

-In Corresponding to Revised Design Act 2019-

## Overview of Amendment Proposal for Examination Guidelines for Design

# Aiming for the examination guidelines

## easy to read and understand

-In Corresponding to Revised Design Act 2019-

It has been pointed out that the contents of the current examination guidelines for design are highly technical and demanding for applicants. With the Revision of the Design Act this time, the designs of buildings and interior have been newly added to the subject of protection, in order that the examination guidelines may be generally amended to make it easier to read and understand not only for the examiners but also for new users.

## Overview of Amendment Proposal for Examination Guidelines for Design

★ : Coming into force on April 1, 2020   ★ : To be determined (Coming into force on the date designated in the cabinet order within 2 years from the date of promulgation of the Revised Design Act (May 17, 2019))

### ★ Building Designs Added to the Subject of Protection (p.2)

Building designs under the Design Act / Design for single building / Design for a set of buildings  
/ Clear disclosure of designs (applications, drawings and the like)

Points to note in determination of similarity between buildings designs / Creative difficulty of the building designs



### ★ Interior Designs Added to the Subject of Protection (p.4)

Interior designs under the Design Act / Design for single interior / Clear disclosure of designs (applications, drawings and the like)

Points to note in determination of similarity between interior designs / Creative difficulty of interior designs



### ★ Expansion of Protection for GUI Designs (P.6)

Graphic image design under the Design Act and design including a graphic image on a screen as part of the articles / Design for single graphic image / Design for a set of graphic images

Clearly disclosure of designs (application forms, drawings and the like) / Points to note in determination of similarity between graphic image designs / Creative difficulty of graphic image designs

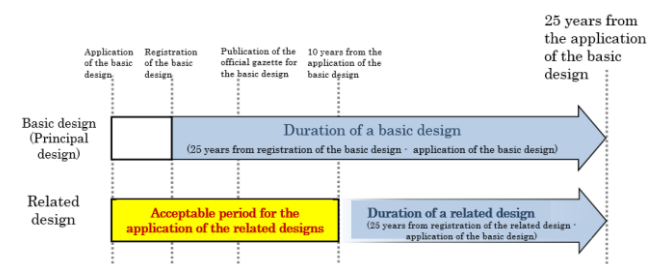


### ★ Expansion of Related Design System (p.8)

Registration of designs similar to the related designs / Extension of acceptable period for the application of the related designs / Handling of prior application forms and publicly known designs similar to the basic designs, etc.

### ★ Higher Standard of Creative Difficulty (p.10)

Materials as the basis for determination of the creative difficulty / Clarification and simplification of the design examination criteria

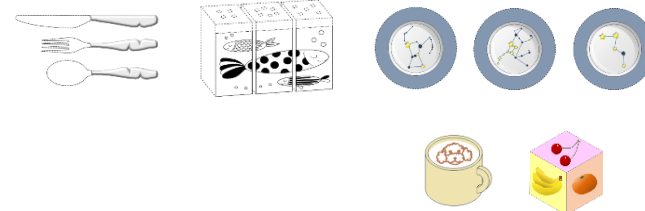


### ★ Expansion of the Design System for A Set of Articles (p.11)

Designs for a set of articles, buildings, and graphic images / Two or more articles used concurrently / Partial design for a set of articles / Integrity requirement for the design for a set of articles / Review of a set of articles that can be registered

### ★ Abolition of the Article Classification List (p.13)

Support after the abolition of the article classification list / Determination on clarity of usage and function / Creation policy of "Guidelines Similar to the article classification list"



### ★★ Other Issues Discussed (p.14)

Amendment of the design examination criteria in the expansion of remedial provisions / Approval or disapproval of the right of priority under the Paris Convention / Handling of designs on distributing and selling

# Overview of Amendment Proposal for Examination Guidelines for Design (Building designs added to the subject of protection) 1/2

## ■ Building Designs under the Design Act

Subject matter that meets all of the requirements (i) and (ii) as below

- (i) **Land fixture**
- (ii) **Artificial construction (including civil engineering construction)**

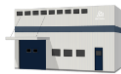
(Examples determined as the building under the Design Act)



Commercial building



Residence



Factory



Stadium



Bridge



Chimney

**Coming into force on April 1, 2020**

\*Land: It includes any landform such as flat surface and slope. It also includes bottom of water, such as seabed and lakebed.

\*Fixture: An object continuously fixed and used on the land, and also cannot be moved arbitrarily.

\*Construction: The definition has a broader meaning than the term used in the Building Standards Act and refers to the objects that are constructed, which include the civil engineering construction. For those constructions whose internal configurations are visible under the normal conditions of use, the internal configurations are also included.

## ■ One Application Per One Building Design

- In the case where multiple constituents are presented, if all of them are essential from generally accepted perspective to perform single specific usage and function, they are determined as single building design.
- The buildings whose shapes, etc. change based on single usage are handled as single changing building.

## ■ Design for A Set of Buildings (those that meet all of the requirements below)

- (i) Two or more of articles, buildings, or graphic images used concurrently from generally accepted perspective, (ii) Statement in the column of the “article to the design” are stipulated under the Ordinance of the Ministry of Economy, Trade and Industry, and (iii) the set of articles has a unity as a whole.

## ■ Clear Disclosure of Designs (applications, drawings and the like)

- **Article to the design:** Statement must be clarified for the specific use of the building.

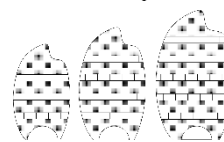
Examples) residence, office, laboratory, factory, hotel, department store, restaurant, hospital, museum, library, theater, station, shrine, temple and bridge, etc.

\* Buildings with multiple uses, such as the large-scale facilities with tenants from various categories of businesses, should be described as the “Complex building”.

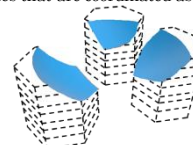
Specific usage should be described in the column of the “description of the article to the design”.

- **Drawings and the like:** Statement must be in accordance with the Ordinance for Enforcement of the current Design Act as well as the examination guidelines for design.
  - Indication of drawings: [East side Front view], [west side Front view], [south side Front view], [north side Front view], and [roof plan], etc. used for the architectural drawings are also accepted.
  - In requesting the design registration for the inside of a building, if the applicant determined that the position, size, and scope of the relevant part are ordinary, the exterior of the building does not have to be disclosed.

(Examples of a set of articles that are coordinated as a whole)



An office building with a common formative design for all buildings



An office building spherically hollowed out across the 3 buildings

## ■ Points to Note in Determination of Similarity between Designs of Buildings

★ Added the points in light of the nature of the buildings based on the concept of the current Examination Guidelines for Design.

- **Determining entity:** customers (including traders)
- **Determination of similarity in usage and function:** Examining whether there are any common points in the usage and function for the two designs that are being compared based on the usage purpose, usage state, etc..

Example 1) “Residence”, “Hospital”, “Restaurant”, and “Office” are all similar in usage and function in that people go inside and spend some time there.

Example 2) “Residence” meaning a design of a building and “Prefabricated house” meaning a design of an article are similar in the usage and function in that they are the buildings where people reside.

Example 3) The design as the part for which the design registration is requested with respect to the building design “residence”, and the interior design “interior of the living room of a residence” for its living room, are similar in the usage and function.

\* If there are any common points in the usage and function even between a building design and an interior design, it is determined that both designs are similar in usage and function.

- **Method of observation:** As most building designs are much larger than the human body in size, in observing a design for the purpose of determination of similarity, observation should be made comprehensively from multiple perspectives depending on the features of the building without limiting to single perspective, such as to observe the details from a perspective closer to a part of the building based on the observation with the naked eye from the ground level,

Example 1) Building for shops: The decorations are only on the road side, on which observation should be focused.

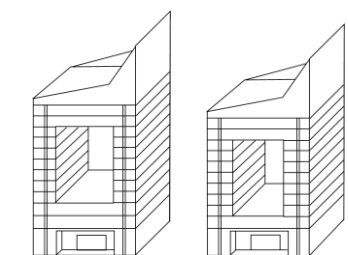
Example 2) Tower buildings such as a radio tower: These buildings are often built evenly in all four sides, so observation should be made evenly on each side.

# Overview of Amendment Proposal for Examination Guidelines for Design (Building designs added to the subject of protection) 2/2

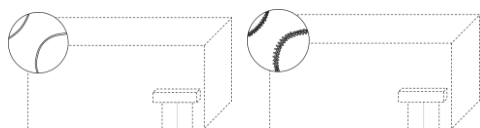
## ■ Novelty of building designs

### Case example of similar buildings

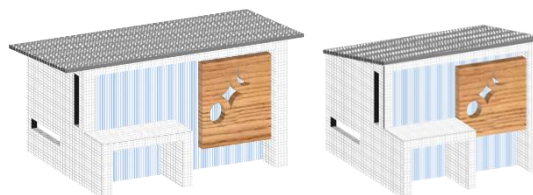
(Examples of buildings that are similar in shape and identical in the usage and function)



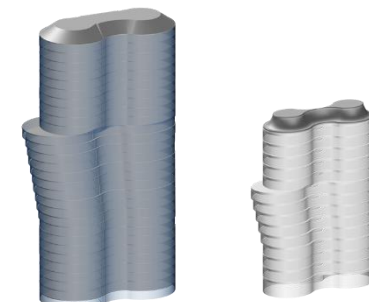
Publicly known design  
"Residence"      Design in application  
"Residence"



Publicly known design  
"Sales outlet"      Application design  
"Sales outlet"



Publicly known design  
"Residence"      Application design  
"Residence"



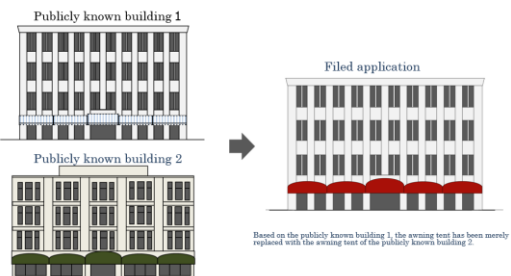
Publicly known design  
"Hotel"      Application design  
"Hotel"

Coming into force on April 1, 2020

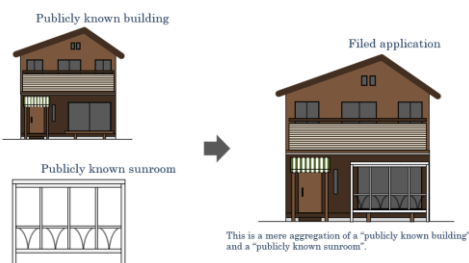
## ■ Creative difficulty of building designs

Added the criteria in light of the nature of buildings based on the examination criteria in the creative difficulty of an "article" in accordance with the Revised Design Act.

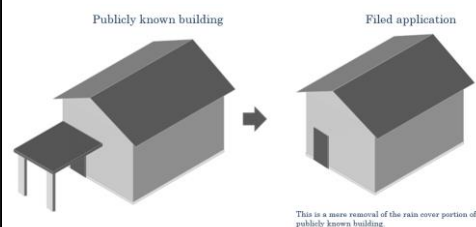
### Replacement



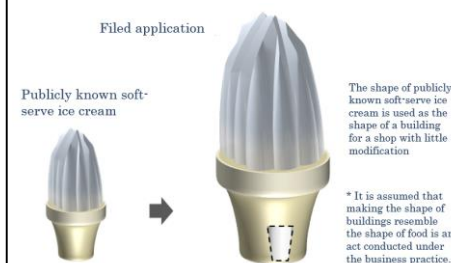
### Aggregation



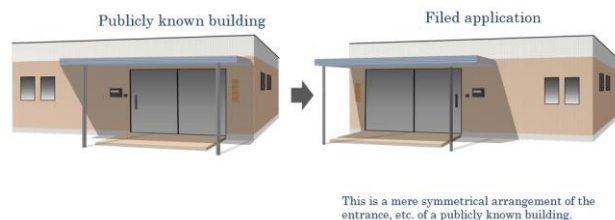
### Mere removal of some components



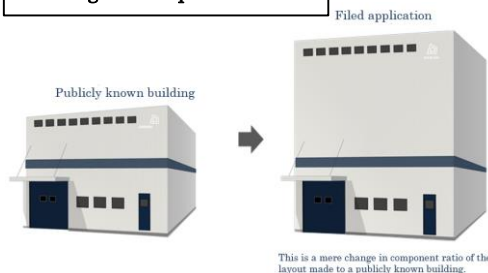
### Usage and diversion of a component beyond the scope of articles, etc.



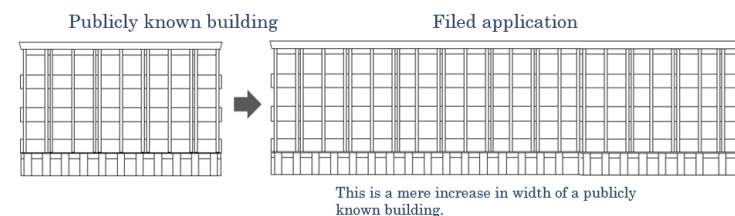
### Change of layout



### Change of component ratio



### Increase or decrease of the number of units of a continuous constituent element



# Overview of Amendment Proposal for Examination Guidelines for Design (interior designs added to the subject of protection) 1/2

Coming into force on April 1, 2020

## ■ Interior Designs under the Design Act (all of the requirements 1-3 below must be met)

### 1. Subject matter is required to be the inside of shops, offices, or other facilities

#### 1-1. Subject matter is required to be shops, offices, or other facilities

If the subject matter is designed for people to spend some time therein, it is determined as the “shops, offices, or other facilities”. Movables are included as well. Examples) Shops, offices, accommodation facilities, medical facilities, entertainment facilities, residences, passenger ships, and railroad cars.

#### 1-2. Subject matter is required to be the inside of the facilities

The subject matter must correspond mainly to the inside of a facility. However, considering the case where the interior is created so that the inside and outside the facility is connected, the accompanying exterior part connected to the inside of the facility through an opening part can be included.

This excludes the scope where the users of the relevant facility will not recognize by the naked eye under the normal conditions of use in light of the use of the facility, such as when they only enter inside for the purpose of maintenance: Example) Above the ceiling, back of the wall, inside the gas tank, etc.

### 2. Subject matter is required to consist of multiple articles, buildings, or graphic images under the Design Act

#### 2-1. Subject matter is required to consist of the articles, buildings, or graphic images under the Design Act: Inadequate examples: Living things such as human beings, dogs, and cats, Things with indefinite shapes such as vapor and fume, Odor, Sound, Natural terrain itself, etc.

• Handling of natural material: A shape-retaining object that uses natural material for decorating wall surfaces, ceilings and the like are handled as constituent elements of the interior design.

• Handling of illuminations: In the case where the patterns or colors appear on the interior itself as the lighting apparatuses are lit, the relevant colors or patterns are also handled as an constituent element that configures the filed design.

#### 2-2. Subject matter is required to be constituted by multiple articles, etc.

Article 8(2) of the revised Design Act : As an exception of one application per article, etc., the subject matter that is eligible for being registered as single design with respect to the interior constituted of multiple articles, etc..

Subject matter not constituted of multiple articles, etc. cannot be registered as an interior design (if constituted of single design: it may be registered as a partial design for the inside of a building).

### 3. Subject matter is required to consistently create an aesthetic impression as the entire interior

• If the subject matter creates single cohesive aesthetic impression for the design as a whole, it is determined that the above requirement is met. (if this requirement is met, whether consistent configuration of each constituent article, etc. is displayed thoroughly will not be questioned.)

• In the case where a part of the interior is requested for the design registration, it is determined whether the part for which the design registration is required meet this requirement.

## ■ One Application Per One Interior Design ★Single application can only include an interior space for single facility.

- Even inside single facility, if there are multiple spaces shown on the drawing, the examiner will, in principle, examine it from the perspective if it is physically the same single space or not. And if it is, it will be determined as design for single interior even if multiple spaces with different uses are included (if it is not, it will be determined that it is an application that includes two or more interior designs).

However, the above case will not apply even where two or more spaces are included, if there are common points in the use of such spaces and it is also recognized from a configurational perspective that they have been created integrally.

- Designs where each constituent article is positioned differently will be handled as different and independent designs created (if multiple interior designs that have different layout of constituent articles respectively are presented, it will be determined that the application includes two or more interior designs).

## ■ Clear Disclosure of Designs (applications, drawings, feature statement)

- **Column of the article to the design**: Statement must clarify the specific use of the interior. Example) Interior of a coffee shop, interior of an office, interior of a car showroom, interior of an operating room, interior of an airport terminal lobby, interior of a tourist train, etc.

\* With respect to the interior that includes multiple uses, such as the coffee shop attached to an office space, the principle use should be described in the column of the “article to the design”, and the rest of the uses should be described in the column of the “description of the article to the design”.

- **Drawings and the like**: Disclosure by various drawing methods is allowed within the scope that only the internal configuration needs to be disclosed and it does not affect to specify the design. It is necessary to indicate at least one among floor, wall, and ceiling.

- **Feature statement**: Submission is suggested. Because the cases where it is difficult to fully express the points of creation intended by the applicant merely by the application forms, drawings, etc. are anticipated.

## ■ Points to Note in Determination of Similarity between Designs of Interiors ★Added the points in light of the nature of the interior based on the concept of the current Examination Guidelines for Design

- **Determining entity**: customers (including parties with business)

- **Determination of similarity in usage and function**: Discussing whether there are any common points in the usage and function of the two designs based on the usage purpose and usage state, etc. Example) “Interior of a bedroom for residence” and “interior of a hotel guest room” are similar in usage and function where people go inside and spend some time.

- **Method of observation**: Interior designs are required to have the sizes which people can enter into and constituted of multiple articles, etc. Accordingly, the observation should be made comprehensively from multiple perspectives depending on the features of the interior without limiting to single method of observation, based on the observation with the naked eye under the normal use mode,

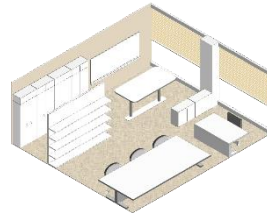


# Overview of Amendment Proposal for Examination Guidelines for Design (interior designs added to the subject of protection) 2/2

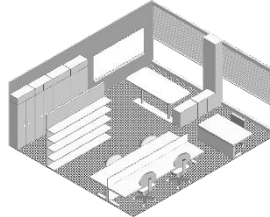
## ■ Novelty of interior designs

### Examples of similar interior designs

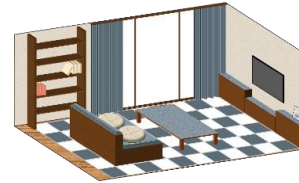
(Examples that the shapes are similar and the usage and function are common)



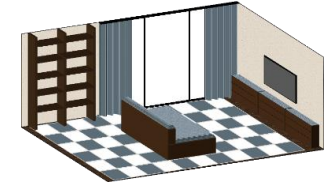
Publicly known design  
"Office"



Filed design  
"Interior of an office"



Publicly known design  
"Interior of K House"



Filed design  
"Interior of waiting room in the hospital"

Coming into force on April 1, 2020

### Examples of interior designs that are not similar

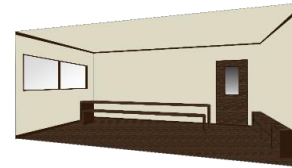
(Examples that the shapes are not similar but the usage and function are common)



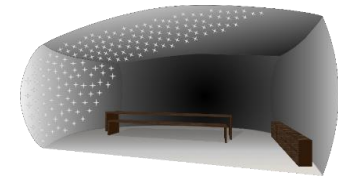
Publicly known design  
"Living room of D House"



Filed design  
"Interior of a Japanese restaurant"



Publicly known design  
"Western-style room"

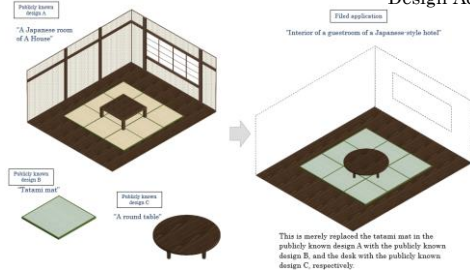


Filed design  
"Interior of an exhibition room"

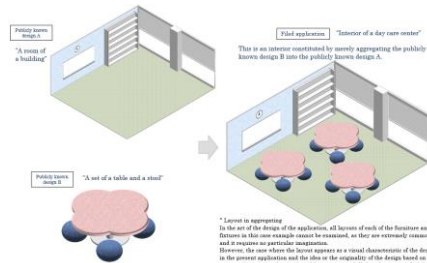
## ■ Creative difficulty of interior designs

★Added the points in light of the nature of the interior based on the examination guidelines in the creative difficulty of the "articles" in accordance with the Revised Design Act

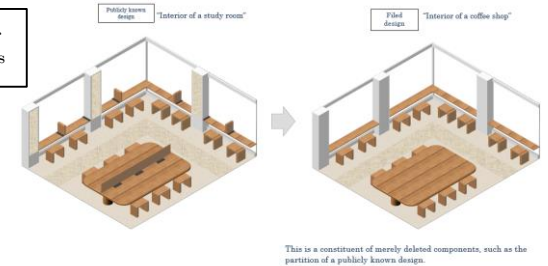
### Replacement



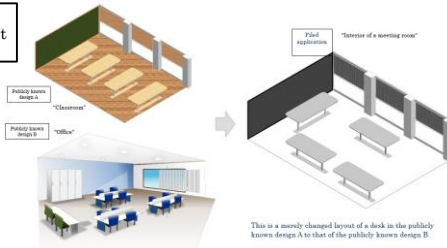
### Aggregation



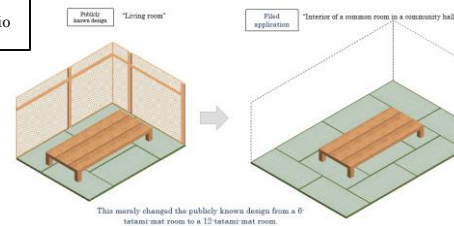
### Mere removal of some components



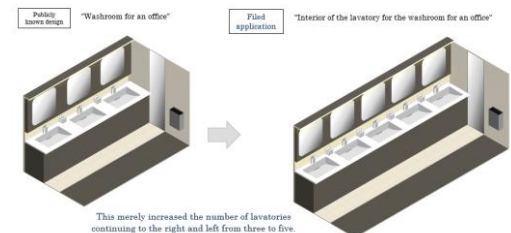
### Change of layout



### Change of component ratio



### The increase or decrease of the number of units of a continuous constituent element



Case example of usage and diversion of component beyond the scope of articles, etc.

Example 1: Subject matter representing an interior of a room that appear in a famous cartoon without any change  
Example 2: Subject matter representing a room interior of a famous toy house without any change

# Overview of Amendment Proposal for Examination Guidelines for Design

## (The expansion of graphic image designs subject to protection) 1/2

### ■ Graphic image designs under the Design Act, and the design including a graphic image on a screen as a part of article

Coming into force on April 1, 2020

There are broadly 2 ways to register a design including a graphic image on a screen as shown below in (1) and (2).

Both require that there is a creative unity as a single design.

#### (1) The way to obtain protection as a graphic image design (a graphic image itself, separated from the article)

It is required that the subject matter be used for operation of an equipment or be displayed as a result of the equipment performing its function.

- \* Subject matter which falls under both of the above also constitutes a design.
- \* It does not matter whether or not the data to display the relevant graphic image is installed into the article, or what kind of things the graphic image are displayed on.

<Examples of graphic image used for the operation of equipment>



“Graphic image for purchasing a product” (Graphic image on website)  
Graphic image for icon operation button (\* When it is also used as an operation button)

<Examples of graphic image displayed as a result of the equipment performing its function>



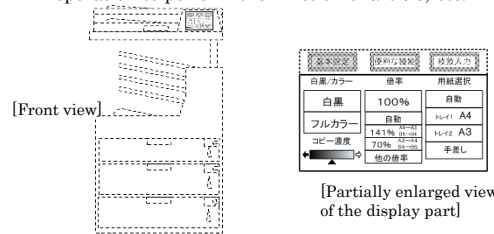
Graphic image for displaying the measurement results for medical purposes  
Graphic image for displaying time (\* Projected graphic image)

#### (2) The way to obtain protection as a design including a graphic image on a screen as a part of the article, which is displayed on the display part of the article

It is required that graphic image be used for the operation of equipment to perform the function of articles, etc. or provide a display necessary to serve the function of the articles, etc.

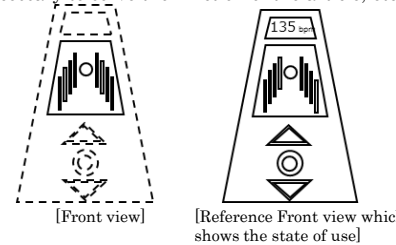
- \* Limited to the graphic images recorded on the articles, etc. and shown on the display part of the articles, etc.  
 (“graphic image displayed on the articles that is used with the relevant article in an integrated manner” is excluded.)
- \* Subject matter falls under both of the above also constitute a design.
- \* A part of a building also is subjected to protection.

<Examples of a graphic image that is used for the operation to perform the function of article, etc. >



“Copy machine”

<Examples of a graphic image which provides a display necessary to serve the function of the article, etc.>



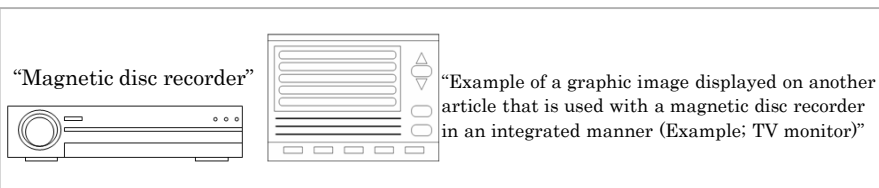
[Electric metronome]

#### \* Media Content

Media Content such as Graphic image of TV shows, graphic image of movies or games, and landscape photograph, etc. are not found to be designs under the Design Act.

- In case where a design is disclosed with content being displayed on the article in drawings etc. attached to the application, unless the presented content is against public order or morality or causes confusion with other person's business (the Design Act Article 5), its removal will not be requested, and it will be determined as an industrially applicable design with the indication of the content.
- The content displayed in the display part is determined not to constitute a design.
- In case where it is unclear whether or not it is displayed in the content-display part, it will be basically determined as a pattern which constitutes a design.

### ■ One application per a graphic image design ★ Below are additional descriptions which are different from the current operation based on the concept of the current Examination Guidelines for Design.



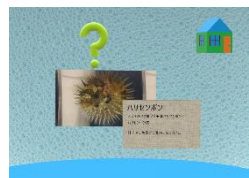
“Example of a graphic image displayed on another article that is used with a magnetic disc recorder in an integrated manner (Example: TV monitor)”

- Under the existing law: Protected as a single design  
(Existing Design Act Article 2(2) “Subject matter displayed on the article itself or another article used with it in an integrated manner is included.”)
- After enforcement of the Revised Act: it will be regarded as an application containing multiple designs such as “magnetic disc recorder” and “graphic image”  
→ In case where an applicant requests to file such a graphic image, the application should be made either for a graphic image itself or a design for a set of an article and a graphic image.

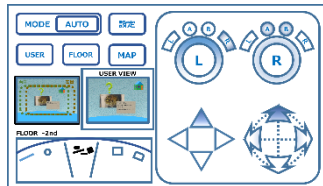
# Overview of Amendment Proposal for Examination Guidelines for Design (graphic image designs have become subject to the protection) 2/2

## ■ Design for A Set of Graphic Images

Design for a set of graphic images are allowed for not only “graphic image and another graphic image”, but also “graphic image and article”, “graphic image and building”, and “graphic image, article, and building” ( See some examples below).



Graphic image for displaying the information for virtual space

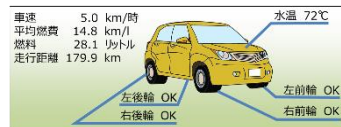


Graphic image for controlling the virtual reality software

“A set of graphic images”



Passenger car

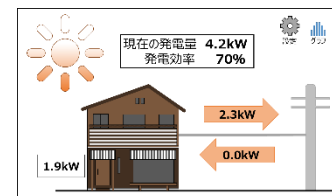


Graphic image for displaying the information for passenger car

“A set of transport apparatuses”



House with solar photovoltaic panels



Graphic image for displaying the power generation amount

“A set of buildings”

Coming into force on April 1, 2020

## ■ Clear Disclosure of Designs (application forms, drawings etc attaced to the application)

・Column for an article to the design : It must be stated as a graphic image for xxx (if the graphic image will be filed as a part of an article, the name of the article must be stated in a current manner)

Example) graphic images for displaying the information, graphic images for operating to view contents, graphic images for transactions, graphic images for learning, graphic images for setting sound volume, and graphic images for inputting numerical values

### ・Drawings, etc attaced to the application

For specifying graphic images that have three-dimensional depth, such as projection mapping, etc., using “xxx view of graphic image”, “Unfolded view of graphic image” and the like is allowed. Expressions of arrangements, etc. within the virtual spaces are allowed.

## ■ Points to be noted in Determination of Similarity between Graphic Image Designs

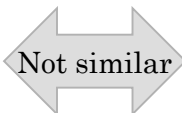
### ・Comparison of “design including a graphic image on a screen as a part of the article, etc.” and “graphic image design independent from the article”

→ Usages and functions of the “graphic image” and “graphic image + article” will be compared. That is, the similarity will be determined in consideration of the other functions of the article other than the function to display graphic image.

(Design including a graphic image on a screen as a part of the article)

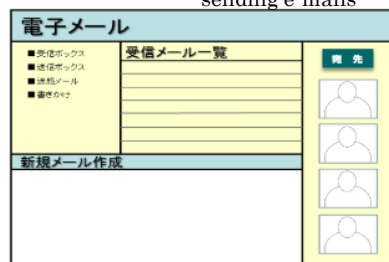


“Refrigerator”



Not similar

(Graphic image design)

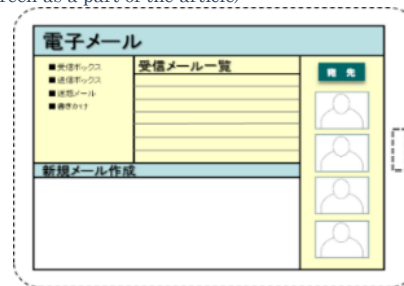


“Graphic images for sending e-mails”

(Usage and function) Refrigeration of foods and beverages + E-mail sending

(Usage and function) E-mail sending

(Design including a graphic image on a screen as a part of the article) “Handheld terminal”



(Usage and function) E-mail sending + Information processing



Similar

## ■ Creative Difficulty of Graphic Image Designs

Subject matter is determined according to the contents of the current Examination Guidelines for Design.

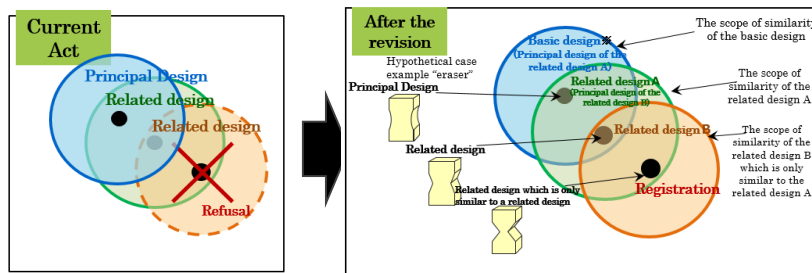
\* The basic information for the determination include a subject matter which “is described in the distributed publication” and “had been available to the public through telecommunication line” based on the Revised Design Act, 2019.



# Overview of Amendment Proposal for Examination Guidelines for Design (Expansion of Related Design System) 1/2

## ■ Registration of Designs Similar to the Related Designs

- A Single design initially selected as the principal design is called the “**basic design**”.
- The related designs of the basic design and the related designs of gradual change linked to the relevant related designs are called the “**related designs to the basic design**” (the Revised Design Act Article 10(7))



Coming into force on April 1, 2020

## ■ Extended Period for filing Related Designs

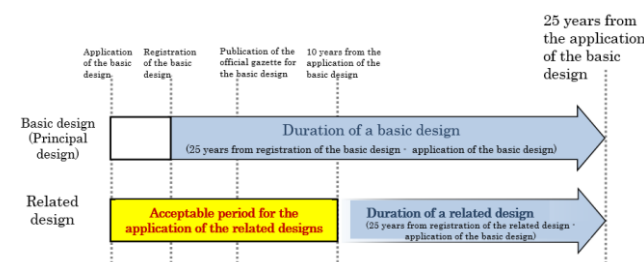
### • Period for filing related designs

From the filing date of the basic design to the day before 10 years have passed (the Revised Design Act Article 10(1))

### • Duration of a Related Design

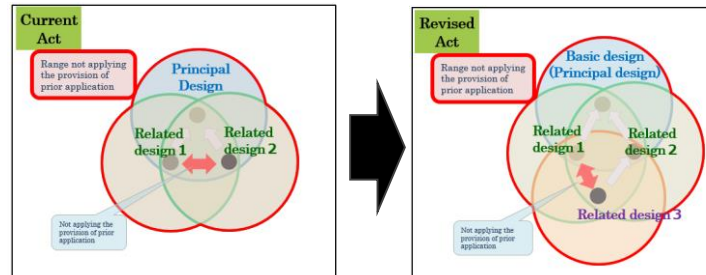
25 years from the filing date of the basic design (the Revised Design Act Article 21(2))

- \* Related designs cannot be registered, after the design right of the principal design has been extinguished and so on.
- \* Related designs cannot be registered if exclusive license regarding the principal design has been granted.



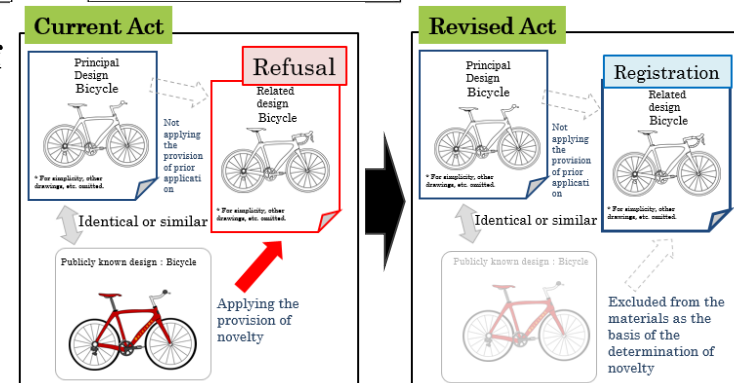
## ■ Handling of prior applications and publicly known designs similar to the basic designs, etc.

- The provisions of the prior application do not apply to the other Related Designs to the basic design. (the Revised Design Act Article 10(7))



- In case where the design is registered as a related design, publicly known designs that are identical or similar to the basic design or the related designs to the basic design, which are ones of “applicants' designs”, are excluded from the basic materials for determining the novelty or creative difficulty (the Revised Design Act Article 10(2), 10(8))

- \* An “applicants' design” means the design for which the applicant has the design right or the right to obtain the design registration.
- \* It is limited to the design which has become publicly known on or after the filing date of the basic design or the related design to the basic design.  
(The design which is subjected to the exceptions to lack of novelty based on Article 4 will be excluded from the citation of the novelty or creative difficulty.)



# Overview of Amendment Proposal for Examination Guidelines for Design (Expansion of related design system) 2/2

**In case where the publicly known designs are similar to certain designs such as extinguished related designs (\*) to the same basic design, the provisions of novelty and creative difficulty will be applied, even if they are similar to the related designs for which the rights are maintained.**

Coming into force on April 1, 2020

- \* (i) the design which extinguished due to the non-payment of the registration fee within the designated period  
(ii) the design for which a trial decision to have its design registration invalidated has become final and binding  
(iii) the design whose design right has been waived

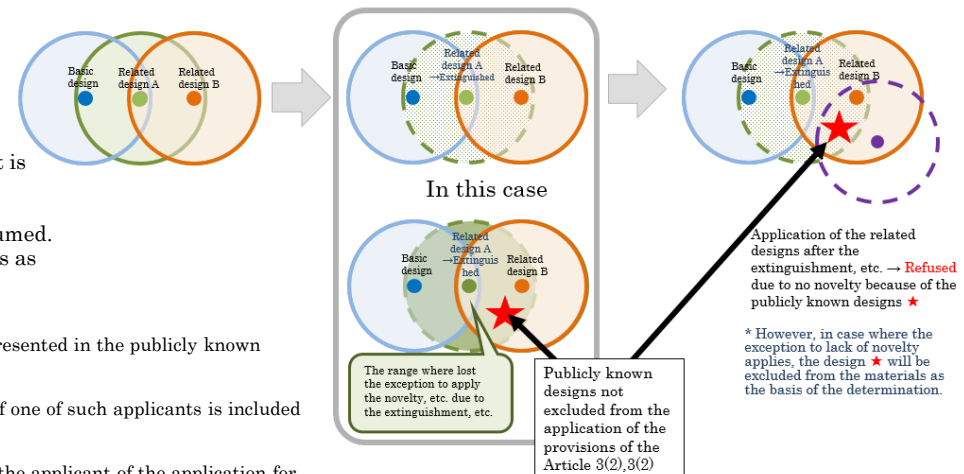
## **Considerations in determining “applicants’ design”**

**Publicly known design :** There are cases where the name of licensee is not clearly indicated, or where it is indicated in a mixed manner with names of manufacturer and distributor.

**Worked product:** There are cases where the information and vague statements are attached, such as trademarks, product numbers, and sales outlets, from which the manufacturer and the like can be assumed.

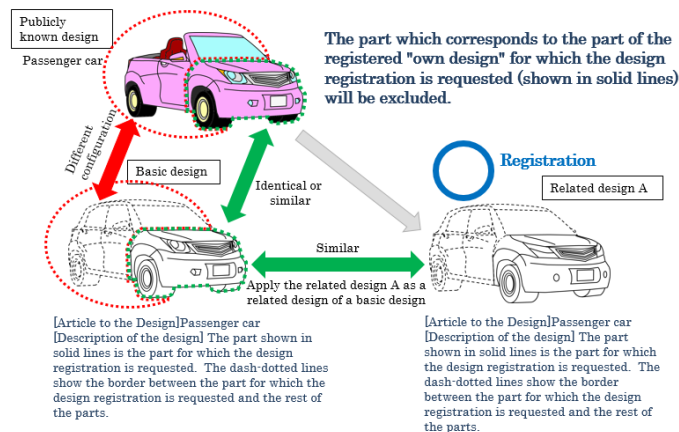
Based on the nature of these designs, examiners determine whether to exclude them from the materials as the basis of the requirements of novelty and creative difficulty, taking into consideration (i)-(iv) below.

- Handling of trademarks and marks presented in the publicly known designs  
In case where it is clear from the general knowledge of a person skilled in the art of the design that the marks, etc. presented in the publicly known designs are the marks, etc. of the applicant, it is handled as “applicants’ designs”.
- Handling of joint application, etc.  
In case where the application for design registration of a related design is a joint application by multiple applicants, if one of such applicants is included among the licensees of a publicly known design, it is handled as an “applicants’ design”.
- Handling of use by a licensee  
In case where it can be assumed that a publicly known design has been used under the license of a design right from the applicant of the application for design registration of a related design, it is handled as an “applicants’ design”.
- Handling of transfer of design right, modification of trademark, business succession and the like  
In case where there is a transfer of design right and the design right holder prior to the transfer, etc. is the same person with the discloser of publicly known design, or based on other statements related to the publicly known design, if it is clear that the business has been succeeded from the applicant of the application for design registration of a related design to the licensee of the relevant publicly known design, then it is handled as an “applicants’ design”.



## **In case where the basic design or the related design to the basic design is a partial design,**

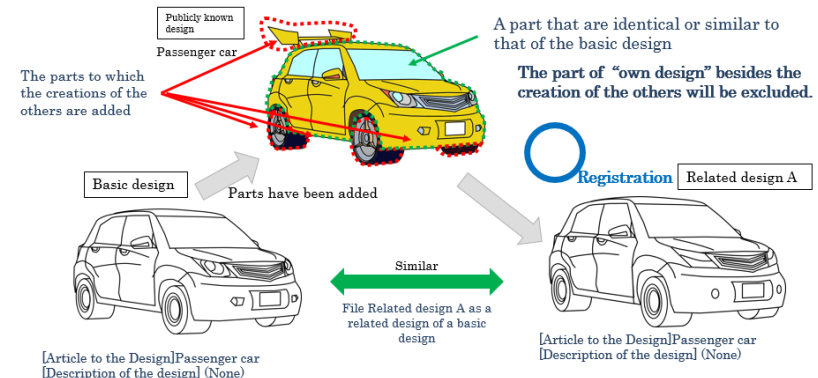
If the relevant part in the publicly known design is identical or similar to the basic design (applicants’ design), the relevant part in the publicly known design will be excluded from the materials as the basis of the requirements of novelty or creative difficulty.



## **Handling of publicly known design to which the own creation or the creation of others is added**

**Publicly known design:** There are subject matters that are disclosed as the designs of others, such as the one which users changed the appearance of after purchase.

In such cases, among the publicly known design, the parts that are identical or similar to the basic design (applicants’ design) besides the creations of others will be excluded from the materials as the basis of the requirements of novelty or creative difficulty.



# Overview of Amendment Proposal for Examination Guidelines for Design (Higher of standard of creative difficulty) 1/1

## Materials as the Basis of the Determination of Creative Difficulty

Coming into force on April 1, 2020



•In addition to the shapes, etc. “publicly known” in Japan and foreign countries prior to the filing of the application, the shapes, etc. and the graphic images that “described in a distributed publication” and “had been available to the public through telecommunication line” are added.

## Clarification and Simplification of Examination Guidelines for Design

As the chapter on creative difficulty in the current Examination Guidelines for Design primarily consist of interpretation of words and case examples of determination, it is suited as a dictionary to be referred to upon examination, but it is difficult to understand the directions of determination, straight to the point.

In addition, its contents have not been amended since the Guidelines were drawn up in 2002.


In light of the above, statements have been made on the summary of the requirements of creative difficulty, basic stance for determining, and the specific method (including case example) for determining, etc., and the specific determination criteria have been explicitly described according to the recent court precedents.





Publicly known design : stewpot

Publicly known design : stewpan

Case example of replacement




Filed design : stewpot





Publicly known design : cap

Publicly known design : patch

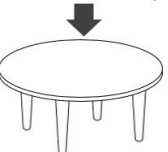


Filed design : cap





Publicly known design : table

Publicly known design : table




Filed design : table





Publicly known design : kitchen counter

Publicly known design : kitchen sink




Filed design : kitchen counter





Publicly known design : packaging container

Publicly known pattern





Filed design : packaging container



Publicly known design : trash can

Filed design : trash can



Case example of merely deleting of some components



Publicly known design : carton

Filed design : carton



Case example of change of component ratio



Publicly known design : rotating warning light


Filed design : rotating warning light

Case example of the increase or decrease of the number of units of a continuous constituent element





Publicly known design : pendant for key ring

Publicly known design : chain for key ring




Filed design : key ring

Case example of aggregation





Publicly known design : packaging container

Publicly known design : packaging container




Filed design : packaging container

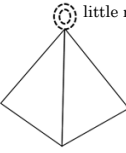
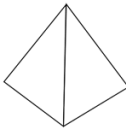


Publicly known design : loudspeaker

Publicly known design : loudspeaker





Filed design : loudspeaker



Known geometric configuration : regular tetrahedron

Filed design : accessory pendant



Example of a design based on a publicly known shape, etc.



natural object

Filed design : paperweight

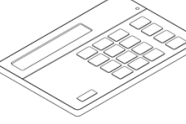

Example of a natural object (animal, plant, or mineral)



Publicly known design : passenger car

Filed design : toy car

Example of a toy car



Filed design : desktop computer

Filed design : chocolate

Example of a chocolate

# Overview of Amendment Proposal for Examination Guidelines for Design (Expansion of the system of design for a set of articles) 1/2

## ■ Design for A Set of Articles combining Articles, Buildings and/or GUI designs

- Not only the combination of article designs, the combination of building designs, and the combination of graphic image designs, but also the combination of different kinds of designs is allowed: Example) Designs of an article and an image, Designs of a building and a graphic image, etc.
- In the case of the combination of different kinds of designs, the following is indicated in the column of the "Article to the Design".

	Article	Building	Graphic Image
Article	A set of xxx (a main article is prioritized and selected from the Appended Table 2)		
Building	A set of buildings (building is prioritized)	A set of buildings	
Graphic Image	A set of xxx (an article is prioritized and selected from the Appended Table 2)	A set of buildings (building is prioritized)	A set of Graphic Images

\* "A set of buildings" is indicated in case of the design for a set of articles combining article, building and graphic image.

Example of the Design for a Set of Articles Consisting of an Article and a Graphic Image



[Perspective view]  
Passenger car



[Graphic Image]  
Graphic Image for displaying the information for passenger cars

"Article to the design"  
A set of transport apparatuses

"Description of Article to the Design"  
The graphic Image shown in the [Graphic Image] is for displaying water temperature, tire pressure, etc. of the passenger car

## ■ Subject matter that these Articles, etc. should be used together

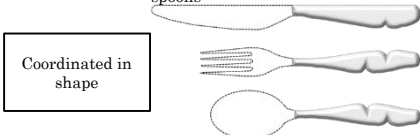
- It is not necessary for all the constituent articles to be actually used at the same time.
- In the case where each of the constituent articles, etc. will be used within the scope of a series of use in accordance with the usage and functions or the purpose of use, etc. of the design for a set of articles in the application, it is determined that this requirement is met.  
(It is also determined that the requirement is met, if each of the constituent articles, etc. to the design for a set of articles in the application is distributed in an integrated manner from a common sense perspective.)

## ■ Partial Design for a Set of Articles

It is necessary that all the constituent articles, etc. have the part for which the design registration is required and that the relevant parts are coordinated as a whole. The constituent articles are determined to be coordinated as a whole in the following examples:

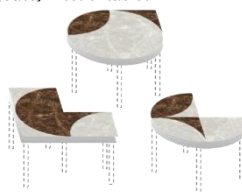
(1) Examples of the case where the shapes, patterns or colors or any combinations thereof of each of the constituent articles, etc. are represented through equivalent formative processing

[Case] A set of dining knives, forks and spoons



Coordinated in shape

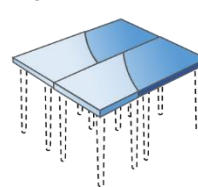
[Case] A set of tables



Coordinated in pattern

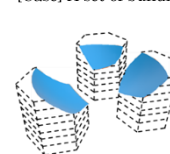
(2) Examples of the case where one collective shape or pattern is represent as a whole in the constituent articles

[Case] A set of tables



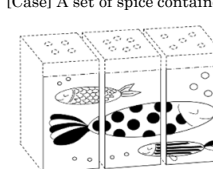
Coordinated in shape

[Case] A set of buildings



Coordinated in pattern

[Case] A set of spice containers



(3) Examples of the case where the shapes, patterns or colors or any combinations thereof of each of the constituent articles, etc. give an impression that the set of articles are conceptually related as a whole, such as by having a narrative nature

[Case] A set of dinnerware



## ■ Requirement of being coordinated as a whole in the Design of A Set of Articles

- It is also determined that the requirement of being coordinated as a whole is met for the design for a set of articles, if the constituent articles are actually coordinated as a whole solely based on the mode of the color itself.

Coming into force  
on April 1, 2020



# Overview of Amendment Proposal for Examination Guidelines for Design (Expansion of the system of design for a set of articles) 2/2

## ■ Review of A Set of Articles that can be Registered

・Design for a set of articles subject to the registration under the current Design Act

The current list was established in 1998. Based on the request by the users for improvement and expansion, the scope of the designs which can be registered as a Design for a set of articles has been reviewed as follows:

**The design for a set of articles that can be registered currently (Appended Table 2 of the Ordinance for Enforcement of the Design Act)**

1	A set of underwear	31	A set of accessories for a toilet bowl
2	A set of cuff links and tie clips	32	A set of toy tea ware
3	A set of personal ornaments	33	A set of toy coffee ware
4	A set of smoker's articles	34	A set of toy dinnerware
5	A set of beautification equipment	35	A set of toy spice containers
6	A set of girl's festival dolls	36	A set of toy dining knives, forks and spoons
7	A set of washing equipment	37	A set of golf clubs
8	A set of lavatory cleaning tools	38	A set of drums
9	A set of toilet articles	39	A set of office supplies
10	A set of electric toothbrushes	40	A set of writing tools
11	A set of camping pans	41	A set of car spoilers
12	A set of tea ware	42	A set of car seat covers
13	A set of coffee ware	43	A set of car floor mats
14	A set of alcoholic beverage vessels	44	A set of car pedals
15	A set of table plates and cups	45	A set of motorbike cowl
16	A set of tea cups and teapots for green tea	46	A set of motorbike fenders
17	A set of dinnerware	47	A set of on-vehicle route guidance systems
18	A set of spice containers	48	A set of audio equipment
19	A set of dining knives, forks and spoons	49	A set of in-vehicle audio equipment
20	A set of chairs	50	A set of speaker enclosures
21	A set of living room furniture	51	A set of television receivers
22	A set of outdoor chairs and tables	52	A set of optical disc players
23	A set of hall storage units	53	A set of computers
24	A set of storage racks	54	A set of automatic vending machines
25	A set of desks	55	A set of medical x-ray machines
26	A set of tables	56	A set of gateposts, gates and fences
27	A set of ceiling lights		
28	A set of air conditioners		
29	A set of bathroom vanities		
30	A set of kitchen equipment		

**The design for a set of articles that can be registered in the future (proposal)**

A set of food products	・ Chocolates (2 or more)	A set of musical instruments	・ Drum, Cymbal, Music stand, Chair
A set of luxury grocery items	・ Tobacco, Lighter, Ashtray		
A set of clothes	・ Jacket, Vest, Slacks	A set of teaching tools	・ Globes (2 or more)
A set of accessories	・ Ring, Necklace, Bracelet, Earring, Cuff link, Tie clip	A set of office supplies	・ Mechanical pencil, Ballpoint pen, Fountain pen
A set of beauty implements	・ Makeup brush (2 or more)	A set of sales articles	・ Packaging containers (2 or more)
A set of household textile products	・ Pillow, Comforter, Mattress ・ Cushions (2 or more)	A set of conveyance apparatuses	・ Elevator, In-house elevator
A set of interior decorations	・ Ornaments (2 or more)	A set of transport apparatuses	・ Passenger car, Motorcycle ・ Interior panel, Head lamp ・ Car floor mat (2 or more)
A set of cleaning implements	・ Broom, Dustpan	A set of electric or electronic components	・ Light bulbs (2 or more) ・ Connector
A set of laundry apparatuses	・ Electric washing machine, Clothes dryer	A set of rotary electric machine or power distribution equipment	・ Motors (2 or more)
A set of home health and hygiene products	・ Toothbrush stand, Cup ・ Electric toothbrush, Electric toothbrush holder	A set of electronic information processing apparatuses	・ Smartphone, Battery charger for smartphone ・ Wireless earphone, Keyboard, mouse
A set of tableware	・ Cups (2 or more) ・ Dish, Tea pot, Tea cup	A set of measuring apparatuses	・ Thermometer, Hygrometer
A set of cooking utensils	・ Pot, Frying pan	A set of optical instruments	・ Camera, Camera case
A set of dining utensils	・ Spoon, Fork, Knife	A set of office appliances	・ Facsimile, Copy machine, Printer
A set of congratulation or condolence goods	・ Funeral vase, Incense burner	A set of sales appliances	・ Beverage vending machine, Tobacco vending machine
A set of lighting equipment	・ Ceiling light, Wall light	A set of safety apparatuses	・ Fire extinguisher, Fire extinguisher stand
A set of air conditioning equipment	・ Air conditioner, Fan ・ Air conditioner, Air conditioner outdoor equipment	A set of medical devices	・ Surgical scalpels (2 or more)
A set of kitchen arrangements	・ Cookstove, Countertop, Sink cabinet, Storage rack	A set of gadgets or tools	・ Screwdrivers (2 or more) ・ Hairdressing scissors, Hairdressing thinning scissors
A set of sanitary implements	・ Bathroom vanity, Toilet mirror, Storage rack	A set of industrial equipment	・ Industrial robots (2 or more)
A set of room organization implements	・ Hanger, Skirt hanger	A set of engineering and construction appliances	・ Concrete formwork, Exterior material panel ・ Tile carpet, Wallpaper
A set of furniture	・ Table, Chair, Child chair ・ Book shelves (2 or more)	A set of basic products	・ Plate materials (2 or more) ・ Valve, Solenoid valve
A set of pet articles	・ Clothes for pet, Collar for pet	A set of buildings	・ Kindergarten, Elementary school, Junior high school, High school
A set of amusement and entertainment articles	・ Go board, Shogi board	A set of Graphic Images	・ Screen image for bank transfer, Screen image for teller machine operation
A set of athletic sports items	・ Golf clubs (2 or more) ・ Baseball glove, Baseball mitt		

**Coming into force on April 1, 2020**

# Overview of Amendment Proposal for Examination Guidelines for Design (Abolition of the article classification list) 1/1

## ■ Support after the Abolition of the Article Classification List

Coming into force on the date designated in the cabinet order within 2 years from the date of promulgation of the Revised Design Act (May 17, 2019)

•“Appended Table 1 of the Ordinance for Enforcement of the Design Act”, wherein the classification of articles are described, will be abolished. In the future, instead of this, the Commissioner of the Japan Patent Office will publish some guidelines similar to the article classification list for users’ reference.

## ■ Determination on Clarity of Usage and Function

Although it is desired that the usage and function of the articles, etc. to the design, for which the design registration is requested, are clearly described in detail in the column of the “Article to the Design”, even in the case where the statement in the column of the “Article to the Design” could not allow a sufficient identification of the design for which the design registration is requested, if it is possible to recognize the usage and function of the articles, etc. to the design for which the design registration is requested in detail, it is determined that the design meets the requirement on clarity, by comprehensively considering the other statements in the application and the drawings, etc. attached to the application.

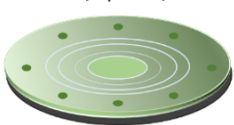
### Examples where the usage and function of the articles to the design are clear (proposal)

Case example 1

Article to the design “Tableware”

Description of Article to the Design “The article in this application is a table plate.”

[Perspective view]



In this case example, the statements in the columns of the “Article to the design” and the Description of Article to the design” and the drawing are mutually consistent, thus piecing together them allows to clearly recognize the usage and function of the article to the design in this design application.

Case example 2

Article to the design “footwear”

Description of Article to the Design (None)

[Perspective view]



In this case example, the statement in the column of the “Article to the design” and the drawing are mutually consistent, thus piecing together them allows to clearly recognize the usage and function of the article to the design in this design application.

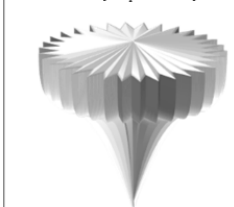
### Examples where the usage and function of the articles to the design are not clear (proposal)

Case example 1

Article to the design “industrial part”

Description of Article to the Design (None)

[Perspective view]



In this case example, the statement in the column of the “article to the design” is unclear, even by considering the drawing, the usage and function of the article to the design in this design application cannot be clearly recognized.

Case example 2

Article to the design “decoration part”

Description of Article to the Design (None)

[Perspective view]



In this case example, the statement in the column of the “article to the design” is unclear, even by considering the drawing, the usage and function of the article is not clear, including what it is trying to decorate, and thus, the article to the design in this design application cannot be clearly recognized.

Case example 3

Article to the design “Supporting frame”

Description of Article to the Design (None)

[Perspective view]



In this case example, the statement in the column of the “article to the design” is unclear, even by considering the drawing, the usage and function of the article is not clear, including what is supported by it for what purpose, and thus, the usage and function of the article to the design in this design application cannot be clearly recognized.

## ■ Creation Policy of “Guidelines Similar to the Article Classification list”

- (1) Items will be rearranged depending on the application frequency based on the existing Article Classification list (Appended Table 1 of the Ordinance for Enforcement of the Design Act).
- (i) Items with high application frequency from the recently registered designs will be added, (ii) Items with no registration record for the past 20 years will basically be deleted)
- (2) The name, etc. of the articles will be added in accordance with the expansion of designs subject to protection under the Revised Design Act.
- (3) The statement order for each of the articles will be according to the class order in the International Design Classification (Locarno Classification).
- (4) Statements must be made in both Japanese and English languages.
- (5) Amendments will be made as necessary in accordance with the emergence situation of new products, etc.

# Overview of Amendment Proposal for Examination Guidelines for Design

## (Other issues discussed) 1/2

### ■ Amendment of the Examination Guidelines for Design in the Expansion of Remedial Provisions

Coming into force on the date designated in the cabinet order within 2 years from the date of promulgation of the Revised Design Act (May 17, 2019)

Patent Act Article 43(6) (Notice of the reminder for the priority documents), Article 43(7) (Submission of documents, etc. by a receiver of the notice), and Article 43-2 (Claiming priority under the Paris Convention) will be applied mutatis mutandis.

\* In the case where the application for design registration involving a claim of priority could not be made during the priority period (within 6 months from the initial application date of the first foreign application), if there are justifiable reasons for not being able to make the application for design registration but the application was made within the period stipulated in the Ordinance of the Ministry of Economy, Trade and Industry, the priority can be claimed upon the application for design registration even after the lapse of the priority period; this statement has been added to the Examination Guidelines for Design .

### ■ Amendment of the Examination Guidelines for Design on the Priority under the Paris Convention

Coming into force on April 1, 2020

Under the revision of the Design Act in 2019, where the graphic image design has been added to the subject of protection, the example case of determination on identity of the designs in approving or not the effect by a claim of priority in the application for design registration in such designs, has been added.

[Case example where two designs have been determined to be identical]

The case where the design in the first foreign application was the design including a graphic image on a screen, the name, etc. of the Article to the design was the “screen panel”, and the design subject to the application for design registration in Japan has been filed in the application of the graphic image design

- First foreign application: The name, etc. of the Article to the design is the “screen panel”, no specific article, etc. to display the graphic images is shown on the drawing, only the graphic image for displaying the time is shown.
- Japan application: In the column of the Article to the design, “graphic image for displaying the time” is indicated, and the graphic image shown on the drawing is identical to that of the first foreign application.

[Description] The protection methods differ in each country with respect to the design including a graphic image on a screen. Even where the design in the first foreign application pertains to the “screen panel” and the design in the application for design registration in Japan is the “graphic image design”, since no specific usage and function is anticipated for the “screen panel” itself other than the usage and function to be realized by the graphic image, the two designs are determined as identical in approval or disapproval of the right of priority, if the entire shapes, etc. of the two designs shown in the drawing are identical.

### ■ Review of the handling of the articles that are integrally designed in consideration of the distribution

Coming into force on April 1, 2020

• The subject matter “which can be sold in an integrated manner from a common sense perspective and have been created in an integrated manner with close relevance in form” such as a product itself and its package will be determined as single article.

### ■ Amendment of the Examination Guidelines for Design on the “Industrially Applicable Design”

Coming into force on April 1, 2020

1 . The forms for distribution will also be handled as the subject of a design registration.

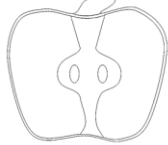
(Amendment proposal of the requirement of “Subject matter is the shape of the article itself, etc.”)

Shape of the articles itself, etc.: which means the characteristic of the article itself or the shape, etc. arising from its nature.


For the shapes, etc. for distribution, those with a shape retention which allows the article to maintain the relevant shape, etc. will be handled as the shape of the article itself , etc. On the other hand, those without a shape retention will not be determined as the shape of the article itself, etc.

Example where it is determined as the shape of the article itself, etc.

[Front view]



[Perspective view]




[Article to the design] Towel

[Description of Article to the Design] This design in the application for design registration is a compressed towel, which will puff up to become a hand towel of a normal size by soaking into the water before usage and can be used as a towel.

\* For simplicity, the other drawings omitted.

Example where it is not determined as the shape of the article itself, etc.



[Beverage in a cup]

[Description of Article to the Design] This design in the application for design registration is cafe latte in a cup, with a pattern drawn on the surface by foamed milk and coffee.

\* For simplicity, the other drawings omitted.

(Description) In this case example, it is determined not to fall within a shape and the like of the article and the like itself, as it has no shape retention.

# Overview of Amendment Proposal for Examination Guidelines for Design (Other issues discussed) 2/2

2. Under the revision of the Design Act in 2019, the designs for buildings and graphic images have been added to the subject of protection, so the requirement of “industrially applicable design” in the said designs has been newly added.

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For article designs: Industrially applicable means that multiple identical articles can be manufactured.

For building designs: Industrially applicable means that the multiple identical buildings can be built.

For GUI designs: Industrially applicable means that multiple identical graphic images can be generated (equivalent to the “manufactured” for article designs).

\* In all cases above, it is not necessary that they are actually used industrially, as far as there is a possibility that they will be used.

3. Deleting the statement, “The subject matter constitutes a part that can become subject to comparison when comparing with another design”

Reason: With a certain area, even if the area is small, the area is enough to compare novelty and creative difficulty with another design.

## Partial abstract of the relevant parts in the Current Examination Guidelines for Design

### 71.4.1.1.5 The subject matter constitutes a part that occupies a certain scope

“The “part for which the design registration is requested” must be a part that occupies a certain scope of the form of the entire article to the design of the partial design, that is, a closed area that is included in the appearance of the design.

The border between the part for which the design registration is required and any other parts must be clear. (snip)

### 71.4.1.1.6 The subject matter constitutes a part that can become subject to comparison when comparing with another design

The “part for which the design registration is requested” not only needs to constitute a part that occupies a certain scope of the form of the entire article, but it also needs to represent a unit of creation of a design that can become subject to comparison when comparing with another design. (snip)

(2) Example of subject matter where the “part for which the design registration is requested” does not include any unit of creation of a design

In the following case example, the “part for which the design registration is requested” constitutes a part that occupies a certain scope of the form of the entire article of a packaging container, but it does not represent the unit of creation of a design that can become subject to comparison when comparing with another design.



[Case example]  
Packaging container



Delete this part

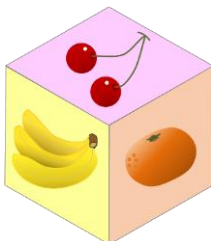
4. Added the case example with respect to the easing the requirements of drawings (amended in April 2019)

This is for responding to the request from users of the design system for an increased number of case examples to raise the clarity of the determination criteria.

Where there is no problem in the clarity of the part of the articles, etc. even though only a part thereof is presented

## Proposal for additional case example 1

[Perspective view]



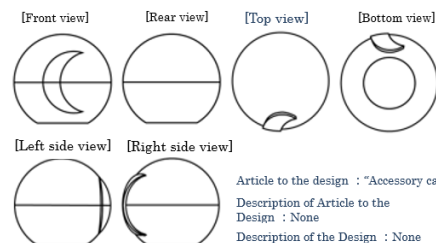
Article to the design : “Die”

Description of Article to the Design :

This article is a die whose pips are shown by the number of pictures of fruits: an orange indicates 1, cherries indicate 2, and bananas indicate 3.

Description of the Design: None

## Proposal for additional case example 2

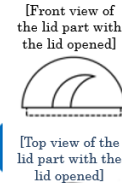


Article to the design : “Accessory case”

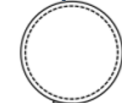
Description of Article to the Design : None

Description of the Design : None

(As the inside of the container is not disclosed, it is deemed as the “any other parts” and thus it is factually considered that the drawing in the right column has been submitted.)

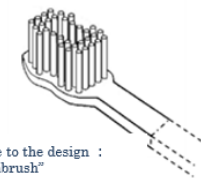


[Top view of the lid part with the lid opened]



## Proposal for additional case example 3

[Perspective view]



Article to the design : “Toothbrush”

Description of Article to the Design : This article is a toothbrush for adults

Description of the Design : The dash-dotted line is a line which only shows the border between the part for which the design registration is required and any other parts.