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Handling of a design that was publicly known

Article 3, paragraph (1), item (i) of the Design Act stipulates to the effect that a design that was publicly known in Japan or a foreign country, prior to the filing of the application for design registration, lacks novelty.

1. Design which is not treated as a design that was publicly known

A registered design prior to the issue date of the Registered Design Bulletin is not treated as a design that was publicly known even if it has completed the registration of establishment of a design right, because it is found doubtful that the registered design can be used as information that serves as the basis for the application of the provisions referred to in Article 3, paragraph (1), item (i) of the Design Act as a design publicly known in general.

2. Approach to handling of a design which falls under a design that was publicly known

In a case where a design falls under a design that was publicly known, the examiner should present all of the following information to the applicant in a specific manner:

- (1) Articles, etc. embodying the design that was publicly known, and their shapes, etc.; and
- (2) The fact that the said design was in reality known to unspecified persons as a non-confidential design.