

17.03

Handling of an amendment required to the original application for design registration in a case where an application for design registration is divided

1. In a case of division of an application for design registration, an amendment to the original application should be made to delete the design involving the division out of the two or more designs contained in the original application.

In undertaking the amendment, if two or more designs remain in the original application for design registration even after the deletion of the design involving the division, the designs which are not necessary among the remaining ones may be excluded from the original application to leave a single design.

2. If an application for design registration is divided, the amendments required to the original application should be made at the time of the division (Patent Regulation 30 [m.m.] Design Regulation 19(3)).

However, if this amendment is not made at the time of the division, it may be made only while an examination, trial, appeal, or retrial of the case is pending.

3. If an application for design registration contains two or more designs and does not meet the requirements provided for in Article 7 of the Design Act, an amendment to the application to leave a single design should be permitted.

(Explanation)

Concerning an application for design registration containing two or more designs, an approach to excluding some of the designs from the application and restricting the application to keep a single design must rely on the amendment of procedures since the Design Act only provides the system for amendment of procedures. Accordingly, such amendment should be treated as an amendment which does not fall under a change of the gist.