreement is not possible due to reasons such as the other party not responding to the agreement, or cases where one of the multiple applications for identical or similar designs has been registered.

2.3 For design applications subject to partial examination, this is not examined before the registration decision according to Article 62(2) (Decision to Reject Design Registration) of the Act. However, if information and evidence are provided according to Article 55 (Provision of Information) of the Act, a rejection decision can be made based on this under Article 62(4) (Decision to Reject Design Registration).

3 Application Types and Status of First-to-File

3.1 Types to which the first-to-file principle applies

Type	Earlier-filed Design (A)	Later-filed Design (A, A')
1	Finished product	Finished product
2	Component	Component
3	Set of articles	Set of articles
4	Partial design	Partial design

* In principle, the first-to-file system is applied only between dynamic designs. However, in cases between a dynamic design and a design with no shape change, if the static state and the basic posture forming the main subject during motion of the dynamic design are similar to the design with no shape change, they are considered similar designs. However, if the content of the motion is unique, they are not considered similar.

* The first-to-file principle is applied to later-filed designs A and A' that are identical or similar to design A when design A is recognized as having first-to-file status as stipulated in 3.2.

3.2. Applications with first-to-file standing

3.2.1 Earlier-filed applications that have been registered

3.2.2 Earlier-filed applications that have been finally rejected or received a trial decision to reject due to failure to reach an agreement (including inability to reach an agreement) under the latter part of Article 46(2) (First-to-File) of the Act

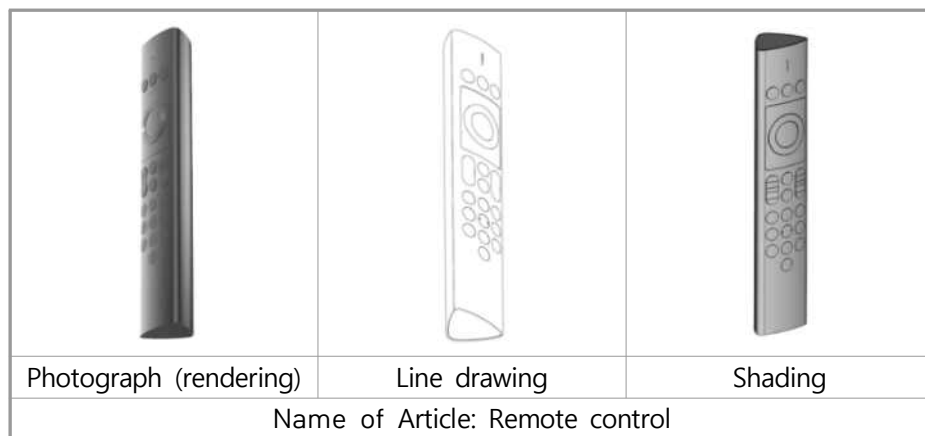
* Note: If first-to-file status is not recognized for applications that have been finally rejected or received a trial decision to reject due to failure to reach an agreement or inability to reach an agreement under the latter part of Article 46(2) (First-to-File) of the Act, unfair issues may arise with the first applicant as re-applications by the same person or later applications by third parties could be registered.

3.2.3 Earlier-filed applications that were first filed for design registration before June 30, 2007, and were subsequently abandoned, or received a final rejection decision or a trial decision to reject

4 Assessment Criteria

4.1 For methods of judging similarity between the earlier-filed design and the later-filed design, refer to "Chapter 1 Judging Similarity of Articles" and "Chapter 2 Judging Similarity of Designs" in Part 3 Similarity of Designs.

4.2 When a single design is expressed in various ways such as photographs (including computer rendering), line drawings, shading (achromatic shading), etc., they are considered similar to each other in the judgment of design identity or similarity (refer to the following Drawing).



4.3 Before the registration date of the design right for the earlier-filed design [in case the earlier-filed design is registered as a secret design, the publication date of the gazette in which drawings, etc. are published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree], or before the final rejection decision or trial decision to reject due to failure to reach an agreement (including inability to reach an agreement) under the latter part of Article 46(2) (First-to-File) of the Act is confirmed, a notice of suspension of examination is issued for the later-filed application, stating that the earlier-filed application can be viewed if necessary, as in the following example. However, for international design registration applications, a notice of grounds for rejection is issued first, followed by a notice of suspension of examination.

<Example>

Statement when issuing a notice of suspension of examination because the registration or rejection decision due to failure to reach an agreement (including inability to reach an agreement) has not been finalized

"As the earlier-filed design (Application No. 30-2011-0000000) of another person has not been published (or has been claimed as a secret design), it is not possible to attach the materials. If necessary, please request to view it for confirmation. However, the content viewed must not be disclosed to others."

* If an earlier-filed design of another person that has not been disclosed is attached as grounds for rejection in a notice of submission of opinion for a later-filed application, that earlier-filed design falls under the publicly known design of Article 33(1)1 (Novelty) of the Design Protection Act (Requirements for Design Registration) as it has been disclosed to unspecified persons who have no obligation to maintain confidentiality.

* If an undisclosed earlier-filed design of another person cited as a reference for rejection of a later-filed application is disclosed by being attached to a notice of grounds for rejection, and is then filed again after losing novelty, it is handled according to Article 36 (Exception to Lack of Novelty) when applying each subparagraph of Article 33(1) (Novelty) of the Design Protection Act (Requirements for Design Registration).

4.4 For later-filed applications (excluding international design registration applications) suspended from examination according to 4.3 above, a notice of grounds for rejection is issued after the design right for the earlier-filed design has been registered [in case the earlier-filed design is registered as a secret design, after the publication of the gazette in which drawings, etc. are published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree], or after the rejection decision or trial decision to reject due to failure to reach an agreement (including inability to reach an agreement) has been finalized (in case of earlier-filed designs applied before July 1, 2007, after abandonment, rejection decision, or trial decision to reject has been finalized).

4.5 If the earlier-filed design is registered as a secret design, Article 46(1) (First-to-File) of the Act applies to designs filed until the publication date of the gazette in which drawings, etc. are published according to Article 10(2) and (3) (Design Gazette) of the Enforcement Decree.

4.6 If the earlier-filed application is published according to Article 52 (Publication of Application) before the invalidation, withdrawal, abandonment, or finalization of the rejection decision or trial decision to reject, that earlier-filed application falls under the design published in a publication of Article 33(1)2 (Novelty) of the Design Protection Act (Requirements for Design Registration).

4.7 If the application for the earlier-filed design becomes invalid, withdrawn, abandoned, or the rejection decision is finalized, or if the design right is not registered even after the additional period for payment of registration fees under Article 82(1) (Additional Payment of Registration Fees, etc.) and the period for supplementation of registration fees under Article 83(2) (Supplementation of Registration Fees) have passed following a registration decision [without waiting for the period under Article 84(1) (Recovery of Design Registration Application and Design Right by Additional Payment or Supplementation of Registration Fees, etc.)], the decision on registration for the later-filed application is made without applying Article 46(1) (First-to-File) of the Act.

4.8 If the registered design by the earlier-filed application is pending in an invalidation trial under Article 121 (Trial for Invalidation of Design Registration), a notice of grounds for rejection and a notice of suspension of examination are issued for the later-filed application, and then the decision on registration is made after the invalidation is finalized.

4.9 If the same person files two or more similar designs on different dates, a notice of grounds for rejection is issued for the later-filed design. However, if it falls under the requirements of Article 35(1) (Related Designs) of the Act, a notice is issued along with the grounds for rejection stating that it can be registered if amended to a related design. Also, if similar designs are filed by the same person on different dates but the earlier-filed design registration application is finalized with a rejection decision or trial decision to reject due to failure to reach an agreement (including inability to reach an agreement), this design is recognized as having first-to-file standing, so all subsequent similar design registration applications are rejected under Article 46(1) (First-to-File) of the Act.

4.10 The processing method for applying Article 46(2) (Filing of Identical or Similar Designs on the Same Date) of the Act to design registration applications is as follows:

4.10.1 When two or more identical or similar designs are filed by different persons on the same date

(1) After requesting the applicants to report the result of the agreement within a specified period in the name of the Commissioner of the Korean Intellectual Property Office, a registration decision is made for one application determined by the agreement, and a notice of grounds for rejection is issued for the remaining applications, followed by a rejection decision.

(2) If an agreement is not reached or impossible between the applicants, a notice of grounds for rejection is issued for all applications, followed by a rejection decision.

(3) If no report of the agreement result is received within the specified period, it is considered that no agreement has been reached, and a notice of grounds for rejection is issued for all applications, followed by a rejection decision.

(4) If multiple reports of agreement results are received within the specified period, but the contents of the reports contradict each other, it is considered that no agreement has been reached, and a rejection decision is made for all applications.

4.10.2 When two or more identical designs are filed by the same person on the same date

(1) A notice is issued in the name of the Commissioner of the Korean Intellectual Property Office requesting the applicant to select one application and report the result, along with a notice of grounds for rejection.

(2) If no report of the selection result is received within the specified period, it is considered that no selection has been made, and a rejection decision is made for all applications.

(3) If multiple reports of selection results are received within the specified period, but the contents of the reports contradict each other, it is considered that no selection has been made, and a rejection decision is made for all applications.

(4) If the rejection decision is finalized, the examiner determines whether to publish and requests the publication of the gazette according to Article 56 of the Act.

(5) When the rejection decision or trial decision to reject is finalized, matters concerning the design registration application are published, but may not be published if they fall under Article 34(2) (Public Order and Morality) of the Act.

4.10.3 When two or more similar designs are filed by the same person on the same date

(1) A notice is issued in the name of the Commissioner of the Korean Intellectual Property Office requesting the applicant to select one application and report the result, along with a notice of grounds for rejection. However, if it falls under the requirements of Article 35(1) (Related Designs) of the Act, a notice is issued along with the grounds for rejection stating that it can be registered as a related design.

(2) If no report of the selection result is received within the specified period, it is considered that no selection has been made, and a rejection decision is made for all applications.

(3) If multiple reports of selection results are received within the specified period, but the contents of the reports contradict each other, it is considered that no selection has been made, and a rejection decision is made for all applications.

(4) If the rejection decision is finalized, the examiner determines whether to publish and requests the publication of the gazette according to Article 57 of the Act.

(5) When the rejection decision or trial decision to reject is finalized, matters concerning the design registration application are published, but may not be published if they fall under Article 34(2) (Public Order and Morality) of the Act.

5 Implementation Examples

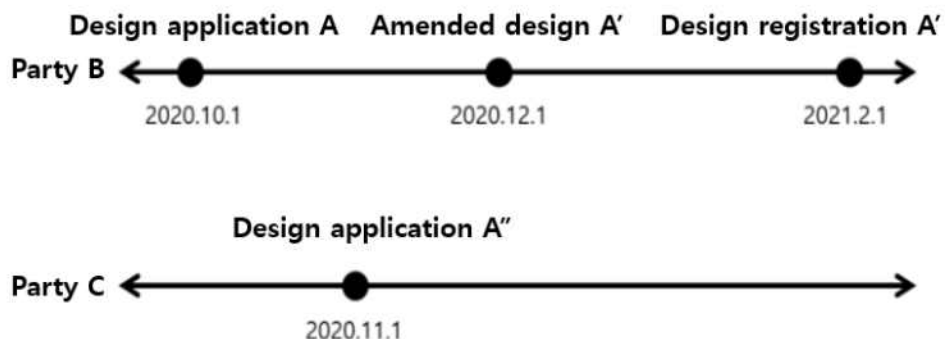
5.1 Method of determining the application date of Article 46(1) and (2) (First-to-File) of the Act for design registration applications accompanied by Paris Convention priority claims and divisional applications

 For design registration applications accompanied by priority claims, the application date in the first country is used as the basis when applying the provisions of Article 46(1) and (2) (First-to-File) of the Act. For divisional applications, the original application date is used as the basis.

5.2 After filing design A (October 1, 2020), Applicant A submitted an amendment (December 1, 2020) that partially changed the form of the design, which constituted a change in the feature of the design creation, but it was registered as design A'

(February 1, 2021). However, if Applicant B filed design A'', which is similar to Applicant A's registered design A', on November 1, 2020, the method of applying Article 46 (First-to-File) to Applicant B's design A'' is as follows:

☞ As Applicant A's registered design A' was mistakenly registered despite a change in the gist compared to the applied design A, according to Article 48(5) of the Act, the filing date should be considered as December 1, 2020, which is the date of submission of the amendment. Therefore, Applicant A's registered design A' cannot be considered to have been filed earlier than Applicant B's filing date of November 1, 2020, so Article 46 cannot be applied to Applicant B's applied design A'' based on Applicant A's applied design A.



Chapter 8 Designs That Cannot Be Registered

1 Purpose

Designs that cannot be registered are stipulated as follows:

- ① Designs identical or similar to national flags, etc., or designs that may disturb public order are contrary to public interest.
- ② Designs that may cause confusion with articles related to another person's business may lead to unfair competition and disrupt fair business practices.
- ③ Designs consisting solely of shapes indispensable for securing the function of the article are contrary to the purpose of the law, which is to protect aesthetic appeal through visual perception.

Even if these designs meet other registration requirements, they cannot be registered if they fall under these categories.

2 Requirements

2.1 Designs identical or similar to national flags, national emblems, etc.

2.1.1 Designs that are identical or similar to national flags, national emblems, military flags, medals, decorations, badges, or other emblems of public institutions, or to the letters or marks of foreign national flags, national emblems, or international organizations, or designs that include these as part of their components, are subject to Article 34(1) (Designs That Cannot Be Registered) of the Act.

(1) "National emblem" refers to the emblem representing national authority. According to the "National Emblem Regulations," it stipulates the national emblem to be used as a symbol of the Republic of Korea on important national documents, facilities, and materials.

(2) "Military flag" refers to the flags used by the national armed forces (Article 5 of the Armed Forces Organization Act), including the Joint Chiefs of Staff flag, flags of each military branch, unit flags, branch flags, and small unit flags. (Article 3 of the Military Flag Decree)

(3) "Medals" and "decorations" refer to honors (敍勳) awarded to people who have made outstanding contributions to the Republic of Korea. (Article 2 of the Awards and Decorations Act)

(4) "Badge" refers to an emblem or symbol given to commemorate an event or reward a group. (Disabled Veterans Badge Decree, Military Family Badge Decree)

(5) "Emblem" refers to the main mark (symbol) of public institutions, etc., and "letters" or "marks" refer to the names (including logotypes, hereinafter the same) of international organizations, etc., and include emblems used for public interest projects carried out by public institutions or international organizations, etc. (hereinafter referred to as "public interest emblems").

(6) Public institutions refer to central or local administrative agencies of the Republic of Korea, local governments, public associations, public corporations under public law, and their representative agencies and affiliated organizations. International organizations refer to organizations composed of two or more member countries for any international purpose or activity.

(7) "Public corporations under public law" refer to single administrative entities with legal capacity that are public law entities combining personnel and material resources established to permanently carry out administration for public purposes. The Korean Broadcasting System and the National Medical Center fall under this category.

<Examples of national flags, national emblems, military flags, medals, and decorations>

National flag	National emblem	Military flag	Order of National Security Merit	Order of Civil Merit
				

<Examples of badges>

Military Family Badge of the Republic of Korea	Korean War Veteran Patriotic Hero Badge
	

<Examples of international organization emblems>

				
World Health Organization (WHO)	World Trade Organization (WTO)	Organization of the Petroleum Exporting Countries (OPEC)	North Atlantic Treaty Organization (NATO)	International Atomic Energy Agency (IAEA)

<Examples of public institution emblems>

Korea Electric Power Corporation	Korea Expressway Corporation	Korea Water Resources Corporation
		

(8) This provision does not apply when a public institution or international organization files an application for something identical or similar to its own emblem, letters, mark, or public interest emblem, or includes it as a part of the components of its applied design.

(9) This provision applies when a third party files an application that includes as part of the components of the applied design something identical or similar to the emblem of a public institution, the letters or mark of an international organization, or a public interest emblem.

(10) As in the following example, when the article that is the subject of the design includes a national flag (including foreign national flags) etc., but has undergone significant changes so that it cannot be considered to risk harming national dignity, this provision does not apply. However, if no changes have been made to the national flag, this provision may be applied.

<Example>

[Accepted]

A design created using the Taegukgi (Korean national flag) as a motif



(11) As countries are not international organizations, the names of countries are not included in the letters or marks of international organizations.

2.2. Designs that are likely to contravene public morality or disrupt public order

2.2.1 Designs that are likely to contravene public morality, which is a general moral concept, or disrupt public order in terms of their meaning or content, such as the following, are subject to Article 34(2) (Designs That Cannot Be Registered) of the Act:

- (1) Those that are contrary to human ethics, social justice, or national sentiment
- (2) Those that insult a specific country or its people
- (3) Those that are vulgar, disgusting, or obscene
- (4) Portraits of heads of state and equivalents
- (5) Portraits of famous individuals other than oneself. However, this provision does not apply if permission has been obtained from that individual.

* "Famous" refers to a level of approval that is generally widely known to domestic general consumers or relevant business circles according to social norms. It is considered sufficient if one can instantly recognize widely known entertainers, sports players, or domestic and international celebrities.

(6) When a mark indicating certification of standards or quality of the article that is the subject of the design or related articles is included as a part of the components of the whole design, this provision does not apply as it cannot be considered to risk disrupting public order, etc. by itself.

2.3. Designs likely to cause confusion with articles related to another person's business

2.3.1 The following designs likely to cause confusion with articles related to another person's business are subject to Article 34(3) (Designs That Cannot Be Registered) of the Act:

(1) When another person's well-known or famous trademark, collective mark, or certification mark is expressed as a design (this also applies when included as part of the design components).

* If another person's trademark, collective mark, or certification mark that is not well-known or famous is expressed in the design but there is no risk of confusion with articles related to another person's business, this provision does not apply.

*** Reference: Patent Court Decision 2012Heo3916 (Decided on August 16, 2012), etc.**

Article 34(3) of the Design Protection Act stipulates "designs likely to cause confusion with articles related to another person's business" as designs that cannot be registered. The purpose is that although a design itself is not a distinctive mark of goods, it can become a criterion for judging the origin of goods when general consumers select products as it constitutes the appearance of the article. In such cases, there is a risk that general consumers may mistake or confuse the origin of articles using that design as goods related to another person's business. Especially when the goods related to that other person's business and the design or trademark used on them are well-known or famous, it would result in free-riding on the business credit of others. Therefore, this provision aims to prevent unfair competition in business that occurs by using registered designs in such cases, to establish a sound distribution order, and to protect consumers' interests. Consequently, designs identical or similar to another person's famous trademark, famous service mark, other marks or famous designs of others that function as trademarks, as well as designs that use the motif of another person's trademark or

design as-is, thereby risking general consumers mistaking articles using that design as goods produced and sold by another person or someone in a special relationship with them, should be considered as designs falling under this provision (refer to Patent Court Decisions 2003Heo2836 decided on October 9, 2003, 2004Heo134 decided on April 23, 2004, 2012Heo3916 decided on August 16, 2012, etc.).

<Example 1>

Filed design

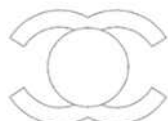


Another person's famous
three-dimensional trademark

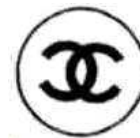


<Example 2>

Filed design



Another person's
famous trademark



- (2) When a non-profit organization's emblem is expressed as a design (this also applies when included as part of the design components)
- (3) Those that include another person's famous design with trademark-like characteristics (including widely known characters) as part of the components
- (4) When a mark indicating certification of standards or quality of the article that is the subject of the design or related articles is included as part of the design components, this provision does not apply as it is considered to be used only for conveying certification information rather than indicating the source
- (5) When designs identical or similar to military uniforms and military equipment

* This applies when designs identical or similar to military uniforms and military equipment (backpacks, blankets, canteens, sleeping bags, etc.) stipulated in the "Act on the Control of Military Uniforms and Equipment" are expressed as designs of related articles, risking confusion with articles related to military affairs.

2.4. Designs consisting solely of shapes indispensable for securing the function of articles

2.4.1 Designs consisting solely of shapes indispensable for securing the function of articles are subject to Article 34(4) (Designs That Cannot Be Registered) of the Act.

2.4.2 Whether a design consists solely of shapes inevitably determined to exert the technical action and effect of an article is judged considering the following:

(1) The existence of alternative shapes that can secure the function is importantly considered, and if alternative shapes exist, it is judged as evidence that the shape is not functionally indispensable.

(2) Even if it includes functional shapes, if a new aesthetic feeling is derived overall, it is not considered to fall under this category.

<Example>

[Denied]

In the case of the 'automobile windshield glass' design, the design registration was invalidated on the grounds that it consisted solely of shapes indispensable for securing the function of the article



<Perspective view>

* Reference: Supreme Court Decision 2004Heo4976 (Decided on February 24, 2005)

The "automobile windshield glass" which is the article of this registered design, aims to block the internal and external environment of a specific car with glass and to secure the driver's view and safety as the front glass of a car. Typically, when installing the front glass of a car in the car's frame, the bottom of the glass connects with the hood panel of the car body, the sides connect with the front pillar, and the top connects with the roof panel. Based on these recognized facts, when designing the article of this registered design, if the frame dimensions, shape, curvature, thickness, height, width, end shape, and other physical characteristics of the corresponding car model are not exactly replicated to connect to the car's frame, connection becomes impossible or, even if possible, becomes defective, threatening safety and rendering it unable to perform its original function. Consequently, as the most important design element of a car's front glass is determined by the window frame of the car's front glass, this registered design should be considered as consisting solely of shapes indispensable for securing the function of the article.

2.4.3 Designs consisting of shapes specified in relevant standard specifications, etc., to secure compatibility of articles are judged as shapes indispensable for securing function. However, this does not apply to articles where the main purpose of setting specifications is not for functional performance.

<Example>

Standard envelopes, USB standard ports, etc.

* "Standardized specifications" refer to "official standard specifications" confirmed by law and public standardization organizations such as Korean Industrial Standards (KS) based on the Industrial Standardization Act, ISO specifications of the International Organization for Standardization, etc., and "de facto standard specifications" which, although not official specifications, are recognized as industry standards in the field of the article in question, and products based on these standard specifications virtually dominate the market for that article, allowing specification of details such as shapes and dimensions that have become standard

according to specification names, numbers, etc.

* Shapes, patterns, etc. related to standard specifications should be judged not only for whether they are indispensable shapes for securing function but also for novelty and creativity.

3 Relevant Date for Assessment

3.1 Relevant date for assessment in determining whether a design falls under Designs That Cannot Be Registered

3.1.1 Whether a design falls under Article 34 (Designs That Cannot Be Registered) paragraph (1), (2), or (4) of the Act is determined based on the time of the decision on registration.

3.1.2 Whether a design falls under Article 34 (Designs That Cannot Be Registered) paragraph (3) of the Act is determined based on the time of application.

4 Assessment Criteria

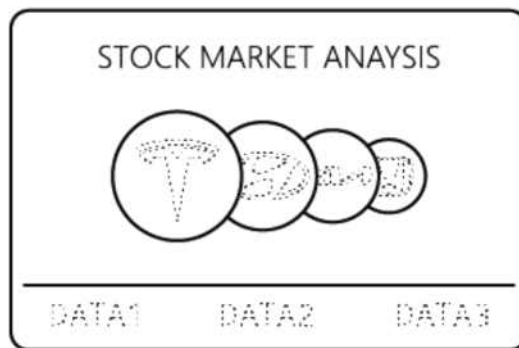
4.1 Assessment of whether a design falls under Designs That Cannot Be Registered

4.1.1 The provisions of Article 34 (Designs That Cannot Be Registered) paragraphs (1) to (3) of the Act apply not only to the entire applied design but also when a part, component, or constituent article falls under these provisions.

4.1.2 Article 34 (Designs That Cannot Be Registered) paragraph (4) of the Act applies only when the entire shape of the applied design falls under this provision.

4.1.3 In applying the provisions of Article 34 (Designs That Cannot Be Registered) paragraphs (1) to (3) of the Act, for partial designs, the form of the entire article including both the "part for which registration is sought" and "other parts" is principally considered as the subject of assessment. 4.1.4 In applying the provisions of Article 34 (Designs That Cannot Be Registered) paragraphs (1) to (3) of the Act, drawings are principally considered as the subject of assessment, including reference drawings.

☞ [Accepted] In the case of the following graphical user interface (GUI) design application, although a form falling under Article 34(3) of the Act (e.g., another company's emblem) is expressed in the part excluded from the part for which design registration is sought, it can be judged that it does not fall under Designs That Cannot Be Registered. This is because it is used for illustrative purposes in a GUI design for information display of a stock trading application, and therefore there is no risk of confusion with articles related to another person's business.



< GUI design for indicating information >

Chapter 9 Articles subject to design protection

1 Purpose

Design registration applications must follow the "classification of articles" as prescribed by the Ordinance of the Ministry of Trade, Industry and Energy. This is to clearly specify the design by defining the article that is the subject of the design. The name of the article is an important consideration factor in determining the purpose and function of the article, whether it's one design for one article, whether articles are identical or similar, and the scope of rights of the design.

2 Design Articles

2.1. Articles that are the subject of the design

2.1.1 The classification of article classes and articles follows the "List of Articles by Design Classification" as determined and announced by the Commissioner of the Korean Intellectual Property Office based on use and function, grounded in the Locarno Classification.

[Examiner's Reference]

☞ The above 2.1.1 includes design registration applications accompanied by priority claims under treaties.

2.1.2 When an application for a set of articles design is filed and the classification of articles constituting it falls under two or more categories, the following criteria apply:

(1) When both examination and partial examination subjects are included, the classification of articles subject to examination is stated. In this case, if there are two or more article classifications subject to examination, they are stated according to the criteria (a) and (b) below.

(a) The article classification is stated for the article with the largest number of

constituent items.

(b) If the number of constituent items is the same, one article classification is stated according to the applicant's intention.

(2) When composed of only examination subjects or only partial examination subjects, it is stated according to methods (a) and (b) of (1) above.

Example) Example of stating article classification for a set of articles including two or more article classifications

Article Classification	Article Name	Constituent Articles (Article Classification)
26 or 06	Set of electric stand and table	Electric stand (26-05), Table (06-03)

2.1.3 The classification of article classes and articles is for maintaining consistency in preparing design registration applications and using unified article names, and does not define the scope of similarity between articles.

*** Reference: Supreme Court Decision 2003Hu1901 (Decided on November 12, 2004)**

For designs to be considered identical or similar, first, the articles on which the designs are expressed must be identical or similar. The determination of whether articles are identical or similar should be based on whether they can be recognized as identical or similar articles in light of their use, function, etc., according to general commercial practices. The classification table of articles prescribed in the Enforcement Rules of the Design Protection Act is for the convenience of design registration affairs and does not legally define articles of the same kind. Therefore, there may be articles that cannot be considered as the same kind even if they belong to the same class in the article classification table, and there may be cases where articles belonging to different classes are recognized as the same kind. Even if the use and function are different, if the shape, pattern, color, or combination thereof of both articles are similar and they can be used interchangeably, they should be considered as similar articles.

2.1.4 If the article classification or article is incorrectly stated, it shall be deemed unregistrable as it violates Article 40(2) (One Design per Design Registration Application) of the Act.

2.2. Articles eligible for design registration application subject to partial examination

2.2.1 The scope of articles eligible for design registration application subject to partial examination shall be limited to articles belonging to the following classes among the Locarno Classification: [Article 38(3) (Classification of Articles, etc.) of the Enforcement Rules pursuant to Article 37(4) of the Act]

- (1) Class 1 (Foodstuffs)
- (2) Class 2 (Articles of clothing and haberdashery)
- (3) Class 3 (Travel goods, cases, parasols and personal belongings, not elsewhere specified)
- (4) Class 5 (Textile piece goods, artificial and natural sheet material)
- (5) Class 9 (Packages and containers for the transport or handling of goods)
- (6) Class 11 (Articles of adornment)
- (7) Class 19 (Stationery and office equipment, artists' and teaching materials)

2.2.2 If an article not belonging to a class eligible for partial examination application is filed for partial examination, it shall be unregistrable as it violates the first part of Article 37(4) (Design Registration Application) of the Act.

2.2.3 If an article belonging to a class eligible for partial examination application is filed for examination, it shall be unregistrable as it violates the latter part of Article 37(4) (Design Registration Application) of the Act.

3 Method of Stating the Name of the Article

3.1. Method of stating the name of the article that is the subject of the design

3.1.1 One article can be designated and stated according to the "Notification of List of Articles by Design Classification" as determined and announced by the Commissioner of the Korean Intellectual Property Office based on the Locarno Classification.

3.1.2 If the article name is not explicitly stated in the "Notification of List of Articles by Design Classification", an appropriate name for recognizing the design of that article should be stated, but it must be a name that clearly conveys the purpose of the article and is commonly used.

3.1.3 If a generalized name for the article does not yet exist in actual commercial transactions, and it expresses the purpose of the article that is the subject of the design to a minimum extent, names such as "Component for ○○○" are also possible. However, expressions that are comprehensive without specific expression of purpose cannot be registered.

<Example>

[Denied]

Component for window frames, component for construction

3.1.4 When applying for a set of articles, if there is no general name referring to the entire set, the names of each constituent article are listed and stated.

<Example>

[Accepted]

Set of raincoat, rain boots, and umbrella

3.2 If the name of the article is stated as follows, it cannot be registered as it violates Article 40(2) (One Design per Design Registration Application) of the Act.

3.2.1 When the purpose of the article is not clear.

Example 1) Hinge (inappropriate), Hinge for glasses (appropriate)

Example 2) Input device (inappropriate), Portable text input device (appropriate)

Example 3)

[Denied] The drawing shows a 'water bottle', but the article name is stated as 'stand'

Example 4)

[Denied] The drawing shows a 'door', but the article name is stated too comprehensively as 'construction material', making it impossible to specify the design even when comprehensively considering the contents of the application and drawings

3.2.2 When a trademark name or proper noun is attached, such as ○○ style ○○

<Example> Hong Gildong style typewriter (×)

[Examiner's Reference]

※ Exceptionally accepted cases When terms have become common names, such as Automatic ○○, Folding ○○, Collapsible ○○, Stand-alone ○○, Rotating ○○, Assembly ○○, Portable ○○

3.2.3 When the name is stated as an effect or functional effect of the article that cannot be confirmed by the contents of the application and drawings alone

<Example>

[Denied] Cutting-edge telephone, Health massager, etc.

[Examiner's Reference]

 To clearly indicate the purpose in the article name, "applied target article", "user", "method of use", etc. can be expressed in various ways as follows: <Methods of stating article names to clarify the purpose of the article>

Category	Article Name
Purpose stated according to the applied target article	"Hinge for glasses"
	"Hinge for doors"
	"Door handle for furniture"
Purpose stated according to the user	"Shoes for animals"
	"Shoes for patients"
	"Hat for infants"
Purpose stated according to the method of use	"Bracket for cable fixing"
	"Bracket for frame connection"
	"Game console for 6 players"
	"Antenna support device for 5G communication"

3.2.4 When part of the article name is omitted

<Example>[Denied] 16mm (inappropriate), [Accepted] 16mm movie camera (appropriate)

3.2.5 When foreign characters are used

<Example>

[Denied] Oral Irrigator (inappropriate)

[Denied] Vehicle (inappropriate)

[Examiner's Reference]

* Exceptionally accepted cases

(1) When foreign characters are included in parentheses along with the article name

(Example) Dispensing Bottle , Golf Club Head

(2) When it has become a common name and is commonly used

(Example) LED bulb, LCD monitor, AI set-top box stand, Smart Watch, MP3 Player, Cellular Phone

3.2.6 When foreign words that have not become common names are written in Korean

<Example 1>

[Denied] "미러": Should be written as 거울(mirror) to be appropriate

<Example 2>

[Denied] "퍼펫": Should be written as 인형(puppet) to be appropriate

<Example 3>

[Denied] "스페큘럼": Should be written as 거울(speculum) to be appropriate

[Examiner's Reference]

* Exceptionally accepted cases

(1) Article names according to the "Notification of List of Articles by Design Classification" and corresponding article names

(2) Names of sets of articles according to [Appendix 5] (Classification of Sets of Articles) of the Rules

3.2.7 When using names such as set (not a set of articles), unit (excluding dental units), pair, couple, one foot, etc.

[Examiner's Reference]

* Exceptionally accepted cases

(Example) When it's a name of a set of articles according to [Appendix 5] (Classification of Sets of Articles) of the Rules

(Example) Dental unit

3.2.8 When names related to shape, pattern, or color are attached

Example: [Denied] Mailbox-shaped piggy bank, Pencil holder with mugunghwa flower drawn, Yellow telephone

[Examiner's Reference]

* Exceptionally accepted cases

(Example) When the shape, pattern, or color stated in the name matches the details stated in the application, such as drawings

3.2.9 When material names are attached

<Example>

[Denied] Wooden desk, Rush mat, Plastic cup

[Examiner's Reference]

* Exceptionally accepted cases

(Example) When the material stated in the name matches the details stated in the application, such as drawings

3.2.10 When using names such as "Part of ○○" in applications for partial designs

<Example>

"Button part of telephone" (inappropriate) → "Telephone" (appropriate)

Chapter 10 One Design per One Application for Design Registration

(One Application Per Design Registration)

1 Purpose

The Design Protection Act stipulates that One Design per One Application for Design Registration should be filed. This is to facilitate simplicity in examination, clarity in understanding and transferring design rights, and ease of classification.

2 Application Requirements

2.1. One Design per One Application for Design Registration should be filed for each design.

2.1.1. "One Design" refers to one form for one article.

*** Reference: Supreme Court Decision 93Hu1247 (Decided on September 9, 1994)**

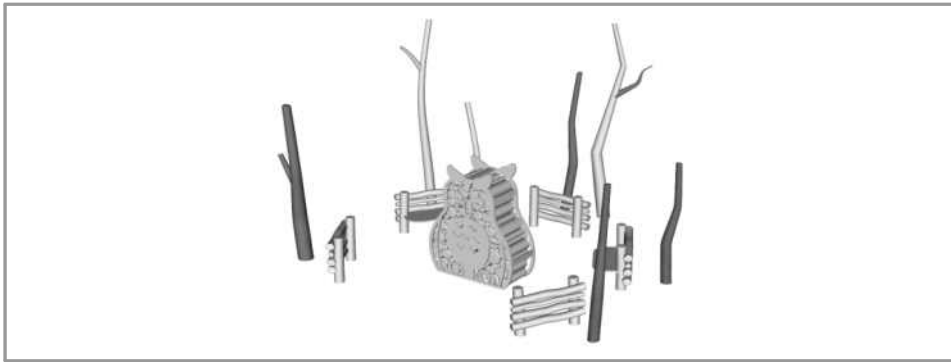
One design refers to one specific form for one specific article. One article does not mean one physical item, but rather an article that is treated as one item according to its use, composition, and commercial practices. While a design registration application that violates the principle of One Design per One Application is grounds for rejection, if such an application is mistakenly registered, it does not constitute grounds for invalidation of the design registration and thus cannot be invalidated through an invalidation trial.

2.1.2. "One article" does not refer to a concept of a single physically inseparable unit, but rather to an article that can be traded independently as one unit according to commercial practices.

<Example>

[Accepted]

In the case of the following 'outdoor sculpture' design, although the components are physically separate, they are considered as one article design because they are combined and traded or implemented as one unit according to commercial practices.



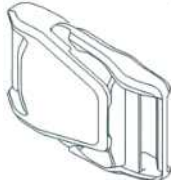
3 Assessment Criteria

3.1. Examples of articles recognized as One Design per One Application for Design Registration

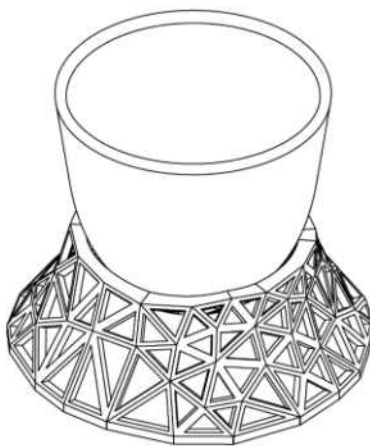
3.1.1 In cases where it is obvious that physically separate items are traded as one article, if it is judged that the drawings of the components alone are not sufficient to fully express the state of use, the combined finished state should be illustrated as in the following examples.

<Examples>

Men's suit (top, bottom), two-piece suit (top, bottom), teacup and saucer, food box set, chess pieces, playing cards, Hwatu cards, Mahjong tiles, nut and bolt, male and female snap buttons, male and female fasteners, wired and wireless telephone, male and female limit switches, cosmetic container with lid, etc.

< Limit switch design >	< Bag buckle design >
 [Drawing A 1]	 [Drawing A 1]
 [Drawing B 1]	 [Drawing B 1]
 [Drawing C 1]	 [Drawing C 1]

☞ As in the following 'teacup and saucer' example, if the essential features of the design can be sufficiently specified and grasped with only the drawings of the combined finished state, without drawings of individual components, considering the purpose, formal and structural characteristics of the article, then separate drawings for the teacup and saucer (e.g., Drawing A for the teacup, Drawing B for the saucer) can be omitted.



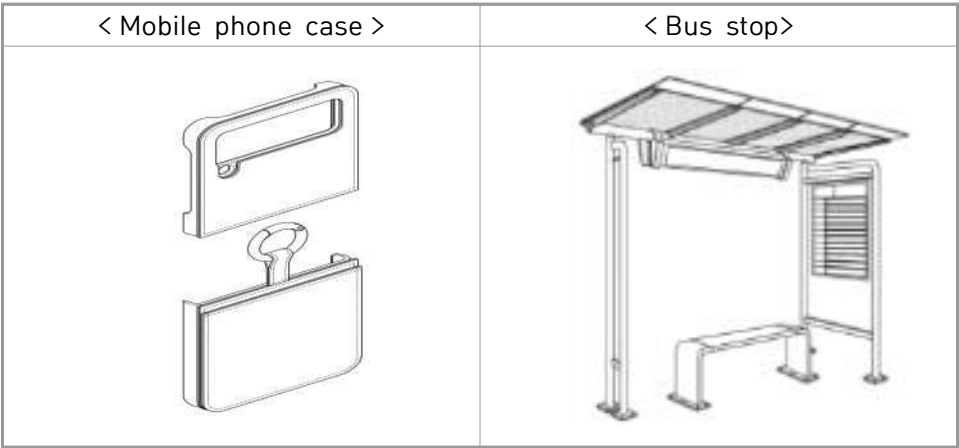
[Drawing 1]

3.1.2 When physically separate parts come together to form one shape or pattern, it is considered as One Design for One Article.

<Example>

[Accepted]

As in the following 'mobile phone case' and 'bus stop' examples, when components are physically separate, if it is judged that each part combines to form one shape, it can be recognized as One Design for One Article.



3.1.3 When it is clear that auxiliary articles (e.g., mannequins) are used to fully show the shape and pattern of clothing and fashion accessories. In this case, the purpose of using the auxiliary article should be stated in the "Description of the Design" section.

<Example>

[Accepted] 'Slipper' design expressed with a mannequin

Design		Description of the Design: The slipper item is placed on a mannequin to fully represent it, and the mannequin is not part of the design.
Article Name	Slipper	

3.1.4 When additional articles are combined and implemented as an integrated state to express the shape, pattern, and color of the article that is the subject of the design, it is recognized as One Design for One Article.

<Example>

[Accepted] Designs implemented in an integrated state with additional articles

Candle	Cake	Detergent Capsule
		
Implemented with candle and container combined	Implemented with a band combined around the cake edge	Implemented with detergent inserted in the capsule

3.1.5 In case of designs for articles with changing shapes (transitional/dynamic designs) where the states before and after the change or a series of change processes are illustrated in the application

<Example>

[Accepted]

Designs showing the states before and after the change

Design		Description of the Design
		"Toy laptop computer" with an opening and closing cover

		"Chair" that folds for storage and unfolds for use
		"Wall lamp" used as direct and indirect lighting depending on its orientation

3.2 Examples of articles not recognized as One Design per One Application for Design Registration

3.2.1. Aggregates composed of two or more single items

<Example>

A set of table tennis equipment, a set of badminton equipment, assembly toys with various completed forms, containers of articles and their contents (camera and camera case, radio and radio case, glasses and glasses case, cosmetic storage box and cosmetic container), Korean typeface and English typeface, Korean typeface and special character typeface, English typeface and number typeface, etc.

* If the single items constituting the aggregate are used simultaneously and have unity as a whole set, meeting the requirements as a 'design for a set of articles', they can be registered.

3.2.2. Designs with changing shapes where there is no change process or where there is no consistency and unity in the change process

<Example>

As in the following 'robot toy' case, the consistency and unity of the shape change process can be judged depending on the specific expression of the shape change process.

	
[Drawing A 1]	[Drawing B 1]
[Denied] Cases where the change process is not specifically expressed, making it impossible to recognize the consistency and unity of the change	

		
[Drawing A 1]	[Drawing B 1]	[Drawing C 1]
[Accepted] Cases where the change process is specifically expressed, allowing recognition of the consistency and unity of the change		

3.3 Application and drawing details that cannot be considered as One Design per One Application for Design Registration

3.3.1 When two or more article names are listed in parallel in the field for the article that is the subject of the design

<Example>

Bottle and bottle cap, radio cum clock, etc. However, exceptions are made in cases where one article is added [appended, added, or attached] to another article, such as "radio with built-in clock". When two or more articles are added, it should be written as "lighter with built-in pen, etc."

3.3.2 When two or more designs for one article are shown in one drawing, or when designs for two or more articles are shown in one drawing

<Example>

When filing a design application for "stickers" or "decals", if two or more physically separate components are shown individually in one drawing, it is not recognized as One Design per One Application. However, it can be recognized if two or more components are expressed by delimiting them with outlines, etc.

Incorrect illustration



Correct illustration



3.4 Determination of One Article status for applications combining two or more articles

3.4.1 The judgment is based on whether the function and purpose of each article are subsumed / unified in the combined state and can be recognized as a new single function and purpose, but is determined in accordance with the examples given in 3.1 and 3.2 above.

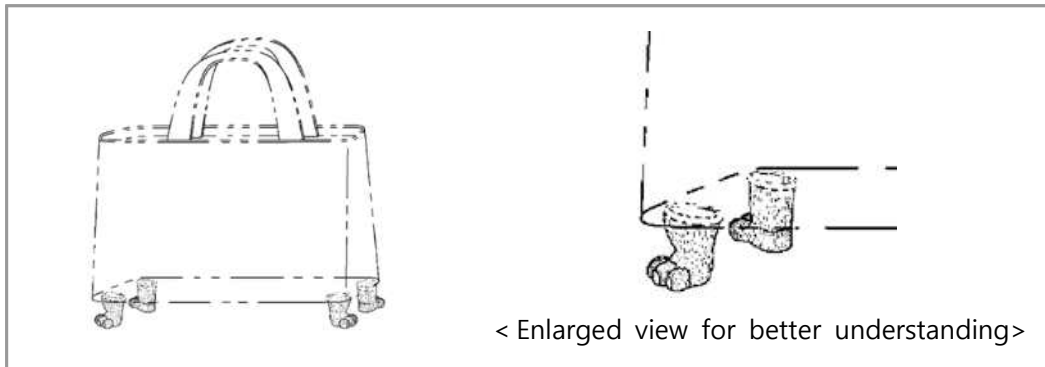
3.5 Method of judging One Design when two or more physically separate parts are expressed in a partial design registration application

3.5.1 Whether it is One Design should be considered in light of the applicant's creative intent as stated in the application form, drawings, description of the design, and key points of the creation. It is considered as One Design Registration Application in the following cases where design creative unity is recognized as a whole or for each part.

(1) Cases where formal unity is recognized

(a) Physically separate parts that are related, such as being symmetrical or forming a pair

<Example> Handbag



(b) Physically separate parts that are related, such as being perceived as a single object

<Example> Mobile phone case

<Reference: Supreme Court Decision 2012Hu3343 (Decided on February 15, 2013)>



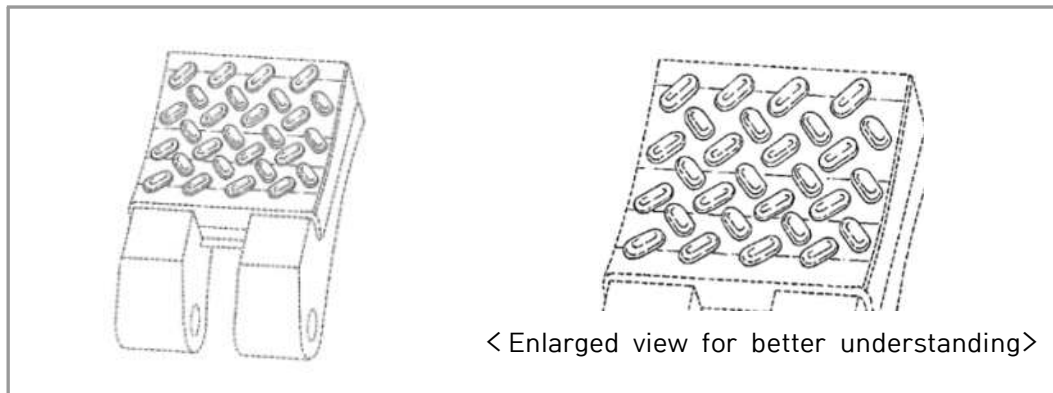
Considering that the [Drawing 2] part of this application design is likely to be easily recognized as a "rabbit ear" shape by viewers, and although the proportion of the [Drawing 3] part in the entire mobile phone case is somewhat larger compared to the proportion of the tail in the overall shape of an actual rabbit, some degree of transformation, exaggeration, or abstraction is inevitable in the process of designing from a real object. The rabbit tail is typically a stubby, round tuft of fur, and the similar-shaped [Drawing 3] part is located at

the bottom back of the mobile phone case, while the "rabbit ear" shaped [Drawing 2] part is located at the top of the mobile phone case. Therefore, viewers of this application design are likely to recognize the [Drawing 3] part as a "rabbit tail" shape. According to the record, it can be seen that consumers actually recognize this application design as a "rabbit shape" and refer to the [Drawing 3] part as the "tail".

In light of these legal principles, even though the [Drawing 2] part and the [Drawing 3] part of this application design are physically separated, viewers can recognize the [Drawing 2] part as "rabbit ears" and the [Drawing 3] part as a "rabbit tail", acknowledging a formal unity between them. As a result, it causes viewers to perceive the whole as similar to a "rabbit shape", evoking an aesthetic sense through visual perception. Therefore, this application design corresponds to "One Design" as stipulated in Article 40(1) of the Design Protection Act.

(c) Physically separate parts that are related, such as being perceived as a single creative unit

<Example> Swing hammer for micro-pulverizer

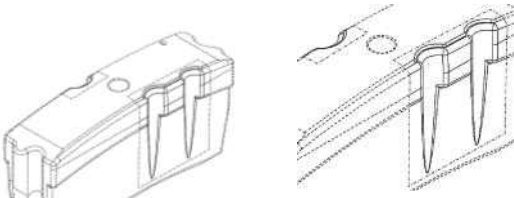


(2) Cases where functional unity is recognized

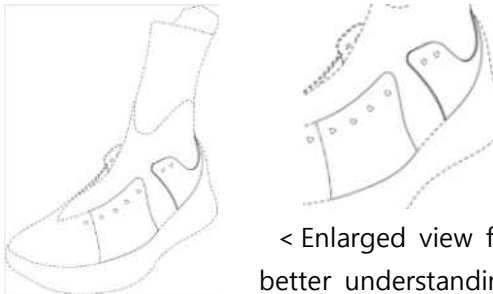
(a) Physically separate parts that are related, such as performing a single function as a whole or in parts

<Example>

1) Ink stick for inkjet printer

 < Enlarged view for better understanding >	Description of the Design: "The two grooves on the front and one groove on the back perform the function of indicating the correct position when the cartridge is installed in the printer as a whole."
---	--

2) Shoe

 < Enlarged view for better understanding >	Description of the Design: "The outer soles on the instep and ankle parts of the shoe perform the function of fixing the foot in place as separate parts."
--	---

3) Automobile

	
[Drawing 1]	[Drawing 2]
Description of the Design: Lamp design symmetrically positioned on the front of the automobile	

4 Exceptions to the Principle of One Design per One Application for Design Registration

4.1 Multiple Design Registration Application

4.1.1 Subject Articles for Multiple Design Registration Application

(1) Articles that can be filed as a multiple design registration application shall belong to the same class of articles according to the Locarno Classification.

(2) If the articles of designs filed in a multiple design registration application do not belong to the same class, it is considered to violate Article 41 (Multiple Design Registration Application) of the Act. In this case, the application can be divided or withdrawn for designs of articles in different classes.

4.1.2 Number of Designs That Can Be Expressed in One Multiple Design Registration Application

(1) A multiple design registration application can include up to 100 designs in one design registration application.

(2) Withdrawal of part of the designs in a multiple design registration application can be done through deletion amendment. However, this excludes international design registration applications.

(3) If the number of designs in the attached drawings exceeds the number stated in the application form, the application form can be amended based on the number of designs in the drawings. However, this excludes international design registration applications.

4.1.3 Drawings for Multiple Design Registration Application

(1) The drawings for a multiple design registration application must express each design separately, and if two or more designs are expressed in the drawings of one serial number design, it is treated as violating the latter part of Article 41(1) (Multiple Design Registration Application) of the Act.

4.1.4 Procedure for Rejection Decision on Multiple Design Registration Application with Grounds for Rejection for Only Some Designs

(1) If grounds for rejection exist for only some designs in a multiple design registration application, a notice for submission of opinion must be issued specifying the serial numbers of the designs with grounds for rejection, the articles that are the subject of the designs, and the grounds for rejection.

(2) If the grounds for rejection for some designs in a multiple design registration application are not resolved even after amendment or division of the application, a rejection decision can be made for those designs.

4.2 Design Registration Application for a Set of Articles

4.2.1 If a design registration application for a set of articles does not meet the following requirements, it is treated as violating Article 42(1) (Design of a Set of Articles) of the Act.

(1) Two or more articles (including articles of the same kind) are used simultaneously as a set

*Note: "Used simultaneously" does not necessarily mean always used at the same time, but conceptually the use of one anticipates the use of another, or it is recognized as being used simultaneously according to commercial practices.

(2) The set as a whole has unity

(a) The shape, pattern, color, or combination thereof of each constituent article is expressed in the same manner, recognized as having unity as a whole set

<Example>

[Accepted]

"Set of kitchen ladle and turner" where the expression method for each constituent article is identical or similar

		
Combined state of 5 components	Turner	Spaghetti server
		
Spoon	Slotted spoon	Ladle

(b) Cases where each constituent article combines to express a unified shape or pattern, recognized as having unity as a whole set

<Example>

[Accepted]

"Set of salad bowl and cutlery" where the salad bowl, spoon, and fork combine to form a design depicting a pair of birds resting on the bowl

	
Combined state	Separated state

(c)

[Accepted]

Cases where the shape, pattern, color, or combination thereof of each constituent article gives a conceptually related impression, recognized as having unity as a whole set

<Example>

Consistent expression of the "The Tortoise and the Hare" fairy tale as pictures on each constituent article, etc.



(3) In case of articles listed in [Appendix 5] of the Rules or articles that can be recognized by industry practice as being used simultaneously with designated sets of articles, they are considered appropriate sets of articles. However, specialized sportswear sets such as "a set of Taekwondo uniform" do not include items like hats, socks, shoes, protective gear, etc. Furthermore, in case of articles composed of items that are unlikely to be used simultaneously (In case of filing an application for a Taekwondo uniform top with hiking pants), they are not considered to be used simultaneously as a set of articles.

4.2.2 Drawings for the design of a set of articles

(1) If the drawings of each constituent article can sufficiently express the design of the set of articles, only one set of drawings for each constituent article may be submitted.

(2) When the constituent articles of a set of articles are specifically combined or arranged to express a unified shape, pattern, or concept, one set of drawings showing the combined state of the constituent articles and one set of drawings for each constituent article must be submitted.

(3) The design of each constituent article can be expressed through drawings or 3D modeling drawings.

Part VI

Examination of Unique Articles

Chapter 1 Designs Related to Images

1 Purpose and Overview

Previously, it was possible to register image designs as "partial designs" expressed on the surface of articles, i.e., parts of articles, through the Design Examination Guidelines (effective from July 1, 2003). However, as the digital economy expanded and the release of design products using new technologies increased, along with the growth of related industries, the need arose to protect image designs themselves, implemented separately from articles. Consequently, through the amendment of the Design Protection Act in April 2021 (effective from October 21, 2021), it became possible to register designs for images themselves, regardless of whether they are expressed as parts of articles. Additionally, to prevent confusion in terminology related to image designs, it was decided to express the existing Graphic image designs as "screen designs expressed on parts of articles" (referring to designs related to images that do not fall under "images" as defined in Article 2, Subparagraph 2-2 of the Design Protection Act).

As a result, after the implementation of the Design Protection Act in 2021, there are two ways to register designs related to images:

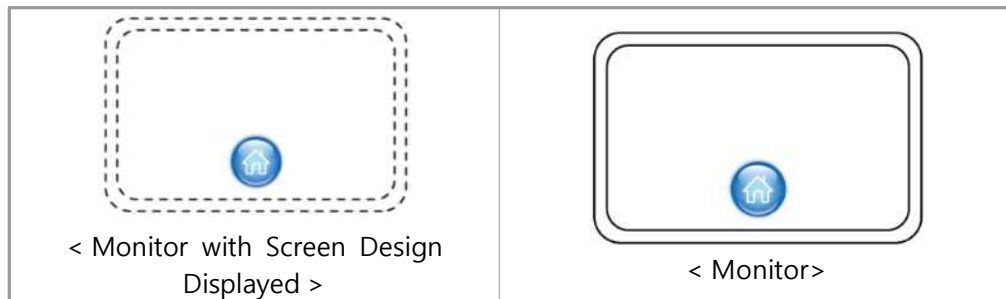
(1) Protection as 'Image Designs'

These can be established as designs regardless of the existence of a medium of expression such as display panels, but must be figures, symbols, etc., expressed by digital technology or electronic means, used for the operation of devices or exhibiting a function.

(2) Protection as 'Screen Designs Expressed on Parts of Articles'

These are expressed through display parts of articles such as display panels, and are legally considered as patterns of articles, i.e., surface decorations, and are applied for as partial designs. Their requirements for establishment are the same as those for partial designs of general articles.

* Instead of applying as 'screen designs expressed on parts of articles' (left example below), one can also apply as a whole design of an article (right example below). In such cases, as it is not a design related to images, the name of the article should be stated as a general article name (e.g., monitor).



I. Image Designs

1 Definition and Establishment Requirements

1.1 Definition of Image Designs

1.1.1 An "image design" refers to the shape, pattern, color, or combination thereof of an image that evokes an aesthetic sense through visual perception.

* "Screen designs expressed on parts of articles" are patterns or surface decorations expressed on the surface of articles such as display panels or screens, and fall under partial designs of articles. To avoid confusion with image designs as stipulated in the law implemented in October 2021, the term 'screen (畫面)' is used, unlike in the past.

1.1.2 The "image" in 1.1.1 above refers to figures, symbols, etc., expressed by digital technology or electronic means, and is limited to those used for the operation of devices or those that exhibit a function.

1.1.3 Like typefaces, "images" originally lack the nature of articles but are deemed as articles. Therefore, they are considered to have an independent article nature without needing to be expressed as parts of articles such as display panels or display screens.

1.2 Establishment Requirements for Image Designs

1.2.1 "Images" are limited to those used for the operation of devices or those that exhibit a function. Therefore, this should be stated or expressed in the application and the drawings attached to the application to an extent that a person with ordinary skill in the relevant field can sufficiently understand.

1.2.2 "Images used for the operation of devices" refer to figures, symbols, etc., used to input instructions, commands, etc., to control devices, and the device being operated does not necessarily need to be an article. Common examples include operation input buttons, bars, dials, etc.

<Example 1>

[Accepted]

The example below is an "icon for information and communication devices" image. As it is an icon operated on information and communication devices, it is expressed by digital technology or electronic means. It is visually understood to perform the function of a home button, so it can be recognized as an "image used for the operation of devices".



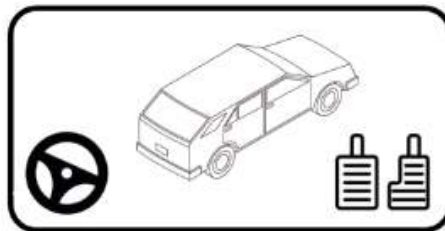
[Drawing 1]

Name of article: icon for information
and communication devices

* In the case of an "icon for information and communication devices" image design, unlike the design of a "display panel with screen design displayed", the existence of a mediating article (e.g., display panel, display screen, etc.) is not considered in judging the establishment requirements, so it is sufficient to express the image itself.

[Accepted]

The example below is a "graphic user interface for game operation" image. Judging from the pattern expressed in the drawing, it represents a control interface for a driving-related game, so it can be recognized as an "image used for the operation of devices".



Drawing 1

Name of Article: Name: Graphic User Interface
for Game Operation

[Accepted]

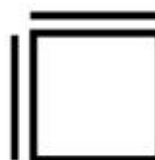
The case below is a "GUI for VR operation" and has perspective view, front view, right side view, etc., so it can be understood that it is expressed three-dimensionally in a VR environment. Also, through the name of article, it can be recognized that it is intended to perform specific operation functions in a VR environment, so it can be recognized as an "image used for the operation of devices".



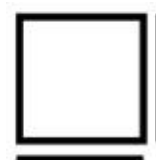
[Drawing 1]
Front perspective
view



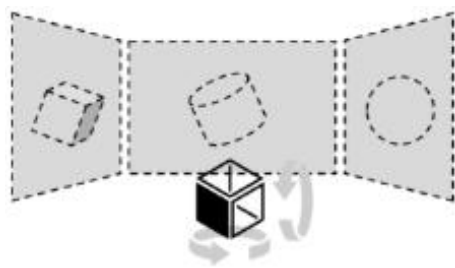
[Drawing 2]
Front view



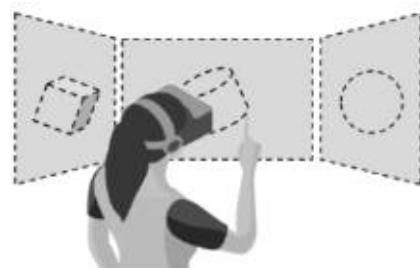
[Drawing 3]
Right side view



[Drawing 4]
Top view



[Reference view 1]



[Reference view 2]

Name of article: "GUI for VR operation"

1.2.3 "Images that exhibit the function of devices" refer to figures, symbols, etc., that express the functions performed by devices, and typical examples include various graphs, status indicators, warning lights, indicators, etc.

<Example 1>

[Accepted]

The example below is an "icon for displaying vehicle information" image. As it visually represents a specific state of the vehicle (e.g., malfunction state), it can be recognized as "image that implements the display function".



[Drawing 1]

Name of article : Icon for Displaying
Vehicle Information

<Example 2>

[Accepted]

The example below is a "GUI for information display" image. As it electronically expresses the user's health status through a smartphone application, it can be recognized as an "image that implements the function".



[Drawing 1]

Name of Article : GUI for
information display

<Example 3>

[Accepted]

The example below is a "GUI for displaying vehicle information" image. As it implements and expresses the vehicle's status in 3D, allowing the user to view it from various angles, it can be recognized as an "image that implements the function".



[Drawing 1]

Front perspective view



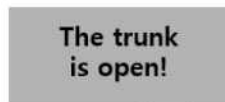
[Drawing 2]

Right side view



[Drawing 3]

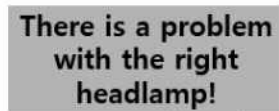
Rear perspective view



**The trunk
is open!**



[View for state of use 1]



**There is a problem
with the right
headlamp!**



[View for state of use 2]

Name or article: GUI for car information display

* In the case of the 'Display panel featuring a screen design' design shown below, it is a design expressed as a pattern on the surface of the display panel. Judging from the expression method in the drawings, it is a design that represents the dynamic state of a vehicle rotating like a turntable.



[Drawing A 1]



[Drawing B 1]



[Drawing C 1]

Name of article : Display panel featuring a screen design

1.2.4 There may be cases of 'image designs' that combine both device operation and function implementation. If these characteristics are sufficiently described or expressed in the application and the drawings attached to the application, they can be recognized as image designs.

<Example 1>

[Accepted]

The example below is an "image for information and communication devices" design where the length of the bar displays the current status value of the information and communication device, and simultaneously allows the user to adjust and control this status value to a desired value by touching with a finger, etc. If these features are sufficiently expressed in the details stated in the application and the drawings attached to the application, it is recognized as an image design that combines both operation and function implementation.



Drawing 1



Reference view 1

1.

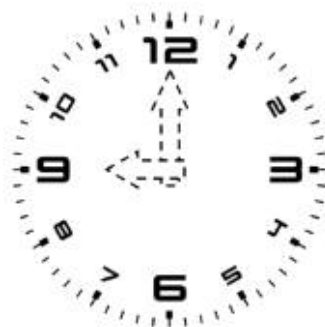
Name of article: image for information and communication devices

2.5 "Partial design of an image" refers to a part occupying a certain range within the whole image, which can be a subject of comparison with other designs in that image.

<Example 1>

[Accepted]

In the case of the "image for information display" design below, it has the form of a clock, where the part intended to be protected as a partial design is the shape of the dial, and the hands of the clock are expressed to be excluded from the scope of right. Therefore, it can be recognized as a partial design of an image.



[Drawing 1]

Name of article : image for information display

1.2.6 If a "partial design of an image" is a part that cannot be a subject of comparison with other designs or cannot be recognized as a single creative unit, it does not conform to the definition of design under Article 2(1) (Definitions) of the Design Protection Act. Therefore, it is considered to lack industrial applicability and a notice of rejection is issued.

2 Requirements for Industrial Applicability

2.1 Possibility of Mass Production by Industrial Production Methods

2.1.1 Designs that cannot be used industrially because mass production is impossible by industrial production methods cannot be registered as designs as they violate the main clause of Article 33(1) (Requirements for Design Registration) of the Design Protection Act.

(1) The "industrial production method" for image designs includes the implementation of images expressed by digital technology or electronic means, and "mass production" means repeatedly and continuously producing images of the same form.

(2) "Designs that can mass-produce identical images" does not mean designs that can mass-produce physically identical images, but rather designs that can mass-produce images with a level of identity that can be viewed as the same image when reasonably interpreted based on the knowledge of a person with ordinary skill in that design field.

2.2. Recognition as an Image Design under the Design Protection Act

2.1.1 Under the Design Protection Act, images are protected as themselves regardless of articles. In other words, when comprehensively considered based on the details stated in the application and the drawings attached to the application, those recognized as articles or parts of articles (screen designs that are parts of articles) cannot be recognized as image designs.

2.2.2 As images are only deemed as articles and do not actually have a physical shape, cases where physical samples or models are submitted or descriptions of materials are provided cannot be recognized as industrially applicable image designs.

2.2.3 Article 2(2-2) of the Act limits the subject of protection to those "used for the operation of devices (operational images)" or "those that exhibit functions (functional images)". Therefore, image designs must fall under at least one of these categories, and those that do not fall under either category and are merely visual works cannot be established as image designs.

2.2.4 For the scope of operational images and functional images, refer to "1. Definition and Establishment Requirements" above.

2.3 The Design Expression Should Be Concrete

2.3.1 The concreteness of design expression can be recognized if a creator with ordinary knowledge in the relevant field can grasp the specific content of the applied design through the details stated in the application and the drawings attached to the application.

2.3.2 Cases where the concreteness of the design cannot be recognized when comprehensively judging the details stated in the application and the drawings attached to the application are as follows:

- (1) When it is difficult to grasp the purpose or function of the image;
- (2) When the entire image is not concretely expressed;
- (3) When the drawings are not clear, making it impossible to grasp the feature of the design creation;
- (4) When there is a lack of consistency between the details stated in the application and the drawings attached to the application;
- (5) In the case of dynamic images with changing shapes, when the order of changes or the form of changes is not clear.

2.3.3 For general requirements regarding the concreteness of image designs, refer to the "2.2 The Design Expression Should Be Concrete" section in Chapter 1 of Part 2.

3 Similarity Judgment

3.1 Criteria for Judging Similarity of Image Designs

3.1.1 Judgment is based on the identity or similarity of the form, purpose or function of the image, and the possibility of mixed use. The similarity of the image's form follows the general criteria for judging design similarity.

3.1.2 Even if the screen display part of a "screen design expressed on part of an article" is identical or similar to the form of an "image design", the screen display part is a partial design of an article, while the image is an independent article in itself. Therefore, they are considered dissimilar as their articles are different.

*The expanded first-to-file (Article 33(3)), first-to-file (Article 46), and related design (Article 35) provisions also do not apply between "screen designs expressed on part of an article" and "image designs".

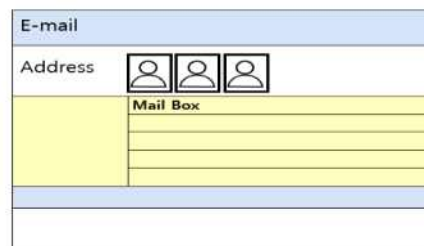
[Examiner's Reference]

In a case where a design for an "information and communication device with screen design displayed" is filed as an earlier application, and a design for an "image for information display" is filed as a later application, and then the earlier application design is published in the gazette, even if the pattern of the screen display part and the form of the image for information display are identical or similar, the expanded first-to-file provision cannot be applied. This is because the image cannot necessarily be considered as a design similar to a part of the information and communication device (refer to 6.1.2).



<Earlier-filed Design>

Name of Article: Information and communication device with screen design displayed



<Later-filed Design>

Name of Article: Image for information display

3.1.3 However, if there is similarity or potential for interchangeable use between an article and an image considering their purpose, function, and usage, if one of them is publicly known, it is possible to make a judgment on creativity (refer to examples 1 and 2 in 4.3.3).

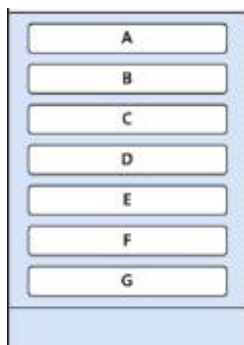
3.2 Judgment of Similarity Between Image Designs

3.2.1 The examiner judges two designs to be identical or similar if they fall under (1) and (2) or (1) and (3) below.

- (1) When the forms of two image designs are identical or similar
- (2) When the purposes or functions of two image designs are identical or similar
- (3) When there is a potential for interchangeable use between two image designs

3.2.2 Cases that "Image Designs" Can Be Considered Similar

(1) The two designs are similar in form, as both consist of multiple horizontally elongated rectangular shapes arranged vertically. However, the names of article differ, with one represented to as an "image for inventory management" and the other as an "image for meeting room management" indicating a difference in specific usage. Nevertheless, since both designs function to select one option from multiple choices and display the information, they can be recognized as similar designs in terms of functionality.

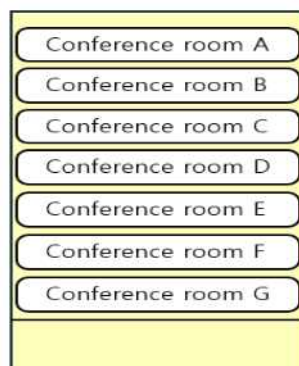


< Prior Art design >

"image for inventory management"

[Description of design]

"A number of elongated vertical rectangles represent different product types, and when clicked, the inventory count of the respective product is displayed visually."



< Filed design >

"image for meeting room management"

[Description of design]

"A number of elongated vertical rectangles represent each meeting room, and when clicked, the reserved meeting room is displayed visually."

(2) The two designs are similar in form, but the specific use of the images differ, with one for an "image for digital door lock" and the other for an "image for smart phone" However, since both perform the function of inputting numerical values, they are extremely similar and can be recognized as similar designs.



< Prior art design >

"image for digital door lock"



< Filed design >

"image for smartphone"

3.3 Determination of Similarity Between Static "Image Design" and Dynamic "Image Design"

3.3.1 As a general rule, static "image design" and dynamic "image design" are not considered similar.

3.3.2 However, if a part of the dynamic "image design" in its static state is identical or similar to the static "image design" and if that part plays a dominant role in the aesthetic impression of the overall design, while the distinctiveness of the dynamic changes is minimal, the two designs may be recognized as similar.

3.4 Determination of Similarity Between Dynamic Image Designs

3.4.1 In the case of dynamic "image design," similarity is determined by comparing the static and dynamic states of the designs as a whole.

3.4.2 Differences in the speed or interval of the transitions in the dynamic "image design" are not considered when determining similarity.

4. Creativity

4.1 Determination of Creativity

4.1.1 Designs based on a known design (as specified in Article 33, Paragraph 1, Subparagraphs 1 and 2 of the Act) or a combination thereof, or designs that can be easily created by a person with ordinary knowledge in the field using shapes, forms, colors, or their combinations widely known domestically or internationally, cannot be registered under Article 33(2) (Design Registration Requirements) of the Act.

4.2 General Requirements for Creativity

4.2.1 Refer to "2. Application Requirements" in Chapter 4 (Creativity) of Part 2.

4.3 Types of Easily Creatable Image Designs

4.3.1 Refer to "3. Types of Easily Created Designs" in Chapter 4 (Creativity) of Part 2.

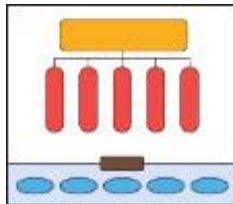
4.3.2 The following are types of image designs that, due to a known design, can be easily created by a person with ordinary knowledge in the field:

(1) Substituting part of the components of the image design with those of another design.

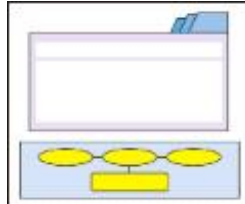
<Example 1>

[Denied]

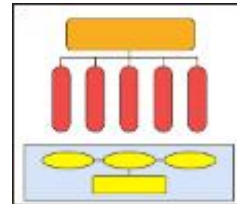
An "image for video editing" created by substituting part of a known "image for video editing" with a part from publicly known design cannot be recognized for originality.



< Prior design 1 >



< Prior design 2 >



< Filed Design >

(2) Combining multiple known image designs to create a single image design

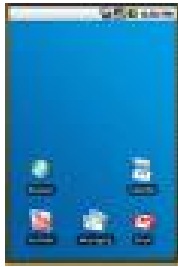
<Example 2>

[Denied]

In the case where an image design is created by simply combining publicly known individual icons, its creativity cannot be recognized.



< Prior design 1 >



< Prior design 2 >

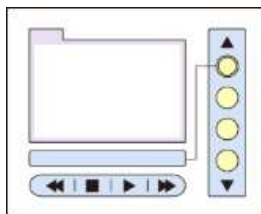


< Filed design >

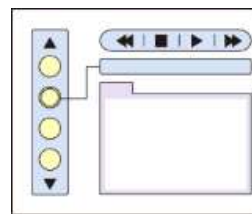
(3) Changing the arrangement of image design components

<Example 3>

[Denied] An "image for video editing" that merely changes the position of some components of a publicly known image cannot be recognized as creative.



< Publicly known design >



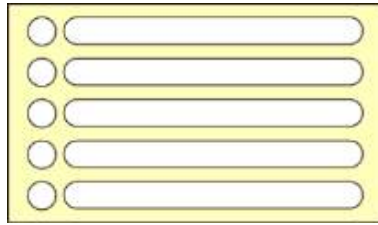
< Filed design >

(4) Changing the ratio of image design components or increasing/decreasing the number of composition units (continuous units)

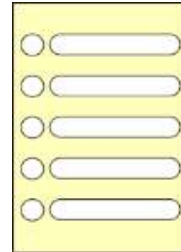
<Example 4>

[Denied]

An "image for video editing" that merely changes the aspect ratio of a publicly known image design to compose a single image cannot be recognized as creative.



< Publicly known design >

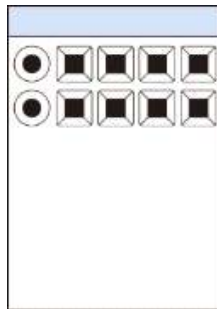


< Filed design >

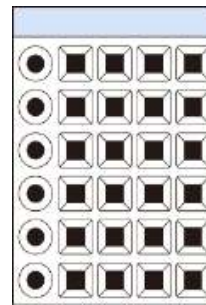
<Example 5>

[Denied]

An "image for information display" that increases the number of some components of a publicly known image design and arranges them vertically cannot be recognized as creative.



< Publicly known design >



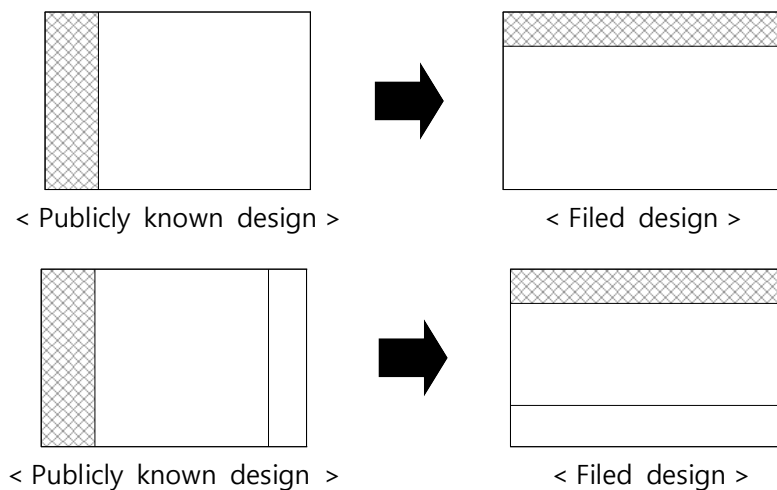
< Filed design >

(5) Easy creation by simple change in frame division method

<Example 6>

[Denied]

As in the examples below, simply changing the vertical frame division method of a publicly known image design to a horizontal one cannot be recognized as creative.



4.3.3 If appropriating the form expressed in a publicly known product design as an image design is at a level that is easy for a designer with ordinary knowledge in the relevant field, it is considered a design that is easy to create.

<Example 1>

[Denied]

As in the example below, if appropriating a publicly known "car design" almost as-is as an "image design for information display" is easy in the relevant field, it cannot be recognized as creative.

*If the publicly known "car design" is one's own design, it can be registered if an Exception to Lack of Novelty is claimed when applying for the "image design for information display" within 12 months from the date of public disclosure.



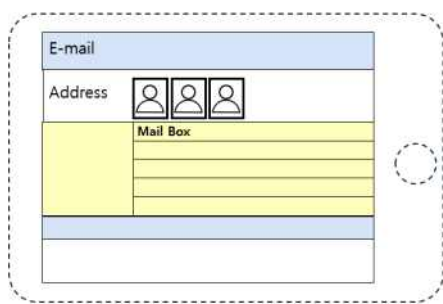
< Publicly known design >

Name of Article:
Image for information display
< Filed Design >

<Example 2>

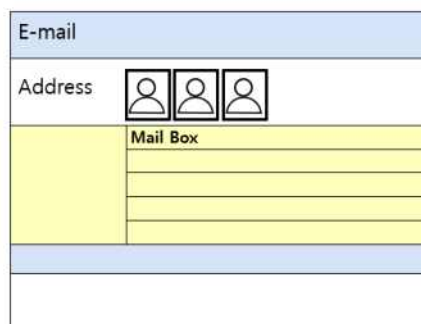
[Denied]

As in the example below, if appropriating the screen display part of a publicly known "information and communication device design with screen design displayed" almost as-is as an "image design for information display" is easy in the relevant field, it cannot be recognized as creative.



< Publicly known design >

Name of Article: Information and communication device with screen design displayed



< Filed design >

Name of Article: Image for information display

4.3.4 For the judgment method of creativity for image designs and presentation of evidence, refer to the "4. Judgment Method" and "5. Presentation of Evidence" sections in Chapter 4 (Creativity) of Part 2.

5 Classification and Naming of Articles

5.1 Classification of Articles

5.1.1 The classification of articles for image designs should be stated as article class (Class 14) according to the "List of Articles by Design Classification" announced by the Commissioner of the Korean Intellectual Property Office (KIPO) based on the Locarno Classification.

5.2 Method of Stating Names

5.2.1 When applying for an image design, an appropriate name for recognizing the design should be stated in the "Article which is the subject of the Design" field, and names that are clearly understood in terms of purpose and commonly used in the relevant field can be accepted.

<Example 1>

[Accepted]

Article of names commonly used in the relevant design field can be accepted, such as "Image for information and communication", "Graphic user interface for information and communication", "GUI for information and communication", "Image for information display", "Image for icon", "Graphic user interface for vehicle information display", "GUI for vehicle information display", "Icon for information and communication device", etc.

<Example 2>

[Denied]

Names of screen designs expressed on parts of articles, such as "Portable terminal with screen design displayed", "Display panel with screen design displayed", etc., cannot be accepted.

<Example 3>

[Denied]

Article of Names that are unclear whether they are used for device operation or exhibit functions, such as "Image", "Image design", etc., cannot be accepted.

5.2.2 Even if not stated with the example names in 2.2.1 in the "Article which is the subject of the Design" field (e.g., GUI, Icons), if the purpose can be specified to a certain degree when comprehensively considering the content of the submitted drawings, the "Description of the Design" field, etc., it can be accepted as the name of an image design.

5.2.3 If the classification of articles and the name of the article are incorrectly stated, a notice of grounds for rejection should be issued according to Article 40(2) (One Design per One Application for Design Registration) of the Act.

6 One Design per One Application for Design Registration

6.1 Definition of One Design per One Application for Design Registration

6.1.1 A design registration application should be filed for each design. If an application for an "image design" fails to meet the requirements for one design per one application, a notice of grounds for rejection should be issued as it violates Article 40(1) (One Design per One Application for Design Registration) of the Act.

6.1.2 One design in an image design registration application refers to one form for one image.

6.2 Method of Judging One Design per One Application for Design Registration

6.2.1 Whether an image design meets the one design per one application requirement is judged comprehensively by referring to the details stated in the application and the drawings attached to the application. Cases falling under the following are judged to violate the principle of one design per one application:

(1) When the uses of two or more images are stated in the "Article which is the subject of the Design" field

<Example 1 >

[Denied]

When the name is stated as "Image for vehicle information display and image for medical information display", it is judged to violate the principle of one design per one application.

(2) When two or more images are expressed in the drawings. However, this excludes cases where it is recognized as a single design as a whole due to being a changing image, etc., before and after the change. (Refer to 3.2.2)

(3) When two or more physically separate forms are expressed in one image (Refer to 3.2.3)

6.2.2 When two or more images are expressed in the drawings, etc., the approval of one design per one application is judged according to the following criteria:

(1) Even if multiple images are expressed in the drawings, etc., if there is mutual relevance between the images when referring to the details stated in the application and the drawings attached to the application, it can be recognized as a single image design.

(2) When multiple images are implemented as a single integrated unit considering usage patterns, etc., it can be judged as a single image design.

<Example 1 >

[Accepted]

The following is an "Image for vehicle information display" where three images are separate from each other, but generally, speedometers, tachometers, fuel gauges, etc. are installed and used as an integrated unit in vehicles, so it can be recognized as a single design.



[Drawing 1]

Name of Article: Image for vehicle information display

6.2.3 When two or more physically separate designs are expressed in one image, it is not recognized as one design per one application in principle. However, if design creative unity is recognized when considering the details stated in the application and the drawings attached to the application, usage patterns, etc., it can be recognized as one design per one application.

<Example 1>

[Accepted]

In the case of the image design below, although individual components such as the instrument panel part and indicator needles are physically separate from each other, they can be recognized as one design because they function and are perceived as an integrated unit for expressing information.



[Drawing 1]

Name of article : Image for
information display

6.2.4 In the case of a dynamic image design with changing forms, if it is clearly explained in the application including the "Description of the Design" and the drawings attached to the application that it represents a dynamic image design, it can be recognized as a single image design.

(1) It should be an image design for the same function

<Example 1>

[Accepted]

The following is an image design for a pedometer function, expressing its dynamic changing state. As each image performs the same function as one, it can be recognized as a single design.



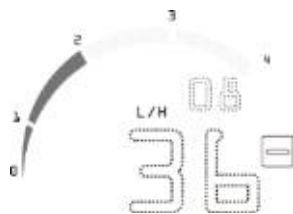
Name of article : Image for information display

(2) There should be a relation in form due to commonalities between the Drawings in the image designs before and after the change

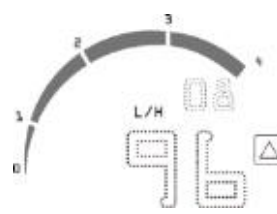
<Example 2>

[Accepted]

The following expresses the states before and after the change of an "Image for information display". It can be recognized as a single design because the shape of the arc-shaped scale part, the arrangement of figures and characters, etc., are consistently maintained.



[Drawing 1]



[Drawing 2]

Name of article : Image for information display

6.3. Exceptions to One Design per One Application for Design Registration

6.3.1 Image designs can also be filed as "Multiple Design Registration Applications" or "Design Applications for a Set of Articles", which are exceptions to the principle of one design per one application for design registration. For matters related to multiple design registration applications and design applications for a set of articles, refer to Chapter 10 (Exceptions to the Principle of One Design per One Application for Design Registration) of Part 2.

7 Priority Claim under Treaty

7.1 For the requirements of priority claims under treaties, the period and procedure for priority claims, judgment of identity of priority-claimed designs, amendment of priority claims, handling of inappropriate priority claims, etc., refer to "Chapter 4 Priority Claim under Treaty" in Part 5.

7.2 Image Designs That Can Be Filed with Priority Claims

7.2.1 When the design of the first country corresponds to the "definition and establishment requirements" of "image design" as follows, an "image design" can be filed in our country claiming priority.

<Example 1>

[Accepted]

If the filed design of the first country claiming priority can be seen as an image design used for device operation or exhibiting functions, and a substantially identical design is filed as an image design in our country claiming priority, that priority claim can be recognized.

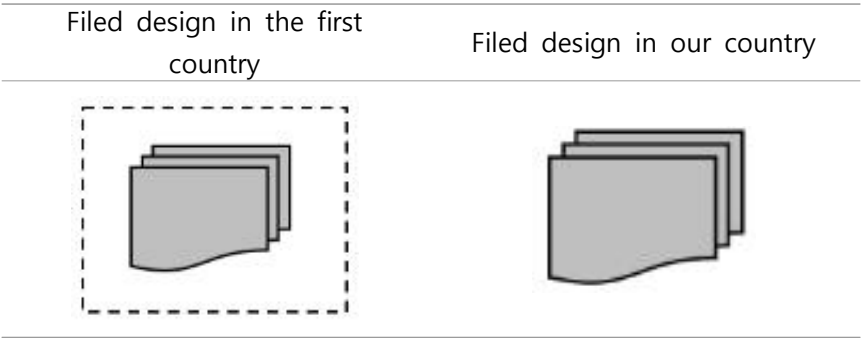
7.2.2 Specific judgment regarding the approval of priority claims

	Filed Design in the first country (example)	Filed design in our country (example)	approval of priority claim
	"GUI design for display screen"	"image for information display"	In principle, not accepted, but decision to be made by referring to the application and attached drawings, etc.
	① "Icons for OO", "GUI(Graphical user interface)"	"image for OO"	approval possible if the purpose and function are substantially identical
	② "Icons for OO", "GUI(Graphical user interface)"	"GUI, Icons"	

<Example 1>

[Denied]

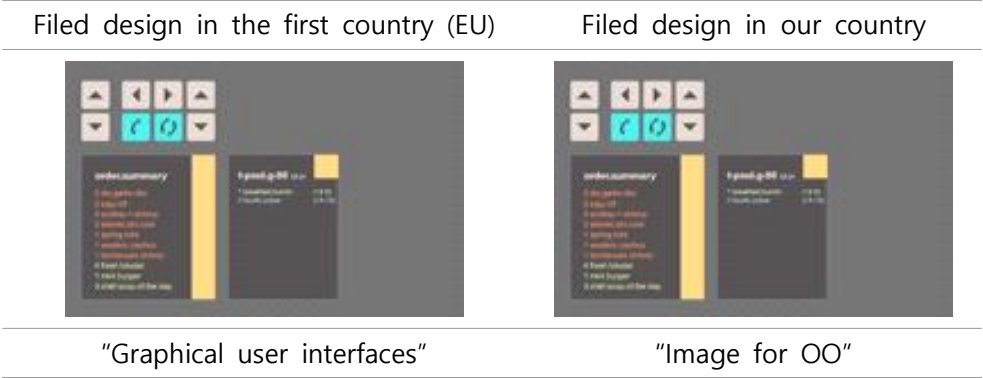
In cases where a "screen design expressed on part of an article" is filed in the first country and then filed as an "image design" in our country claiming priority, even if the shape of the article's display part and the form of the image are identical, the identity cannot be accepted.



<Example 2>

[Accepted]

If the name of the article for the design filed in the first country is stated as "Icons for OO" or "GUI (Graphical user interfaces)", and the same design form (however, not expressed as a partial design of an article) is filed in our country with the name of the article stated as "Image for OO", etc., the priority claim can be accepted by referring to the details stated in the application and the drawings attached to the application.



<Example 3>

[Accepted]

If the name of the article for the design filed in the first country is stated as "Icons for OO" or "GUI (Graphical user interfaces)", and the same design form (however, not expressed as a partial design of an article) is filed in our country with the name of the article stated as "Image for OO", "Icons" the priority claim can be accepted by referring to the details stated in the application and the drawings attached to the application.

Filed design in the first country	Filed design in our country
	
"Icons for OO"	"Icons for OO"
No detail description	[Description of design] This design is for controlling softwares

II. Screen Designs Expressed on Parts of Articles

1 Definition and Establishment Requirements

1.1 Definition of "Screen Designs Expressed on Parts of Articles"

1.1.1 "Screen Designs Expressed on Parts of Articles" refers to patterns and colors or their combinations visually recognized through the luminous phenomenon of display parts such as LCD screens of articles, and legally, as it is a kind of surface decoration, it can only be expressed as a 'partial design'.

1.2 Establishment Requirements for Screen Designs Expressed on Parts of Articles

1.2.1 The establishment requirements for screen designs expressed on parts of articles are basically the same as the establishment requirements for partial designs among "2. Establishment Requirements for Designs" in Chapter 2 of Part 1.

1.2.2 Although screen designs expressed on parts of articles are temporarily implemented through electrification of the article's display part, they are considered

to have the article property based on the general state of use of the article.

(1) Cases where screen designs expressed on parts of articles lack the article property

(a) As in <Example 1>, figures, symbols, etc., expressed by projecting light onto space or external media without a display part being equipped within the article are considered to lack the article property. Also, as seen in <Example 2>, cases where the display part cannot be specified as one particular thing cannot be recognized as having the article property.

<Example 1>

[Denied]

The screen design of the vein viewer below cannot be recognized as having the article property as a screen design because it does not have a display part formed inside the device and the screen is expressed on the surface of an unspecified external medium (body part), making it difficult to specify the subject.



(Source: AV500 by AccuVein Inc.)

(b) As in Example 2), if the figure or symbol is clearly illustrated, but the specific article (e.g., display panel) on which the screen design is displayed is not shown in the drawing at the time of application, the article property cannot be recognized.

<Example 2>

[Denied]

Although the name of the article is appropriately stated as "Mobile phone with screen design displayed", in cases where the article is omitted as shown below, the article property cannot be recognized.



[Drawing 1]

Name of Article: Mobile phone with
screen design displayed

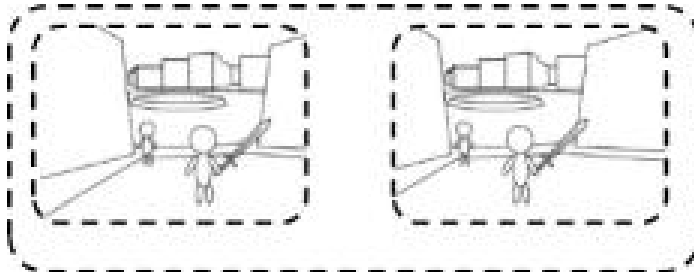
1.2.3 Visibility of screen designs expressed on parts of articles

(1) In 'screen designs expressed on parts of articles', if the display part of the article cannot be identified with the naked eye, visibility is not recognized. However, if it is possible to observe the screen through a special display part that can be typically identified, visibility can be recognized.

<Example 1>

[Accepted]

As in the example below, if the form can be identified through the display window to a certain degree, it can be recognized as having visibility as a "Virtual Reality (VR) headset display panel with screen design displayed".



[Drawing 1]

Name of Article: Virtual Reality (VR) display panel with screen design displayed

2 Industrial Applicability

2.1 Judgment of Industrial Applicability

2.1.1 Designs that are impossible to mass-produce by industrial production methods, or designs that lack concreteness in expression and cannot be used industrially, cannot be registered for design as they violate the main clause of Article 33(1) (Requirements for Design Registration) of the Act.

2.1.2 Requirements for industrially applicable designs

(1) Ability to mass-produce identical articles by industrial production methods

(a) An "industrially applicable design" refers to a design that can mass-produce identical articles by industrial production methods. For the industrial applicability of "screen designs expressed on parts of articles", refer to the "Ability to mass-produce identical articles by industrial production methods" section in Chapter 1 (Industrially Applicable Designs) of Part 2.

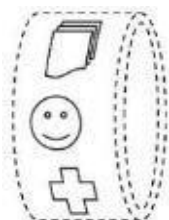
(2) The expression should be concrete enough to sufficiently specify the subject of protection

(a) If the entire screen design is not sufficiently illustrated in the submitted drawings, making it difficult to grasp the specific form, design registration cannot be granted.

<Example 1>

[Accepted]

In the case of an "information and communication terminal with screen design displayed" where the screen display part is formed as a curved display for comfortable wear on the wrist as shown below, since the screen display part is a three-dimensional shape rather than a flat surface, it can only be accepted if two or more drawings (e.g., perspective view, front view, right side view, etc.) are submitted to specifically identify the design.



[Drawing 1]

Perspective view



[Drawing 2]

Front view



[Drawing 3]

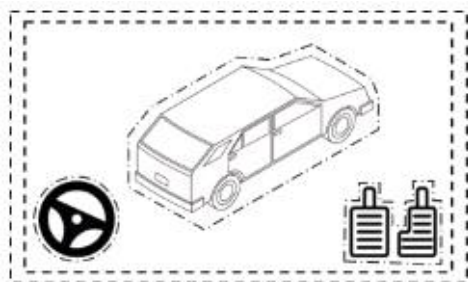
Right side view

(b) If the boundary between the part intended for registration as a partial design and the excluded part is unclear, the boundary should be illustrated with a single-dot chain line or an equivalent method, and if an explanation is deemed necessary, the intent should be stated in the "Description of the Design" section.

<Example 2>

[Accepted]

As in the example below, the part intended for registration as a partial design should be sufficiently specified by methods such as coloring or expressing the boundary with a single-dot chain line for it to be accepted.



[Drawing 1]

Name of Article: Display panel with
screen design displayed



[Drawing 1]

Name of Article: Mobile phone with
screen design displayed

[Examiner's Reference]

When filing a dynamic screen design expressed on part of an article, to specifically express the change process (sequence), drawings should be submitted in multiple sets, and the identification items can be stated with serial numbers (e.g., [Drawing 1], [Drawing 2]) instead of uppercase English letters (e.g., [Drawing A 1], [Drawing B 1]).

(c) In the following cases where it is difficult to specifically grasp the feature of the design creation only with the submitted drawings before and after the change when examining a screen design with changing form (or dynamic screen design), design registration cannot be granted.

- ① When the design cannot be specifically grasped due to the absence of enlarged views or views showing the state of use
- ② In designs where the form changes through enlargement, reduction, rotation, movement, etc., when the states before and after the form change are not sufficiently illustrated, making it impossible to specifically grasp the design
- ③ When the "Description of the Design" is essential for grasping the design but is omitted

<Example 3>

[Accepted]

As in the example below, in the case of a drop-down menu, as it is a typical expression method in the relevant design field, it can be recognized as sufficiently expressing the design even if separate drawings showing intermediate changes other than the appearance before and after the change are omitted.



[Drawing 1]



[Drawing 2]

Name of Article: Display panel with screen design displayed

<Example 4>

[Accepted]

The example below represents the background screen of a smartphone, and as the dynamic change pattern where the background image gradually moves upward and fills the screen can be clearly grasped, the entire design can be recognized as one design.



[Drawing 1]



[Drawing 2]



[Drawing 3]



[Drawing 4]

(d) For dynamic screen designs where reference drawings are submitted in video file format, the following points are considered for judgment.

① Drawings other than reference drawings submitted in video file format cannot be accepted (refer to Form No. 3 of the Design Protection Act Enforcement Rules).

② If the design cannot be specifically grasped through the video file submitted as a reference drawing, but the dynamic change state of the design can be sufficiently grasped through other drawings, it can be accepted.

③ If drawings in static state and drawings showing the motion state (basic posture during motion, trajectories indicating motion content, etc.) are not submitted in addition to the video file submitted as a reference drawing, or if an explanation about the motion state is necessary in the "Description of the Design" section but is not provided, it cannot be accepted.

3 Similarity Assessment

3.1 Assessment of Article Similarity

3.1.1 The assessment of article similarity follows the general criteria for article assessment, and considers the similarity of articles on which the screen is displayed. In this case, distinctions such as "website", "software program", "application" do not affect the assessment of article similarity.

(1) Even in cases of dissimilar articles, those that can be used interchangeably due to the characteristics of the screen design expressed on a part of the article can be considered similar articles.

<Example 1>

[Similar]

In the case of "cold/hot water dispenser with displayed image design" and "water purifier with displayed screen design" for cold/hot water operation, although cold/hot water dispenser and water purifier are dissimilar, they can be considered similar articles as they can be used interchangeably.

<Example 2>

[Similar]

In the case of "display panel with displayed screen design" and "display screen with displayed screen design" showing weather function, although display panel and display screen are dissimilar articles, they can be considered similar articles as they can be used interchangeably.

(2) Even if the uses are different, the similarity of articles can be assessed considering specific functions, in which case the application form and attached drawings are referred to.

<Example 3>

[Similar]

"Screen design expressed on a part of an article for map search" and "screen design expressed on a part of an article for document editing" have different uses, but if the form displayed on the screen display part and the functions they perform are similar, they can be considered identical or similar articles.

3.2 Assessment Criteria for Design Similarity

3.2.1 For screen designs expressed on a part of an article, standard symbols, pictograms, icons, figures, etc. commonly used in related industries or specific operating systems are considered to have a narrow scope of similarity, while expressions different from existing ones are considered to have a wide scope of similarity.

3.2.2 In cases of initial or novel expressions and compositions different from existing ones, a wide scope of similarity is considered.

3.2.3 The assessment is made comprehensively considering the following elements based on the ordinary knowledge in the field to which the design belongs:

(1) The shape of the article and display part on which the screen design expressed on a part of the article is applied

(2) The specific function of the part of the screen design expressed on a part of the article for which design registration is sought

(3) The shape, color, or combination thereof of the part of the screen design expressed on a part of the article for which design registration is sought

(4) The position, size, range, and arrangement of the part for which design registration is sought within the display part of the article

(5) Parts not intended for registration as screen design can also be considered in understanding the specific use, function, position, and range of the part intended for registration in the overall form.

3.2.4 When assessing the similarity between screen designs expressed on parts of articles, the following points are comprehensively considered:

(1) The similarity of designs is assessed by comprehensively considering the visual expressions such as the basic pattern, color, arrangement, and composition that form the shape.

(2) If color or secondary visual expressions affect the aesthetic impression, they can be considered in assessing similarity.

(3) Differences in aesthetic impression due to the position, size, and range of the part intended for registration can be considered in similarity assessment, but if the position

and size of the part intended for registration can be freely moved or scaled during use due to the characteristics of the article, it is not considered to have a significant impact on the aesthetic impression.

(4) When publicly known designs are combined to form all or part of the design elements, the difference in overall aesthetic impression is considered important.

3.2.5 When assessing the similarity between static screen designs and dynamic screen designs expressed on parts of articles, the following points are considered:

(1) In principle, dynamic screen designs and static screen designs are dissimilar. However, if a part of the changing design in a static state is identical or similar to the static screen design, and that static part dominates the aesthetic impression of the whole and the uniqueness of change is minimal, both designs can be considered similar.

(2) If the shape of a part of the dynamic screen design in a static state does not dominate the aesthetic impression of the whole, and there is a special aesthetic impression in the overall shape change and dynamics, it is considered dissimilar to the static screen design.

3.2.6 Assessment of similarity between dynamic screen designs expressed on parts of articles

(1) Between dynamic screen designs expressed on parts of articles, the similarity is assessed by comparing the static shape and dynamic changes as a whole.

(2) Differences in speed and interval that constitute dynamic changes in dynamic screen designs expressed on parts of articles are not considered in similarity assessment.

4 Creativity Assessment

4.1 Specific Assessment Methods for Creativity

4.1.1 For the application requirements, types of designs that can be easily created, assessment methods, and evidence presentation regarding the creativity of "screen designs expressed on parts of articles", refer to the "Creativity" section in Chapter 4, Part 2.

4.1.2 In screen designs expressed on parts of articles, 'easy to create' means a design that any designer with ordinary knowledge in the relevant field can easily create.

<Example 1>

[Denied]

As shown below, applying a publicly known wristwatch's "clock face design" as an "screen design expressed on a part of an article" is merely a commercial or functional modification that can be easily created by a designer with ordinary knowledge in the field, and thus cannot be registered as a design.



Name of article : Wristwatch

< Publicly known design >



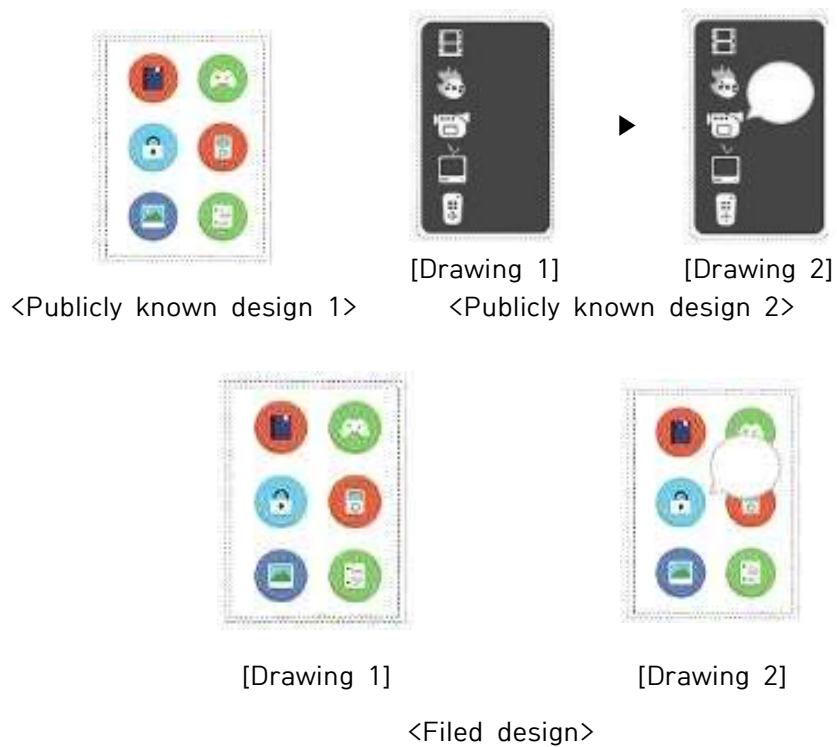
Name of article : Display panel with screen design

< Filed design >

<Example 2>

[Denied]

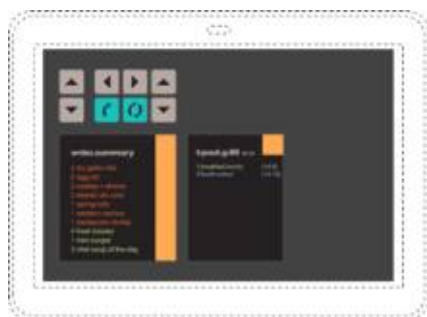
A design that merely expresses the before and after of a change using a common method based on the combination of publicly known shapes, patterns, and colors (Publicly known design 1 + Publicly known design 2) is considered easy to create.



<Example 3>

[Denied]

A "tablet PC with screen design" design that simply changes the position of part of the icon menu composition is considered easy to create.



< Publicly known design >



< Filed design >

<Example 4>

[Denied]

A "tablet PC with screen design" design that merely extends part of the music playback list of a publicly known design is considered easy to create.



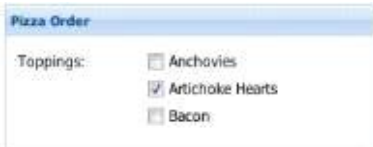
< Publicly known design >

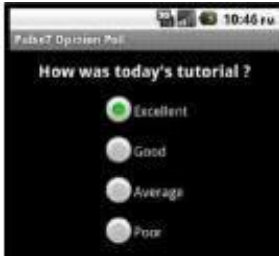
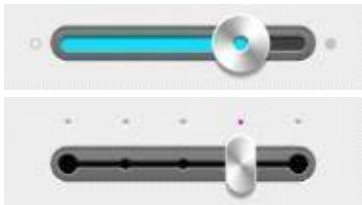


< Filed design >

[Examiner's Reference]

Components for implementing the function of screen designs expressed on parts of articles

No.	Type	Image	Description
1	Combo box		Used in computer/communication windows, a control that allows users to directly input information or select one item from listed items to input information
2	Drop down		When the title of the menu is clicked with the mouse, the menu unfolds downward from the corresponding position. When the mouse pointer is moved to an item in the menu, that item is highlighted, and when clicked, that item is selected
3	Check box		A small square used to allow users to select one or more desired items from multiple items. When the square is clicked, an X or V is checked to indicate that item is selected. Basically, the selection/deselection action is repeated each time it's clicked

4	Radio button		A selective setting button on the screen. When one button is selected, other buttons are automatically deselected
5	Text input field		Where users directly input text using the keyboard
6	Dial		A control for adjusting sound volume, etc., by mouse drag or click
7	Slider		A control for users to intuitively adjust amount, location, etc.
8	Progress bar		An indicator that shows the progress status for easy understanding by users

4.1.3 Types of Designs Easy to Create

(1) Designs easy to create by combining publicly known designs, etc.

(a) Replacing part of the design's components with another design

<Example 1>

[Denied]

A "mobile phone with screen design" that replaces part of a publicly known mobile phone main screen design (Publicly known design 1) with a publicly known screen design (Publicly known design 2) is considered easy to create.



<Publicly known
design 1>



<Publicly
design 2> known



< Filed design >

(b) Combining multiple designs to form a single design

<Example 2>

[Denied]

A "mobile phone with screen design" composed by simply combining publicly known individual icons is considered easy to create.



<Publicly known
design 1>



<Publicly known
design 2>



<Filed design>

(c) Expressing publicly known shapes, colors, or screens on other articles almost as they are

<Example 3>

[Denied]

A "game console with screen design" that displays a publicly known 'TV screen' on a 'game console' almost as it is, is considered easy to create.



< Publicly known design>



< Filed design>

(2) Based on well-known shapes, patterns, colors, or their combinations

(a) If an screen design expressed on a part of an article consists of well-known patterns or their combinations, such as standard pictograms or icons in the industry or specific operating systems, it is considered easy to create.

				
Lock	Search	Music	Heart	Home
				
Unlock	Internet	Shopping	Mail	Time
				
Volume	Speech bubble	Travel	Bookmark (favorites)	Select

(b) Color is considered as an assessment factor only when it forms a pattern, and single-color coloring is considered to have no effect on creativity assessment.

(c) When photographs of natural objects, famous works, famous structures, famous scenery, etc., are filed as screen designs expressed on parts of articles almost as they are, they are considered easy to create.

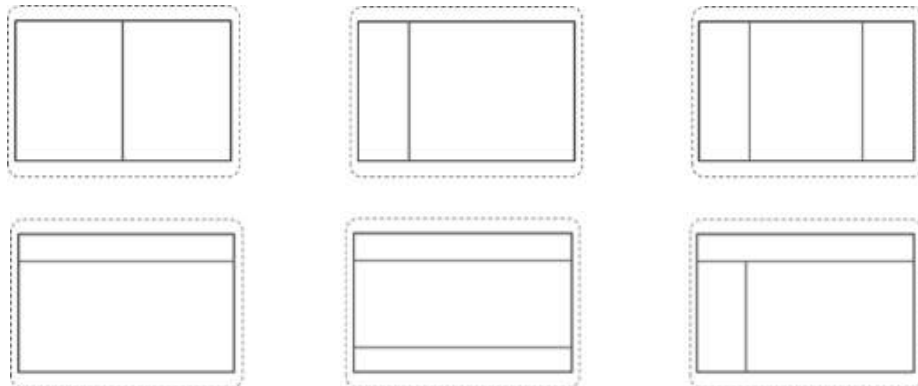
* Even for natural objects, famous works, etc., if the expression method is original or the extent of modification is large, it is not considered a well-known shape.

(d) Cases that merely divide frames in a general way

<Example 4>

[Denied]

The following common layout, frame division, and arrangement examples are considered easy to create.



(3) Creativity of publicly known designs combined with well-known patterns, etc.

<Example 5>

[Denied]

A case where a publicly known design is combined with a well-known rectangular shape and expressed as a "display panel with screen design" is also considered easy to create.



< Publicly known design >



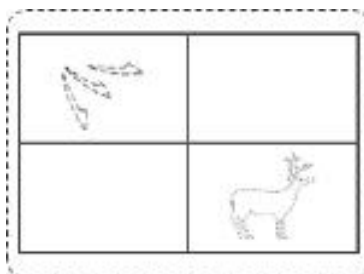
< Filed design >

4.1.4 In the case of screen designs expressed on parts of articles, the creativity is assessed considering the part intended for registration as a partial design (solid line part) within the display part, but if necessary, the function and purpose of the dotted line part can be comprehensively considered for assessment.

<Example 1>

[Denied]

If the part intended for registration as a partial design is merely a simple equal division of a well-known rectangle, creativity cannot be recognized.

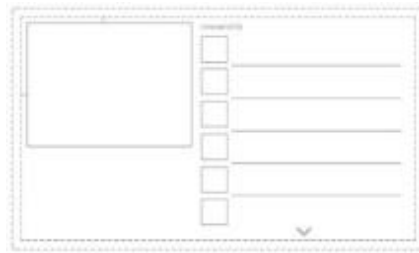


"Display panel with screen design"

<Example 2>

[Accepted]

Although well-known rectangles are arranged inside the display part, creativity can be recognized when considering the size change, composition, arrangement, etc. comprehensively.



"Display panel with screen design"

5 Subject Articles

5.1 Classification of Articles

5.1.1 The classification of articles and items is based on the Locarno Agreement and follows the "List of Design Articles by Class" announced by the Commissioner of the Korean Intellectual Property Office based on purpose and function, etc. Refer to "2. Design Articles" in Chapter 9, Part 2 for the general principles of article classification.

5.1.2 Screen designs expressed on parts of articles are classified as articles subject to examination or partial examination according to the article classification to which the article displaying the screen belongs.

5.2 Method of Stating Article Names

5.2.1 Designate and state one article from the "List of Design Articles by Class" announced by the Commissioner of the Korean Intellectual Property Office according to the Locarno Agreement, and follow the general method of stating article names referring to "3. Method of Stating Article Names" in Chapter 9, Part 2.

5.2.2 Specify the article displaying the screen and state it as shown in the examples below.

< Example 1 >

[Accepted]

When stating the name of a 'finished product' displaying the screen: "Portable terminal with screen design", "Computer monitor with screen design", "Air purifier with screen design", etc. can be accepted.

<Example 2>

[Accepted]

When stating the name of a 'part' displaying the screen: "Display panel with screen design", "Display screen with screen design", "Display panel with icon", "Display panel with graphic user interface", etc. can be accepted.

5.2.3 Examples of incorrectly stating article names

(1) When the display part itself is stated as the name or when a specific article is not designated

< Example 1 >

[Denied]

"Display with screen design", "Home appliance with screen design", etc. cannot be accepted as they do not specify a concrete article. However, names listed in the "Notification of List of Design Articles by Class" can be accepted.

(2) When the article displaying the screen design is not specified

<Example 2>

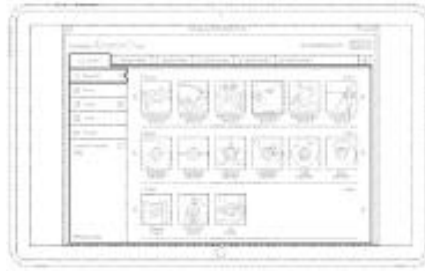
Names of objects without article properties such as "Graphic user interface", "Application design", "Character", etc. cannot be accepted.

(3) When the article name and the article expressed in the design drawing are different

<Example 3>

[Denied]

When the article name is stated as "Display panel with screen design" but the design drawing shows the shape of a "Tablet PC", resulting in inconsistency between the name of article and the drawing, it cannot be accepted.



[Drawing 1]

Name of article : Display panel with screen design

6 Principle of One Design per Design Registration Application

6.1 One Design per Design Registration Application

6.1.1 "One design" means one shape for one article.

6.1.2 For general application requirements and assessment methods of one design per design registration application, refer to the "One Design per Design Registration Application" section in Chapter 10, Part 2.

6.2 Cases Recognized as One Design per Design Registration Application

6.2.1 If displayed within one display part, it is considered one design regardless of the functional or formal unity of each component.

< Example 1>

[Accepted]

A "Tablet PC with screen design" where buttons for music playback, such as play, stop, fast forward, volume control, etc., are arranged in one display part can be recognized as one design.



[Drawing 1]

Name of Article : Tablet PC with screen design

< Example 2>

[Accepted]

Even if the figures composing the screen design are physically separated, if they have overall unity as one icon, formal unity can be recognized and accepted as one design.



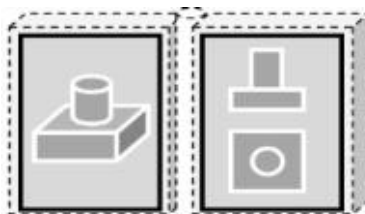
[Drawing 1]

Name of article : Display panel with screen design

< Example 3>

[Accepted]

Even if the screen is divided left and right, if formal and functional relevance is recognized between the screens, it can be accepted as one design.



[Drawing 1]

Name of article : Smartphone with screen design

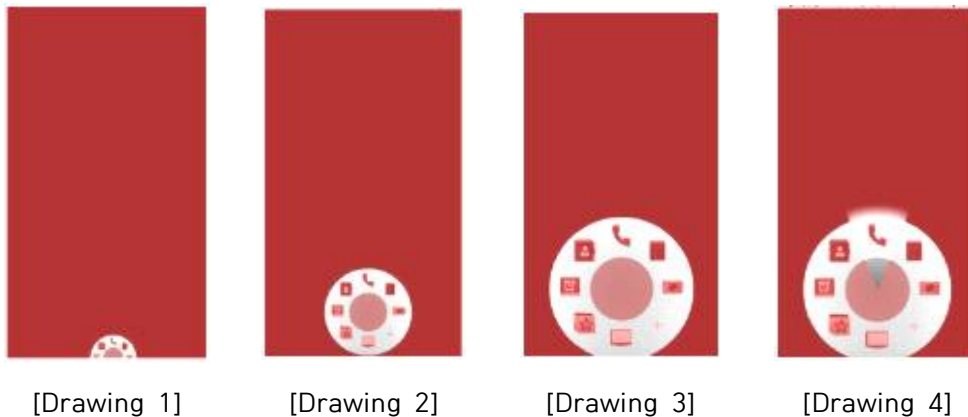
6.2.2 In the case of dynamic screen designs expressed on parts of articles

(1) If there is formal relevance and consistency of change between designs expressed in multiple drawings, it is recognized as one design.

< Example 1 >

[Accepted]

The example below shows a dynamic screen design expressing the state of change where the circular menu button at the bottom gradually enlarges and rises, and some menus (e.g., call function) are activated. In this case, as there is consistency of change and formal relevance between the designs, it can be recognized as one design.



< Example 2 >

[Accepted]

The example below expresses a series of dynamic change processes of capturing a receipt by photographing and then correcting the image distortion. In this case, as there is consistency of change and formal relevance between the designs, it can be recognized as one design.



[Drawing 1]



[Drawing 2]



[Drawing 3]



[Drawing 4]

< Example 3>

[Accepted]

The example below is a dynamic screen design expressing the operating state of a 'financial application'. It expresses a series of processes where a user logs in and uses detailed services, and as it has consistency of change and formal relevance, it can be recognized as one design.



[Drawing 1]



[Drawing 2]

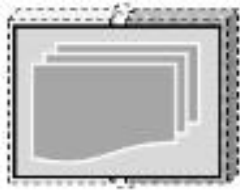


[Drawing 3]

< Example 4>

[Accepted]

The following expresses a screen design displayed on a foldable mobile phone (e.g., foldable smartphone) with one large display on the inside and one small display on the outside. If the dynamic design is expressed as follows, where the screen design displayed on the inner display naturally moves to the outer display when the user folds the phone in half, it can be recognized as one design considering the formal relevance and functional unity.



[Drawing 1]



[Drawing 2]



[Drawing 3]

7 Designs that Cannot be Registered

7.1 Assessment of Designs that Cannot be Registered

7.1.1 Designs falling under any of the following are judged as unregistrable designs despite Article 33 of the Act, and specific assessment follows the examination criteria for general articles.

(1) Designs identical or similar to national flags, national emblems, military flags, decorations, medals, badges, or other emblems of public institutions, or to flags, national emblems, or characters or emblems of international organizations of foreign countries, or designs including these as part of their components, are subject to Article 34 (Unregistrable Designs) Paragraph 1 of the Act.

(2) Designs whose meaning or content, etc., go against general moral concepts of good customs or are likely to harm public order are subject to Article 34 (Unregistrable Designs) Paragraph 2 of the Act.

(3) Designs likely to cause confusion with articles related to another person's business are subject to Article 34 (Unregistrable Designs) Paragraph 3 of the Act.

8 Priority Claim under the Treaty

8.1 The specific assessment of requirements for priority claims under the treaty, claim methods, and procedures for notifying denial, etc., follows the examination criteria for general articles.

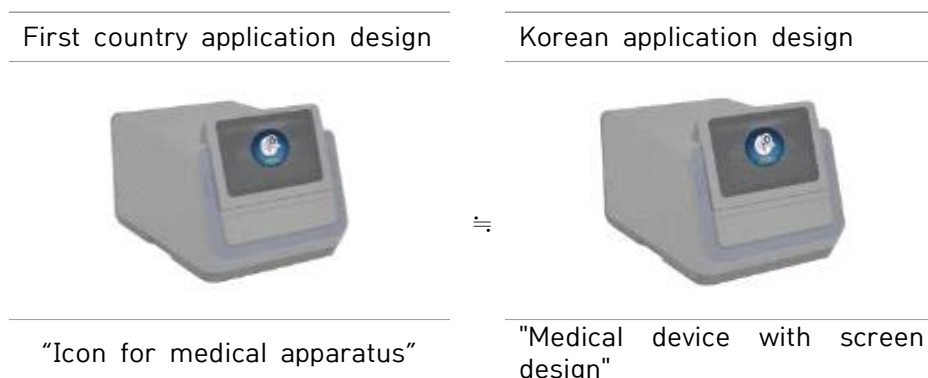
8.2 Assessment Method for Article Identity

8.2.1 Even if the article name of the initial application design differs from that of the design application in Korea, the identity of the article can be recognized if the use and function of the article to which the application design is applied are substantially identical, considering comprehensively the content of the priority certificate, drawings, etc.

< Example 1 >

[Accepted]

If the article name in the first country application is written as "Icon for medical apparatus" and the drawing shows a medical device including an operation part composed of multiple icons as a partial design of the article, while in Korea it is filed as a partial design with the article name "Medical device with screen design" and appropriately specifies the icon part intended for registration as a partial design, the identity of the article can be recognized.



<Example 2>

If in the first country application, the name of article is "Graphical user interfaces", the article class is "Class 14", and all drawings are shown as whole designs with solid lines, while in Korea it is filed as a partial design with the article name "Display panel with screen design", the identity of the article can be recognized.

First country application design
(EU)



"Graphical user interfaces"

Korean application design



"Display panel with screen
design"

* When filing in Korea, if it is appropriately expressed in the application form and attached drawings that the graphic user interface design filed in the first country is used for device operation or function performance, it can also be filed as an 'image for information display'.

8.3 Assessment Method for Design Identity

8.3.1 Regardless of the form of application or the method of expressing the design, if a design substantially identical to the design filed in Korea is included among the designs expressed in the priority certificate, the designs are considered identical.

8.3.2 Whether the design filed in Korea is expressed in the priority certificate is judged comprehensively considering the entire content of the priority certificate and the system of the country where it was initially filed, based on the level of ordinary knowledge in the field to which the design belongs.

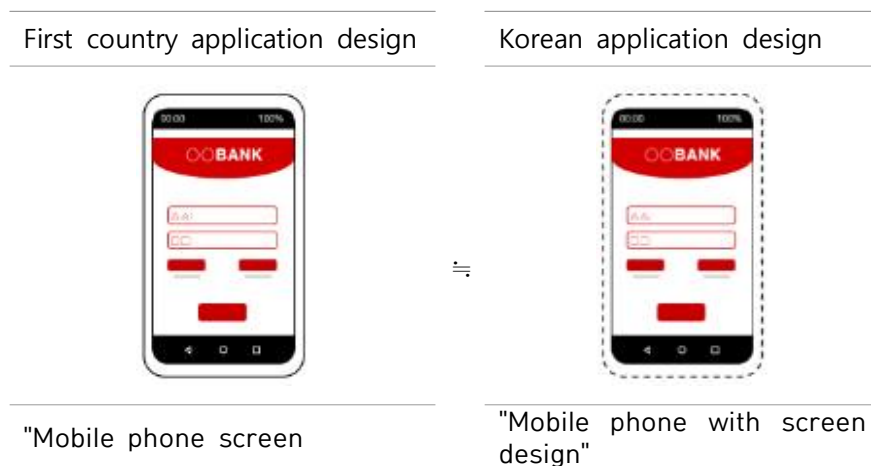
8.3.3 In principle, design identity is not recognized when the design in the priority certificate is filed as a whole design in the first country but filed as a partial design in Korea. However, if the first country does not have a partial design system, the

identity of the design is judged comprehensively considering the substantial identity of the part intended for registration, article name, design description, article classification, etc.

< Example 1 >

[Accepted]

If the first country does not have a partial design system and the priority certificate states the article name as "Mobile phone screen" with all drawings shown in solid lines, while in Korea it is filed with the article name "Mobile phone with screen design" and the drawings as a partial design, the identity of the design can be recognized.



8.3.4 Even if the design intended for registration in Korea is expressed only in drawings corresponding to reference drawings (e.g., reference, embodiment, appendix, etc.) among the drawings included in the priority certificate.

[Examiner's Reference]

Countries that do not recognize applications for partial designs (as of December 2022)

☐ New Zealand, Romania, Malaysia, Bulgaria, Vietnam, Brazil, Slovenia, Slovakia, Armenia, Estonia, Ukraine, Kyrgyzstan, etc.