

## Relevant Provisions

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### Design Act

Article 6 (1) A person seeking to have a design registration made must submit to the Commissioner of the Japan Patent Office an application stating the following matters accompanied by a drawing depicting the design for which the registration is sought:

- (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 embodying the design, or the usage of the building or graphic image embodying the design.
- (2) If so provided by Order of the Ministry of Economy, Trade and Industry, the applicant may submit photographs, models, or specimens representing the design for which the registration is sought, in lieu of the drawing referred to in the preceding paragraph. In this case, the applicant must indicate in the application whether they are photographs, models, or specimens that are being submitted.
- (3) If neither the statement concerning the article embodying the design or the usage of the building embodying the design that is referred to in paragraph (1), item (iii), nor the drawings, photographs, or models attached to the application would give a person ordinarily skilled in the art of the design a concept of the material or size of the article or building, and by this reason the person would not be able to discern the design, the material or size of the article or building embodying the design must be stated on the application.
- (4) If the shape, pattern, or color of an article embodying a design, the shape, pattern, or color of a building embodying a design, or a graphic image embodying a design changes due to the way the article, building, or graphic image functions, and the applicant seeks to have a design registration made for the shapes and equivalent features of the article, the shapes and equivalent features of the building, or the graphic image as it appears before, during, and after that change, the applicant must indicate this and give an explanation of that function of the article, building, or graphic image in the application.
- (5) If colors of the design are applied to the drawing, photograph, or model to be submitted pursuant to the provisions of paragraph (1) or (2), the applicant may omit applying either the color black or white.
- (6) When the applicant omits applying the color black or white pursuant to the provisions of the preceding paragraph, the applicant must indicate this in the application.
- (7) If the applicant submits a drawing depicting a design pursuant to paragraph (1) or a photograph or model representing a design pursuant to paragraph (2), and the whole or part of the article embodying the design, building embodying the design, or graphic image embodying the design is transparent, the applicant must state this fact in the application.

Article 7 An application for design registration must be filed for each design as provided by Order of the Ministry of Economy, Trade and Industry.

Article 24 (1) The scope of a registered design must be determined based on the design depicted in the application, and in the drawing or represented in the

- photograph, model, or specimen attached to the application.
- (2) Whether a registered design is similar to another design must be determined based upon the aesthetic impression that the designs would create through the eye of their consumers.

#### 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.

- Article 7 Where an application for design registration is filed under Article 7 of the Design Act, an applicant should indicate clearly for each design for which the design registration is requested: the article to the design, usage of the building to the design or the graphic image to the design, a set of articles, or interior.

#### Form No. 2 [Notes]

- (39) Where the purpose of use and the state of the article, building or graphic image is unclear from the description of the column of the “article to the design” alone, an explanation which can help in understanding the article, building, or graphic image, such as the purpose of use or the state of use of the article, building, or graphic image, shall be stated in the column of “[Description of Article to the Design]”.