Examination Guidelines for Design

(Provisional translation)

Japan Patent Office

Examination Guidelines for Design

The Examination Guidelines for Design aims to ensure consistent interpretation and implementation of the Design Act in design examination. It already existed around 1930 as a document titled “Design Examination Arrangements.” In June 1968, the “Examination Guidelines for Design” was published to respond to the Design Act as revised in 1959, and has been used for over 30 years while undergoing slight additions and modifications from time to time.

Subsequently, a drastic revision was made to the Design Act in 1998 and, further, some provisions were revised in 1999. With regard to interpretation and implementation of the revised provisions, efforts were made to ensure consistent implementation through publication of the “Implementation Standards for Design Examination under the Design Act as Revised in 1998” and the “Implementation Standards for Design Examination under the Design Act as Revised in 1999,” but in examination practice, it was necessary to additionally read the existing “Examination Guidelines for Design.”

In light of such circumstances, the Design Examination Standards Office re-edited the “Examination Guidelines for Design” into those for the respective provisions concerning design examination practice, based on the existing “Examination Guidelines for Design,” “Implementation Standards for Design Examination under the Design Act as Revised in 1998” and the “Implementation Standards for Design Examination under the Design Act as Revised in 1999,” and hereby publishes it.

January 2002
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Examination Guidelines for Design (for the Design Act as revised in 2006)

The “Act for Partial Revision of the Design Act, etc.” (Act No. 55 of 2006) was promulgated on June 7, 2006, and major provisions revising the Design Act were decided to come into effect on April 1, 2007. In line with this development, we revised the following parts of the Examination Guidelines for Design that had been published to date. We also amended the relevant provisions cited in each Chapter accordingly.

This Examination Guidelines for Design is applied to applications for design registration that are filed on or after April 1, 2007. (Meanwhile, Part III “Exception to Lack of Novelty” is applied to applications for design registration that are filed on or after September 1, 2006.)

○ Part II, Chapter II	“Determination of Similarity between Designs”
○ Part II, Chapter IV	“Exclusion from Protection of a Design in a Later Application That Is Identical or Similar to Part of a Design in a Prior Application”
○ Part III	“Exception to Lack of Novelty”
○ Part VI	“Prior Application”
○ Part VII, Chapter I	“Partial Design”
○ Part VII, Chapter III	“Related Design”
○ Part VII, Chapter IV	“Design Including a Graphic Image on a Screen as Provided in Article 2(2) of the Design Act”

April 2007
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

Of the existing “Examination Guidelines for Design,” we revised Part VII, Chapter IV “Design Including a Graphic Image on a Screen as Provided in Article 2(2) of the Design Act” and Part X “Procedures for Priority Claim under the Paris Convention, etc." The revisions were deliberated at the first meeting of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (hereinafter referred to as the “Design System Subcommittee”) that was held in July 2008. Then, after inviting public comments in and outside the Japan Patent Office from September to October, 2008, and making necessary amendments based on those comments, the revisions were approved at the second meeting of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee that was held in October 2008.

Part VII, Chapter IV and Part X of these Examination Guidelines for Design apply to applications that are examined on or after October 31, 2008.

○ Part VII, Chapter IV	“Design Including a Graphic Image on a Screen as Provided in Article 2(2) of the Design Act”
○ Part X	“Procedures for Priority Claim under the Paris Convention, etc.”

October 2008
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act for Partial Revision of the Patent Act, etc.” (Act No. 16 of April 18, 2008), we amended “30 days” to “three months” in the following items of the Examination Guidelines for Design.

The revisions in “Part VIII, Chapter II Dismissal of Amendments” and “Part IX, Chapter IV New Application for Amended Design” are applied to applications for which a certified copy of a ruling dismissing an amendment is served on or after April 1, 2009. The revisions in “Part IX, Chapter II Conversion of Application” are applied to applications for which a certified copy of the examiner’s initial decision to the effect that the original patent application is to be refused is served on or after April 1, 2009.

○ Part VIII, Chapter II	“Dismissal of Amendments”
○ Part IX, Chapter II	“Conversion of Application”
○ Part IX, Chapter IV	“New Application for Amended Design”

July 2009
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We newly added Part XI “Procedure of Examination” to the Examination Guidelines for Design. The “Procedure of Examination” outlines how substantive examination of designs should be conducted, and its contents were deliberated at the third meeting (November 2009) and the fourth meeting (January 2010) of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (hereinafter referred to as the “Design System Subcommittee”) that were held during FY2009. Then, after inviting public comments in and outside the Japan Patent Office in February 2010 and making necessary amendments based on those comments, the contents were approved by the Working Group on the Examination Guidelines for Design of the Design System Subcommittee.

In addition, as a result of adding “Procedure of Examination” as Part XI, we moved former Part XI “Others” down to Part XII “Others.”

This Examination Guidelines for Design is applied to applications for design registration that are examined on or after April 1, 2010.

○ Part XI	“Procedure of Examination”
○ Part XII	“Others”

April 2010
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

Of the existing “Examination Guidelines for Design,” we revised Part II, Chapter I “Industrially Applicable Design,” Part VII, Chapter I “Partial Design,” and Part VII, Chapter IV “Design Including a Graphic Image on a Screen.” The revisions were deliberated at the fifth meeting (March 2011) and the sixth meeting (May 2013) of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (hereinafter referred to as the “Design System Subcommittee”). Then, after inviting public comments in and outside the Japan Patent Office from May to June of 2011 and making necessary amendments based on those comments, the revisions were approved by the Working Group on the Examination Guidelines for Design of the Design System Subcommittee.

Part II, Chapter I, Part VII, Chapter I, and Part VII, Chapter IV of this Examination Guidelines for Design apply to applications for design registration that are filed on or after August 1, 2011.

July 2011
Design Examination Standards Office,
Design Division,
Trademark, Design and Administrative Affairs Department,
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We newly added Part XI “International Application for Design Registration” and amended Part II, Chapter IV “Exclusion from Protection of a Design in a Later Application That Is Identical or Similar to Part of a Design in a Prior Application,” Part VI “Prior Application,” Part VII, Chapter III “Related Design,” Part IX, Chapter I “Division of Applications for Design Registration,” Part X “Procedure for Priority Claim under the Paris Convention, etc.,” and Part XII “Procedure of Examination” at the same time. These revisions respond to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and were deliberated at the first meeting of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (October 2014) and the second meeting of the Working Group on the Examination Guidelines for Design (October 2014). Then, after inviting public comments in and outside the Japan Patent Office from October to November, 2014, and making necessary amendments based on those comments, the revisions were approved at the third meeting of the Working Group on the Examination Guidelines for Design (December 2014).

In addition, as a result of adding “International Application for Design Registration” as Part XI, we moved former Part XI “Procedure of Examination” and Part XII “Others” down to Part XII “Procedure of Examination” and Part XIII “Others,” respectively.

This Examination Guidelines for Design is applied to applications for design registration that are examined on or after May 13, 2015.

○ Part II, Chapter IV	“Exclusion from Protection of a Design in a Later Application That Is Identical or Similar to Part of a Design in a Prior Application”
○ Part VI	“Prior Application”
○ Part VII Chapter III	“Related Design”
○ Part IX, Chapter I	“Division of Applications for Design Registration”
○ Part X	“Procedure for Priority Claim under the Paris Convention, etc.”
○ Part XI	“International Application for Design Registration”
○ Part XII	“Procedure of Examination”
○ Part XIII	“Others”

April 2015
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We revised Part VII, Chapter IV “Design Including a Graphic Image on a Screen”. This revision was deliberated at the meeting of the Working Group on the Examination Guidelines for Design of the Design System Subcommittee (from March to November 2015) in response to the report of “Global business promotion support to Japanese companies by the protection of the rights of creative designs” submitted in January 2014 by the Design System Subcommittee of the Intellectual Property Committee of the Industrial Structure Council (hereinafter referred to as the “Design System Subcommittee”). Then, after the Design System Subcommittee's confirmation followed by the public comments inviting procedure (from December 2015 to January 2016), the revision was approved.

Part VII, Chapter 4 of the Revised Examination Guidelines for Design will be applied, with regard to “74.4.3 Creative difficulty,” to applications for design registration to be examined on April 1, 2016 and after and, with regard to the parts other than “74.4.3 Creative difficulty,” to applications for design registration on April 1, 2016 and after.

○ Part VII Chapter IV “Design Including a Graphic Image on a Screen”

March 2016
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We revised Part I, Chapter II "Finding of the Design in an Application for Design Registration", Part II, Chapter I "Industrially Applicable Design", and Part III, "Exception to Lack of Novelty". The revisions were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (from December of 2016 to February of 2017). Then, after inviting public comments (from February to March of 2017), the revisions were amended based on those comments.

The Revised Examination Guidelines for Design will be applied to applications for design registration to be examined on April 1, 2017 and after.

○ Part I, Chapter II	"Finding of the Design in an Application for Design Registration"
○ Part II, Chapter I	"Industrially Applicable Design"
○ Part III	"Exception to Lack of Novelty"

March 2017
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We revised “Part II, Chapter I, Industrially Applicable Design”, “Part VII, Chapter I Partial Design”, and “Part XI, Chapter VIII International Application for Design Registration for a Partial Design” of the Examination Guidelines for Design. The revisions were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (February of 2018). Then, after inviting public comments (from March to April of 2017), the revisions were amended based on those comments.

The Revised Examination Guidelines for Design will be applied to applications for design registration to be examined on May 1, 2018 and after.

○ Part II, Chapter I	“Industrially Applicable Design”
○ Part VII, Chapter I	“Partial Design”
○ Part XI, Chapter VIII	“International Application for Design Registration for a Partial Design”

April 2018
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act of Partial Revision of the Unfair Competition Prevention Act, etc.” (Act No. 33 of May 23, 2018), we amended “six months” to “one year” in the Part III “Exception to Lack of Novelty” of the Examination Guidelines for Design.

The revised examination guidelines are applied to the designs being published on or after December 9, 2017 and filed on or after June 9, 2018.

○ Part III “Exception to Lack of Novelty”

June 2018
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We revised “Part V, One Application per Design”, “Part VII, Chapter II Design for a set of articles”, and “Part XIII, Appendix “Table of Constituent Articles of Sets of Articles” of the Examination Guidelines for Design. The revisions were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (from September to October of 2018). Then, after inviting public comments (from November to December of 2018), the revisions were amended based on those comments.

The Revised Examination Guidelines for Design will be applied to applications for design registration to be examined on January 10, 2019 and after.

○ Part II	“One Application per Design”
○ Part VII, Chapter I	“Partial Design”
○ Part XIII, Appendix	“Examples of Constituent Articles of Sets of Articles”

January 2019
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

We revised “Part I, Application/Drawings”, “Part II, Chapter I Industrially Applicable Design”, “Part VI, Prior Application”, “Part VII, Chapter I Partial Design”, “Part VII, Chapter 3 Related Design”, “Part VII, Chapter IV Design Including a Graphic Image on a Screen”, “Part VIII, Chapter II Dismissal of Amendments”, “Part X, Procedure for Priority Claim under the Paris Convention, etc.”, “Part XI, Chapter VIII International Application for Design Registration for a Partial Design”, and “Part XII, Chapter II Details” of the Examination Guidelines for Design.

The revisions were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (from September to October of 2018). Then, after inviting public comments (from November to December of 2018), and the revisions of the Ordinance for Enforcement of the Design Act promulgated on April 26, 2019, the revisions were made.

This revised Examination Guidelines for Design applies to applications for design registration that are filed on or after May 1, 2019.

○ Part I	“Application/Drawings”
○ Part II, Chapter I	“Industrially Applicable Design”
○ Part VI	“Prior Application”
○ Part VII, Chapter I	“Partial Design”
○ Part VII, Chapter III	“Related Design”
○ Part VII, Chapter IV	“Design Including a Graphic Image on a Screen”
○ Part VIII, Chapter II	“Dismissal of Amendments”
○ Part X	“Procedure for Priority Claim under the Paris Convention, etc.”
○ Part XI, Chapter VIII	“International Application for Design Registration for a Partial Design”
○ Part XII, Chapter II	“Details”

April 2019
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act for Partial Revision of the Patent Act, etc.” (Act No. 3 of May 17, 2019), we revised “Part I, Outline of Examination”, “Part II, Finding of the Design and Filing an Application for Each Design”, “Part III, Requirements for Design Registration”, “Part IV, Individual Applications for Design Registration”, “Part V, Related Design”, and “Part VII, Advantage of the Priority under the Paris Convention”.

In addition, in this revision, we conducted a general review of the structure and contents of the Examination Guidelines for Design from the perspective of clarification and simplification.

The revisions were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (from July 2019 to February 2020; during this period, public comments were invited from December 2019 to January 2020), and based on the revision of the Ordinance for Enforcement of the Design Act, which was promulgated in March 2020, the revisions were amended.

This revised Examination Guidelines for Design applies to applications for design registration that are filed on or after April 1, 2020.

○ Part I	“Outline of Examination”
○ Part II	“Finding of the Design and Filing an Application for Each Design”
○ Part III	“Requirements for Design Registration”
○ Part IV	“Individual Applications for Design Registration”
○ Part V	“Related Design”
○ Part VII	“Advantage of the Priority under the Paris Convention”

March 2020
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with a revising of the system, which is drawn up in the “Regulatory Reform Implementation Plan (July 17, 2020 Cabinet Decision)” to make changes to administrative procedures which currently requires personal seals, and which was also adopted to achieve user convenience by digitizing application procedures etc. (so that paper works and personal seals are to be omitted, in principle) at the 13th session of the Intellectual Property Committee of Industrial Structure Council, we revised “Part III, Chapter 3 Exception to Lack of Novelty” to reflect the change of procedures to omit personal seal from certificate for requesting application of the provisions on exception to lack of novelty of design.

This revised Examination Guidelines for Design applies to applications for design registration that are filed on or after December 16, 2020.

○ Part III, Chapter I “Exception to Lack of Novelty”

December 2020
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act for Partial Revision of the Patent Act, etc.” (Act No. 3 of May 17, 2019), we revised “Part I, Chapter II, Design Examination Process”, “Part II, Chapter II, Finding of the Design and Filing an Application for Each Design” and “Part VII, Advantage of the Priority under the Paris Convention”.

The revisions were deliberated at the meetings of the Working Group on the Design Examination Standards of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (from July 2019 to February 2020; during this period, public comments were invited from December 2019 to January 2020), and based on the revision of the Ordinance for Enforcement of the Design Act, which was promulgated in March 2021, the revisions were made.

In this revised Examination Guidelines for Design, Part I, Chapter 2 “4. Notice of reasons for refusal (excluding international applications for design registration)” applies to applications for design registration requiring procedures within the designated time limit that elapses on or after April 1, 2021, Part VII “2.4 Procedure for priority claim under the Paris Convention” applies to applications for design registration requiring the submission of the priority documents within the statuary time limit that elapses on or after April 1, 2021, Part VII “2.2 Period for filing an application in Japan with a priority claim under the Paris Convention” applies to applications for design registration in Japan that are filed claiming priority on or after April 1, 2021 and the other parts apply to applications for design registration that are filed on or after April 1, 2021.

○ Part I, Chapter II	“Design Examination Process”
○ Part II, Chapter II	“Finding of the Design and Filing an Application for Each Design”
○ Part VII	“Advantage of the Priority under the Paris Convention”

March 2021
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act for Partial Revision of the Patent Act, etc.” (Act No. 42 of May 21, 2021), we revised “Part VII Advantage of the Priority under the Paris Convention, 2.2 Period for filing an application in Japan with a priority claim under the Paris Convention”, “Part IX, Chapter V, Exception to Lack of Novelty concerning International Application for Design Registration, 2. Specific procedures for receiving application of the provisions of Article 4, paragraph (2) of the Design Act in case of an international application for design registration”, “Part IX, Chapter VIII, Right of Priority under the Paris Convention in International Applications for Design Registration, 3. Procedures for priority claim under the Paris Convention”.

In this revised Examination Guidelines for Design, Part IX “International Application for Design Registration” applies to international application for design registration which were filed on or after October 1, 2021, Part VII “Advantage of the Priority under the Paris Convention” applies to applications for design registration which lapse the period of priority pursuant to Article 4.C(1) of the Paris Convention on or after April 1, 2023.

○ Part VII “Advantage of the Priority under the Paris Convention”
○ Part IX “International Application for Design Registration”

March 2023
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Partial Revision of the Examination Guidelines for Design

In line with the revision of the Design Act by the “Act for Partial Revision of the Unfair Competition Prevention Act, etc.” (Act No. 51 of June 14, 2023), we revised “Part I, Chapter II, Design Examination Process”, “Part II, Chapter I, Finding of the Design in an Application for Design Registration“, “Part III, Chapter III, Exception to Lack of Novelty”, “Part VII Advantage of the Priority under the Paris Convention”, “Part VIII, Chapter I, Division of Applications for Design Registration”, “Part VIII, Chapter II, Conversion of Application” and “Part IX, Chapter VIII, Right of Priority under the Paris Convention in International Applications for Design Registration”.

Additionally, in this revision, we also revised “Part IV, Chapter I, Design Including a Graphic Image” from the perspective of clarification.

The revisions of “Part III, Chapter III” and “Part IV, Chapter I” were deliberated at the Working Group on the Examination Guidelines for Design of the Design System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council (August and September 2023; public comments were invited from October to November 2023).

This revised Examination Guidelines for Design applies to applications for design registration that are filed on or after January 1, 2024.

○ Part I, Chapter II	“Design Examination Process”
○ Part II, Chapter I	“Finding of the Design in an Application for Design Registration”
○ Part III, Chapter III	“Exception to Lack of Novelty”
○ Part IV, Chapter I	“Design Including a Graphic Image”
○ Part VII	“Advantage of the Priority under the Paris Convention”
○ Part VIII, Chapter I	“Division of Applications for Design Registration”
○ Part VIII, Chapter II	“Conversion of Application”
○ Part IX, Chapter VIII	“Right of Priority under the Paris Convention in International Applications for Design Registration”

December 2023
Design Examination Standards Office,
Design Division,
Patent and Design Examination Department
(Physics, Optics, Social Infrastructure and Design),
Japan Patent Office

Examination Guidelines for Design
History of Revisions

June 12, 1968
Partial addition on June 27, 1985
Partial amendment on June 27, 1985
Partial amendment on December 11, 1985
Partial addition on March 5, 1987
Partial addition on March 15, 1988
Partial addition on March 23, 1989
Partial amendment on April 23, 1993
Partial amendment on November 8, 1993
Partial amendment on June 16, 1994
Partial addition on January 31, 2002
Partial amendment on January 31, 2002
Partial addition on April 1, 2007
Partial amendment on April 1, 2007
Partial amendment on October 31, 2008
Partial amendment on July 1, 2009
Partial addition on April 1, 2010
Partial amendment on August 1, 2011
Partial addition on April 10, 2015
Partial amendment on April 10, 2015
Partial amendment on March 11, 2016
Partial amendment on March 31, 2017
Partial amendment on April 27, 2018
Partial amendment on June 6, 2018
Partial amendment on January 9, 2019
Partial amendment on April 26 9, 2019
Amendment on March 19, 2020
Partial amendment on December 16, 2020
Partial amendment on March 31, 2021
Partial amendment on March 22, 2023
Partial amendment on December 15, 2023