

## 32. 06

### **Handling of an amendment in response to the order to amend procedures in a case where the amendment changes the gist of the statement in the application or the drawings, etc. attached to the application as originally filed**

If the amendment which an applicant for design registration has made in response to the order to amend procedures under Article 17, paragraph (3) of the Patent Act (Amendment of Proceedings) as applied mutatis mutandis pursuant to Article 68, paragraph (2) of the Design Act is found to have an appropriate form and passes the formality examination and, after that, it is found that the amendment changes the gist, then the amendment must be dismissed.

#### **(Explanation)**

Since the determination on whether or not an amendment changes the gist falls under substantive examination, statements in the application or the drawings, etc. attached to the application in which any correction or complement involving the substantive examination is made in the formality examination always require a determination in the substantive examination on whether or not the amendment is appropriate.

In line with this, if an amendment in response to the order to amend procedures is found to change the gist of the statement in the application or the drawings, etc. attached to the application as originally filed after it passes the formality examination, then the amendment must be dismissed.

Moreover, for approaches to handling a case where an amendment in response to the order to amend procedures is dismissed in the substantive examination based on the grounds that it changes the gist, see “Item 43.20 of the Formality Examination Manual.”