Part I Application/Drawings

Chapter I Application for Design Registration

11 Relevant provisions

Design Act

Article 6 (1) A person requesting a design registration shall submit to the Commissioner of the Patent Office an application stating the following matters and drawing depicting the design for which registration is requested:

(i) the name, and domicile or residence of the applicant for the design registration;
(ii) the name and domicile or residence of the creator of the design; and
(iii) the article to the design.

(2) Where so provided by an Ordinance of the Ministry of Economy, Trade and Industry, the applicant may submit photograph, model or specimen representing the design for which the registration is requested, in lieu of the drawing in the preceding paragraph. In such case, the applicant shall indicate in the application which among photograph, model and specimen is submitted.

(3) When neither the statement of the article to the design required under item (iii) of paragraph (1), nor the drawing, photograph or model attached to the application would enable a person ordinarily skilled in the art to which the design pertains to understand the material or size of the article, and by this reason such a person would not be able to recognize the design, the material or size of the article to the design shall be specified in the application.

(4) Where the shape, patterns or colors of the article to the design is changeable based on the function possessed by the article, if the applicant intends to request a design registration of the shapes, patterns or colors, or a combination thereof as it appears before, during and after the said change, he/she shall state such an intention and include an explanation of said function of the article in the application.

(5) Where colors of the design are applied to the drawing, photograph or model to be submitted under paragraph (1) or (2), the applicant may omit to apply either black or white to them.

(6) When the applicant omits to apply black or white under the preceding paragraph, the applicant shall state thereof in the application.

(7) Where the applicant submits the drawing depicting the design under paragraph (1) or the photograph or model representing the design under paragraph (2), if the whole or part of the article to the design is transparent, the applicant shall state thereof in the application.
Ordinance for Enforcement of the Design Act

Article 4 (1) The case where an applicant may submit photographs in lieu of the drawings in Article 6(1) of the Design Act under paragraph (2) of said Article shall be the case where the design is clearly represented by photographs.

(2) Where submitting photographs, they shall be submitted according to the Form No. 7.

Article 5 (1) The case where an applicant may submit a model or specimen in lieu of the drawings in Article 6(1) of the Design Act under paragraph (2) of said Article shall be the case where the model or specimen falls under all of the following items:

(i) difficult to break or does not easily change in shape or quality;
(ii) not inconvenient for handling or preserving;
(iii) where inserted into a bag under the following paragraph, its thickness is not more than 7 mm; and
(iv) its size is not more than length 26 cm × width 19 cm; provided, however that this shall not preclude the size being not more than length 1 m × width 1 m when using a thin cloth or paper.

(2) Where submitting a model or specimen, it shall be inserted into a durable bag, and a written form prepared according to the Form No. 8 shall be affixed to the bag. In this case, where submitting a model or specimen under the proviso to item (iv) of the preceding paragraph, the cloth or paper shall be inserted into the bag by folding it to a thickness of not more than 7 mm.

Form No. 2 [Notes]

(39) Where filing an application for design registration for an article which does not belong to any items of the classification of articles listed in the right-hand column of the Appended Table 1, an explanation which can help in understanding the article, such as the purpose of use or the state of use of the article, shall be stated in the column of “[Description of Article to the Design].”

11.1 Provisions of Article 6 of the Design Act

Article 6 of the Design Act provides for documents to be submitted when filing an application for design registration and the matters to be stated in those documents.

Paragraph (1) specifies an application and drawings as the documents to be submitted to the Commissioner of the Patent Office when filing an application for design registration and provides for the matters that must be stated therein. With regard to an article to the design, see Part V “One Application per Design.”

Paragraph (2) provides for items that can be submitted in lieu of drawings, in order to improve the convenience for the applicant in preparing drawings.
Paragraphs (3) through (7) assume a case where a design cannot be sufficiently represented by drawings, and provide that the design should be sufficiently represented by supplementarily including an explanation in the application in such a case.

However, since the inclusion of matters in the application or the drawings, photographs, models or specimens attached to the application (hereinafter referred to as the "drawings, etc. attached to the application") under these provisions should be carried out under the responsibility of the applicant, the examiner does not make such determination as "this matter is not needed" or "an additional matter is needed" with regard to the matters which the applicant has included as being necessary and sufficient.

11.2 Significance of an application and drawings

An application and drawings, etc. attached to the application which a person requesting a design registration submits to the Commissioner of the Patent Office represent the contents of the design created by the creator, that is, the design for which the design registration is requested.

Therefore, it is provided that the scope of a registered design must be determined based upon the statement in the application(Note) and the design represented in the drawings, etc. attached to the application. (Article 24 of the Design Act)

Accordingly, an application and drawings, etc. attached to the application not only have the function to identify the creator and the applicant for design registration, but also have the function as a document of title specifying the scope of the registered design.

(Note)

The statement in the application refers to the statement in the columns of (i) "Partial Design," (ii) "Article to the Design," (iii) "Description of Article to the Design" and (iv) "Description of the Design."