

## **“The Industrial Property Rights System in Japan”**

### **Chapter 4. The Design System in Japan**

#### **Requirements for Registrability**

A set of prescribed requirements must be fulfilled in order to obtain a design registration.

##### **Industrially applicable**

First, it must be possible for the design to be utilized industrially and mass-produced.

##### **Novelty**

The design must not be identical with or similar to part of a design described in the statement of another application filed prior to the filing of the application for design registration, nor publicly known in Japan or abroad.

Similarly, prior to filing, there should have been no publications containing the design or digital information about the design on the Internet.

If the created design has been publicly announced before applying for design registration, through publication in a catalog, for example, the design is basically regarded as lacking “novelty”.

“Similarity of design” is determined by comparing the article’s shape, utilization, function, and so on, with those of others.

##### **Creativity**

Granting a right to a design that can be easily created may not contribute to the development of industry, even if it has novelty. For this reason, an ornamental motif on a substantial structure such as Tokyo Skytree, for example, does not satisfy the requirements since it’s considered that anyone could easily think of creating such a design.

##### **Does not contravene public order or morality**

In addition, designs that contravene public order or morality, or that include the Japanese national flag or Imperial chrysanthemum crest, will not obtain design registration.

## Prior application

Where two or more applications for design registration have been filed for identical or similar designs on different dates, only the applicant who filed the application for design registration first will be entitled to obtain registration of a design.

## One application per design

It is necessary to file an application for each design; you cannot apply for the registration of more than one design in one application. Moreover, a design registration is made for each article, so separate applications are required for different articles.

In the same way as for patent and trademark rights, a design right can only be granted after an application document has been submitted to the Patent Office and a substantive examination has been carried out by an examiner.

With a view to accelerating the acquisition of design rights, some States implement the policy of not carrying out a substantive examination. A policy of examination has, however, been adopted to stabilize design rights in Japan, where frequent conflicts after registration hinder the development of industry.

The duration of a design right is 20 years from the date of its establishment registration.