

Chapter I Industrially Applicable Design

1. Outline

The main paragraph of Article 3, paragraph (1) of the Design Act provides that the creator of a design that is industrially applicable may be entitled to obtain a design registration for the said design. A “design” under the Design Act is defined in Article 2, paragraph (1) of the Design Act as “the shape, patterns or colors, or any combination thereof (hereinafter referred to as the “shape, etc.”), of an article (including a part of an article; the same shall apply hereinafter), the shape, etc. of a building (including a part of a building; the same shall apply hereinafter), or a graphic image (limited to those provided for use in the operation of the device or those displayed as a result of the device performing its function, and including a part of a graphic image (omitted); the same shall apply hereinafter).”

A design that does not fall under the term “design” as used in this definition may not be registered as a design. In addition, even if it falls under the term “design” as used in this definition, the design for which the design registration is requested must be an industrially applicable design.

The following three requirements can be derived from the provisions of the main paragraph of Article 3, paragraph (1) of the Design Act.

- (1) The subject matter constitutes a “design” under the Design Act (this requirement is hereinafter referred to as the “design applicability requirement” in this Chapter)
- (2) The subject matter is a specific design
- (3) The subject matter is industrially applicable

This Chapter describes the determination of the above three requirements.

Please note that, in this Chapter, subject matter that complies with the design applicability requirement shall be referred to as a “design.” Furthermore, subject matter which does not comply with the design applicability requirement, or which has not yet had its applicability determined, shall be distinguished from “designs” and shall be described as “subject matter of an application for design registration.”

2. Determination of the design applicability requirement

The term “design” shall mean the shape, etc. of an article or building, or a graphic image, which creates an aesthetic impression through the eye (Article 2, paragraph (1) of the Design Act). Therefore, unless subject matter of an application for design registration complies with all of the following requirements, the examiner should determine that it does not comply with the design applicability requirement.

- (1) The subject matter is found to be an article, building, or graphic image (hereinafter referred to as “article, etc.”) (→ see 2.1)
- (2) The subject matter is the shape, etc. of an article, etc. itself (→ see 2.2)
- (3) The subject matter appeals to the eye (→ see 2.3)

- (4) The subject matter creates an aesthetic impression through the eye (→ see 2.4)

Furthermore, where subject matter of an application for design registration is a design for which the design registration is requested for a part of an article, etc., in addition to each of the requirements above, unless the subject matter complies with all of the following requirements, the examiner should determine that it does not comply with the requirements for design registration

- (5) The subject matter constitutes a part that occupies a certain scope which may be subject to comparison with another design (→ see 2.5)

2.1 The subject matter is found to be an article, etc.

In order for the subject matter of an application for design registration to comply with the design applicability requirement, it must be a creation of the shape, etc. of an article or building, or a graphic image.

The requirements, etc. for subject matter of an application for design registration to be categorized as an article under the Design Act are as follows. Regarding the requirements for categorization as a building under the Design Act, see 3.1 “Requirements for categorization as a building under the Design Act” in Part IV, Chapter II “Building Design,” and regarding the requirements for categorization as a graphic image under the Design Act, see 3. “Graphic images subject to protection under the Design Act” in Part IV, Chapter I “Design Including a Graphic Image.”

Furthermore, since an article or building and shape, etc. are inseparably integrated, creation of shape, etc. alone detached from the article or building—for example, creation of the pattern or color alone—is not found to be an article or building design.

(1) Articles subject to the Design Act

An article subject to the Design Act means a tangible object that is a movable distributed in the market.

(2) Examples of subject matter not found to be articles

(i) Subject matter that is not a movable, in principle

Land and any fixtures thereto, what is called real estate, is not found to be an article. However, subject matter that becomes real estate when used, but is industrially mass-produced and treated as a movable when sold (examples: a gate, a prefabricated bungalow) is found to be an article.

(ii) Subject matter that is not solid

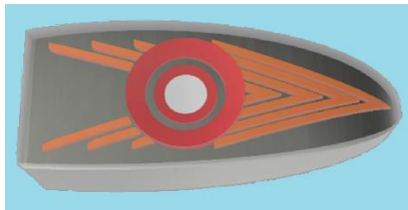
An intangible object, such as electricity, light or heat, is not found to be an article. Also, a tangible object that does not have a shape, etc. of its own, such as gas or liquid, is not found to be an article.

When an article has a lighting part,^(Note) and a pattern or color appears on the article itself with the turning on of the lighting part of the said article, such pattern and color should also be treated as elements constituting the design in the application.

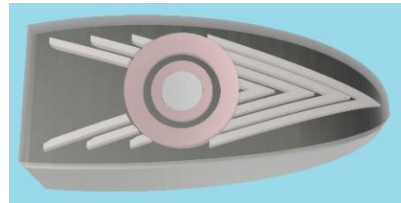
(Note) For example, articles to illuminate the surroundings, such as indoor or outdoor lighting fixtures and vehicular lamps, etc., and articles, etc. that have a lamp section for warning displays or power indicators as part of the article.

[Case example] Vehicular tail lamp

[Front view]



[Front view showing unlit state]



* For the convenience of explanation, the matters to be stated in the application and any other views are omitted.

(In this case example, the “front view showing unlit state” is also illustrated for the purpose of clarification, but even without this drawing, it is recognized that the shape, etc. of the lighting part can be identified unhindered because the shape, etc. of its housing is identifiable by the drawing of the lit state alone. For an example of a design that is determined to be not specific without a drawing showing the unlit state, see part (3) of 3.2.3 “Where drawings or photographs, etc. are unclear” in this Chapter.)

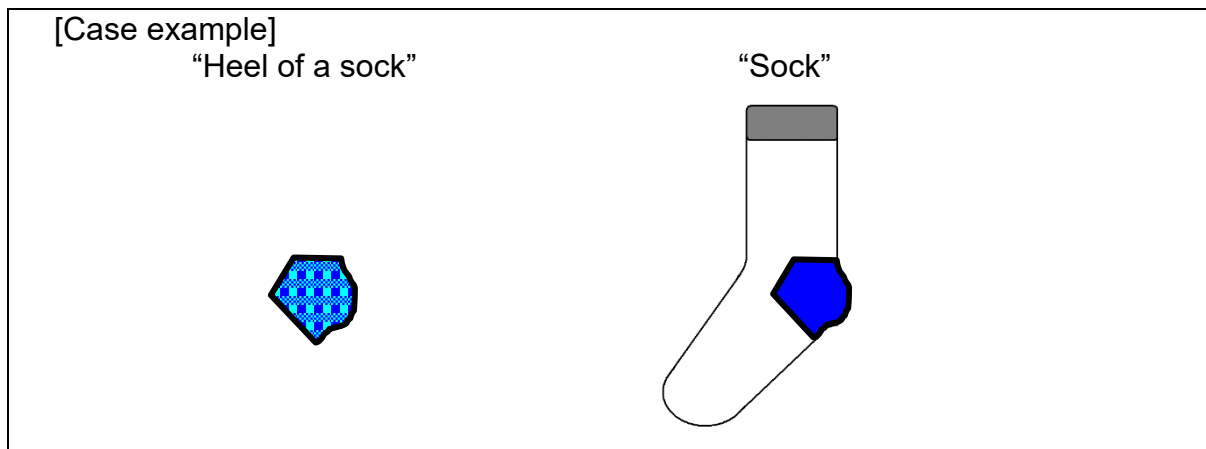
(iii) Subject matter which is a collection of powder or granules

Powder and granules are not found to be articles, because although the individual constituent objects are solid and have a certain shape, etc., a collection of them does not have a specific shape, etc. However, where the individual constituent objects are powder or granules, but a collection of them has a solid shape, etc., such as in the case of a sugar cube, the subject matter is found to be an article.

(iv) Subject matter which is a part of an article

Subject matter which cannot be isolated without destroying the article, such as the “heel of a sock” which is a part of a “sock,” is not found to be an article because it is not traded as an independent product by itself in a normal trading

state. However, a component constituting a part of a finished product (a component product) is found to be an article if it is interchangeable and is traded as an independent product in a normal trading state.



Even in cases where the application for design registration is requesting design registration for a part of an article, etc., the article to the design must correspond to an article subject to the Design Act, as in the following “Examples categorized as an article.”

<Examples categorized as an article>

- (i) Subject matter where the article to the design is a “sock,” which is found to be an article subject to the Design Act, and the “part for which the design registration is requested” is the “heel of a sock,” which is not found to be an article subject to the Design Act
- (ii) Subject matter where the article to the design is a “packaging container,” which is found to be an article subject to the Design Act, and the “part for which the design registration is requested” is the part of the “cap for a packaging container,” which is found to be an article subject to the Design Act

<Examples not categorized as an article>

- (i) Subject matter where only a pattern is represented in the drawing as the “part for which the design registration is requested,” and the article to the design is a “pattern to be represented on textile products”

2.2 The subject matter is the shape, etc. of an article, etc. itself

Since a design is the shape, etc. of an article, the examiner should determine that any subject matter that is not found to be the shape, etc. of an article, etc. itself does not correspond to a design under the Design Act.

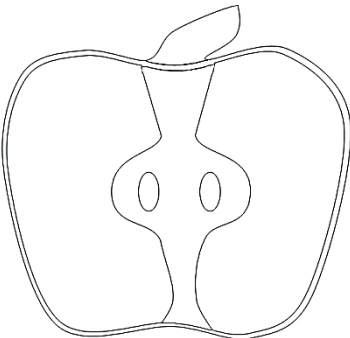
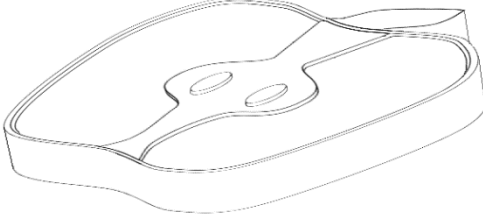
(1) Shape, etc. of an article, etc. itself

The shape, etc. of an article, etc. itself means the shape, etc. that arises from the characteristics or the nature of the article itself.


The examiner should also treat subject matter that is able to maintain a shape, etc. that is intended for sale as the shape, etc. of an article, etc. itself.

On the other hand, the examiner should determine that subject matter that is unable to maintain the shape, etc. does not correspond to the shape, etc. of an article, etc. itself.

(2) Example of subject matter determined to be the shape, etc. of an article, etc. itself

<p>[Front view]</p> 	<p>[Perspective view]</p> 
<p>[Article to the Design] Towel [Description of Article to the Design] The design in this application for design registration is a compressed towel. By soaking it in water before use, it becomes the size of an ordinary hand towel and can be used as a towel. * For the convenience of explanation, any other views are omitted.</p>	

(3) Example of subject matter not determined to be the shape, etc. of an article, etc. itself

<p>[Perspective view]</p> 	<p>[Article to the Design] Beverage in a cup [Description of Article to the Design] The design in this application for design registration is a caffe latte in a cup, the surface of which is patterned with frothed milk and coffee. * For the convenience of explanation, any other views are omitted.</p>
<p>(Explanation) In this case, since the subject matter cannot be distributed, etc. with its shape, etc. intact, it is determined not to correspond to the shape, etc. of an article, etc. itself.</p>	

2.3 The subject matter appeals to the eye

Since Article 2 of the Design Act defines that a design creates an aesthetic impression through the eye, subject matter that does not appeal to the eye is not found to be a design.

(1) Subject matter that appeals to the eye

Subject matter that appeals to the eye refers to the subject matter of an application for design registration of which the entire shape, etc. can be recognized by the naked eye.

(2) Examples of subject matter that is not found to appeal to the eye

(i) One unit of powder or granules

Where the shape, etc. of one unit of subject matter is too fine to recognize by the naked eye, the subject matter is not found to appeal to the eye.

(ii) In the case of a design for which the design registration is requested for part of an article, subject matter where the entire shape, etc. of the “part for which the design registration is requested” cannot be visually recognized from outside in the normal trading state of the article to the design

(iii) In the case of a design for which the design registration is requested for part of an article, subject matter where the entire shape, etc. of the “part for which the design registration is requested” is too fine to recognize by the naked eye

2.4 The subject matter creates an aesthetic impression through the eye

Since Article 2 of the Design Act defines that a design creates an aesthetic impression through the eye, subject matter that does not create an aesthetic impression is not found to be a design.

While an aesthetic impression can also be created through the ear, such as in the case of music, in the case of a design, it is limited to an aesthetic impression that is created through the eye.

(1) Aesthetic impression

An aesthetic impression as provided in Article 2, paragraph (1) of the Design Act does not need to be refined beauty as in a work of art; it is sufficient for the subject matter to create some kind of aesthetic impression.

(2) Examples of subject matter that is not found to create an aesthetic impression through the eye

(i) Subject matter mainly for achieving a function or a working effect which hardly creates an aesthetic impression

(ii) Subject matter which is not coordinated as a design, and which only creates a complicated impression and hardly creates an aesthetic impression

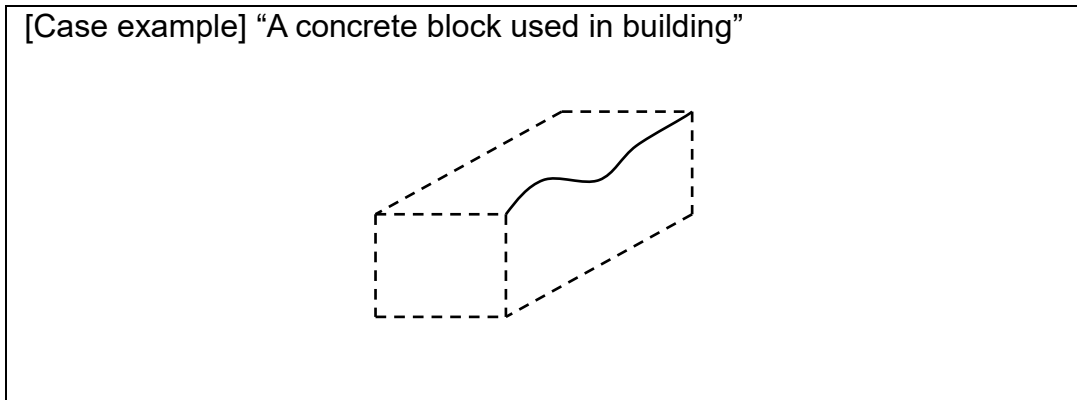
2.5 The subject matter constitutes a part that occupies a certain scope which may be subject to comparison with another design

In the case of a design for which the design registration is requested for part of an article, the “part for which the design registration is requested” must be a part of the shape, etc. of the entire article to the design, which occupies a certain scope which may be subject to comparison with another design, that is, a closed area that is included in the shape, etc. of the appearance of the design. Furthermore, the boundary between the part for which the design registration is requested and any other parts must be clear.

(1) Examples of subject matter that is not determined to constitute a part that occupies a certain scope which may be subject to comparison with another design

- (i) Subject matter where the “part for which the design registration is requested” is only a ridge line

Since a ridge line does not have an area, it does not constitute a part that occupies a certain scope which may be subject to comparison with another design



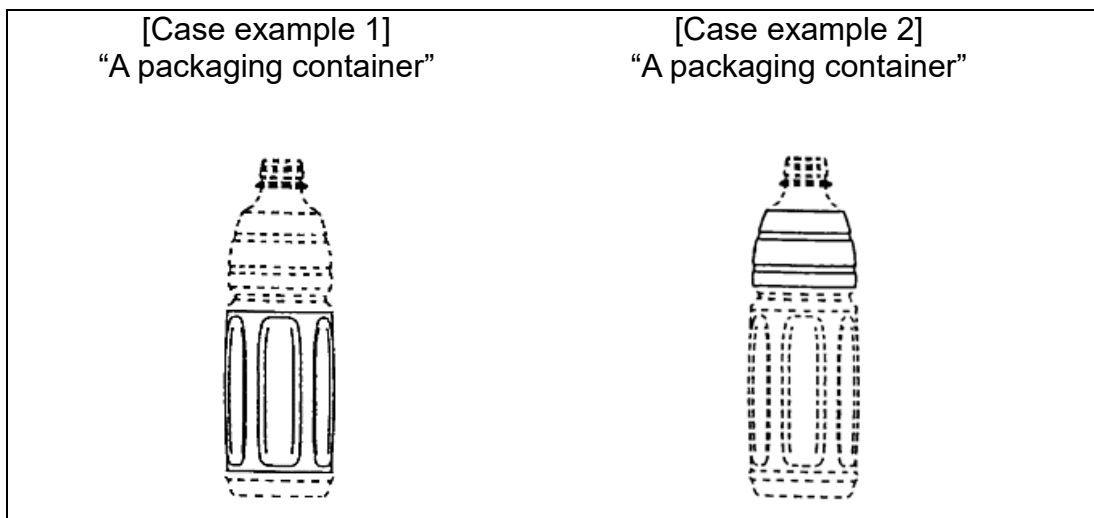
- (ii) Subject matter that represents only the silhouette of the shape, etc. of the entire article to the design

Since it is not found to be a closed area that is included in the shape, etc. of the appearance of the design, it does not constitute a part that occupies a certain scope which may be subject to comparison with another design.

[Case example] Subject matter representing only a projected silhouette of the side view of a passenger car

- (2) Examples of subject matter that is determined to constitute a part that occupies a certain scope which may be subject to comparison with another design

In both of the cases below, the “part for which the design registration is requested” is a part of the shape, etc. of the entire article, namely a packaging container, which occupies a certain scope which may be subject to comparison with another design.



3. The subject matter is a specific design

3.1 Requirement for the design to be specific

The design for which the design registration is requested, which is the object of a design right, must be one for which contents of a specific single design, that is, specific contents concerning (i) and (ii) below, can be directly derived from the statement in the application and drawings, etc. attached to the application as originally filed, predicated on the ordinary skill in the art of the design.

- (i) The usage and function based on the purpose of use, state of use, etc. of the article, etc. to the design
- (ii) The shape, etc. of the design for which the design registration is requested

Where the filed design is a design for which the design registration is requested for a part of an article, etc., in addition to the above, the specific contents concerning (iii) through (v) below must also be directly derivable. In addition, the drawings including the “part for which the design registration is requested” must clearly represent the minimum constituent elements necessary for recognizing the article to the design or the usage of the building or graphic image that is stated in the column of “Article to the Design” in the application.

- (iii) Usage and function of the “part for which the design registration is requested”
- (iv) Position, size, and scope of the “part for which the design registration is requested”

However, where the position, size, and scope of the part for which the design registration is requested can be derived in light of the nature of the article, the subject matter is found to be a specific design even if the entirety of “any other parts” is not indicated.

- (v) The boundary between the “part for which the design registration is requested” and “any other parts”

Since the subject matter that is protected as a design is an aesthetic creation concerning an article, etc., which is an intangible property that can be identified through the statement in the application and drawings, etc. attached to the application it is sufficient as long as the contents of the filed design can be specifically derived from the statement in the application and drawings, etc. attached to the application; thus, the drawings, etc. attached to the application only need to contain elements that are required to identify the contents of the creation of the design, and do not necessarily need to be indicated with equally high accuracy for the entire design, such as in the case of an engineering drawing for a product.

Where the shape, etc. of the entire article, etc. to the design is not illustrated in the drawings, the examiner should not treat the shape, etc. of the area that is not disclosed in the drawings (excluding cases where the drawings regarding such area are omitted in accordance with the Ordinance) as a part for which the design registration is requested, but should treat it as a design in which the part illustrated in the drawings is the part for which the design registration is requested. Also, even where the application or drawings, etc. attached to the application contains any improper description, such as an erroneous or ambiguous statement, if the improper

description falls under any of the following, the examiner should determine the subject matter to be a specific design.

- (a) Where it is reasonable to give a favorable construction upon making comprehensive determination^(Note) predicated on the ordinary skill in the art of the design
- (b) Where it is an improper description of a part that is minor enough to not affect the finding of the gist of the design (see Part VI Chapter II “Dismissal of Amendments”) even if the question as to which description is correct is left undecided

(Note) “Comprehensive determination” includes the determination as to whether or not it is reasonable to give a favorable construction to an improper statement of an application or improper depiction of drawings, etc. attached to the application, where such improper statement and depiction exist; the same shall apply hereinafter. Also, where it is simply described as “comprehensive determination” hereinafter, the determination is assumed to be made predicated on the ordinary skill in the art of the design.

3.2 Examples where the design is determined not to be a specific design

Where contents of a specific single design cannot be directly derived upon making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, such as in 3.2.1 through to 3.2.25 below, the examiner should determine that the design is not a specific design.

3.2.1 Where the purpose of use, state of use, etc. of the article to the design is unclear

Where the purpose of use, state of use, etc. of the article to the design is unclear even after making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, the examiner should determine that the design is not a specific design.

3.2.2 Where views are inconsistent and the contents of the design cannot be identified

Where views in the drawings, etc. attached to the application are inconsistent and the contents of the design cannot be identified, the examiner should determine that the design is not a specific design.

3.2.3 Where drawings or photographs, etc. are unclear

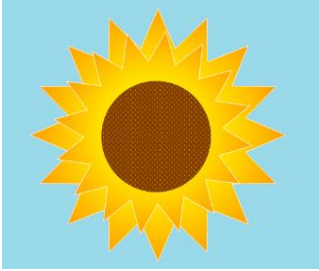
Where the drawings, photographs and so on attached to the application are unclear, such as in the examples below, the examiner should determine that the design is not a specific design.

- (1) Where the contents of the design cannot be identified accurately due to the drawings or photographs being unclear, etc.
- (2) Where the contents of the design cannot be identified accurately because it is not possible to determine whether the background, highlights or shadows are shown

For example, as in the example below, where it is unclear whether the whole drawing shows the shape, etc. of the design in the application or whether the

drawing contains a background color, the examiner should determine that the design is not a specific design.

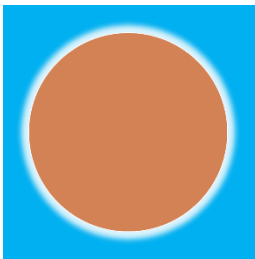
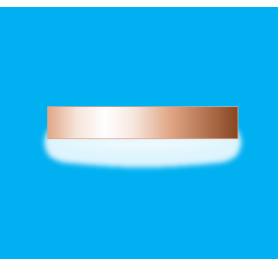
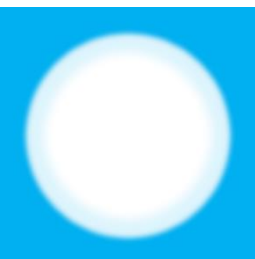
<Example requiring an explanation about the background color>

<p>[Surface view]</p> 	<p>[Article to the Design] Decorative sticker [Description of Article to the Design] (No description) [Description of the Design] Back side view is omitted as there is no pattern.</p>
<p>(In this example, it is unclear, whether the design in the application is only the sunflower part or the whole drawing including the pale blue periphery.)</p>	

(3) Where the design has a lighting part, and drawings represent the lit state such that the shape, etc. of the design becomes unclear

However, where drawings show only the lit state, yet the shape, etc. of the design can be identified unhindered, or where a drawing showing the unlit state or a sectional view, etc. has been provided and the shape, etc. of the design can be identified, the examiner should determine that the design is a specific design (see (ii) "Subject matter that is not solid" in 2.1 "The subject matter is found to be an article, etc." in this Chapter).

<Example representing only the lit state such that the shape, etc. cannot be identified>

<p>[Article to the Design] Lighting fixture attached directly to the ceiling</p>		
<p>[Top view]</p> 	<p>[Front view]</p> 	<p>[Bottom view]</p> 
<p>* For the convenience of explanation, the matters to be stated in the application and any other views are omitted.</p>		

3.2.4 Where the design is explained in an abstract manner

Where the shape, pattern and color are explained in an abstract manner in the application or drawings by using characters or codes, etc., the examiner should determine that the design is not a specific design.

3.2.5 Where the material or size needs to be explained, but there is no such statement

Where the material or size of the article needs to be explained, but there is no such statement, the examiner should determine that the design is not a specific design (Article 6, paragraph (3) of the Design Act).

3.2.6 Where drawings showing the states of change are needed, but there are no such drawings or explanation

Where the article to the design is transformable or openable, and the drawings representing the states of the change of the design, such as the transforming or opening, are required in order to sufficiently represent the design, but such drawings and explanation are not included in the column of "Description of the Design" of the application, the examiner should determine that the design is not a specific design (Article 6, paragraph (4) of the Design Act) (Form No. 6 Note (22) of the Ordinance for Enforcement of the Design Act).

3.2.7 Where colored drawings have a part that is not colored

Where colored drawings have a part that is not colored, the examiner should determine that the design is not a specific design. However, this excludes cases where an explanation to the effect that the uncolored part is black or white is stated in the column of "Description of the Design" of the application (Article 6, paragraph (6) of the Design Act).

3.2.8 Where the whole or part of the article, etc. is found to be transparent based on the drawings, but there is no explanation to that effect in the column of "Description of the Design" of the application

Where the whole or part of the article, etc. appears to be transparent based on the drawings, and the design cannot be identified since there is no explanation to that effect in the column of "Description of the Design" of the application, the examiner should determine that the design is not a specific design (Article 6, paragraph (7) of the Design Act) (Form No. 6 Note (27) of the Ordinance for Enforcement of the Design Act).


3.2.9 Where elements such as a centerline, baseline, horizontal line, fine line or shading to express shadows, indication line, code or character to explain the contents, or any other line, code or character which does not constitute the design are included in such a way that the design cannot be identified

Where elements such as a centerline, baseline, horizontal line, fine line or shading to express shadows, indication line, code or character to explain the contents, or any other line, code or character which does not constitute the design are included in such a way that the design cannot be identified, the examiner should determine that the design is not a specific design.

<Example where the design cannot be identified>

[Article to the Design] Eraser

[Perspective view] [Front view] [Top view] [Right side view]

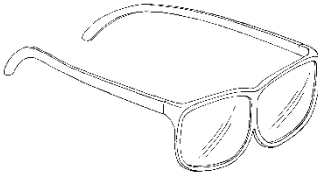


(Without an explanation, it is unclear whether the creation has different colors on each surface, or whether it is a single-color creation and the different colors show the tone of the shaded areas depending on the way the light falls onto the article.)

However, this excludes cases where a line, dot or any other mark for specifying the shape of the design is indicated, and a statement to that effect and a statement as to which mark specifies the shape are included in the column of “[Description of the Design]” in the application (Form No. 6 Note (7) of the Ordinance for Enforcement of the Design Act), and cases where it is obvious that the line, dot, etc. are depicted for the purpose of specifying the shape even without such explanation, in the light of nature and use/function of each part of the article, etc. to the design.

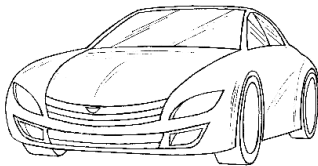
<Examples where it is obvious that the line, dot, etc. are for specifying the shape of the design even without an explanation>

[Article to the Design] Glasses



(Explanation) When considering the nature of the article “glasses,” given it is not general to place a line pattern, etc. on the center of a lens, the design can be identified even without an explanation about the line specifying the shape.

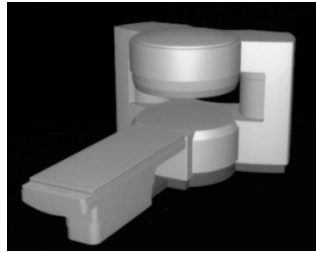
[Article to the Design] Passenger car



(Explanation) When considering the nature of the article “passenger car,” given it is not general to place a line pattern, etc. on the body or windows, the design can be identified even without an explanation about the line specifying the shape.

<Examples where it is obvious that brightness change is “shades” even without an explanation>

[Article to the Design] Medical image photographing apparatus



[Article to the Design] Mouse for electronic computer



Characters and signs indicated on an article, etc. are treated as elements constituting a design, except for those used only for conveying information.

<Examples of characters, etc. used only for conveying information>

- a. The text part of a newspaper or book
- b. Characters indicating ingredients or instructions for use in a normal manner

3.2.10 Where drawings showing a three-dimensional shape fall under any of the following

(1) Where drawings have not been prepared clearly using orthographic projection methods etc., and the contents of the design for which the design registration is requested cannot be identified even when comprehensive determination is made based on the statement in the application and drawings, etc. attached to the application, the examiner should determine that the design is not a specific design.

Where the shape, etc. of the entire article to the design is not represented in the drawings, etc. attached to the application, nor is there a statement on omission of views, the examiner should treat such design as one for which the design registration is requested for a part of an article, etc.

Where a view is identical to or a mirror image of another view, it may be omitted if it is stated which view is identical or a mirror image in the column of “Description of the Design” of the application.

Also, where views have been prepared by the isometric projection method or prepared by the oblique projection method (limited to cabinet drawings (at a width-height-depth ratio of 1:1:1/2) or cavalier drawings (at a width-height-depth ratio of 1:1:1)), the views set forth in the left-hand column of the following table may be replaced by the views set forth in the right-hand column. In this case, if the views have been prepared by the oblique projection method, the distinction of cabinet drawings or cavalier drawings and the inclination angle need to be stated in the column of “Description of the Design” of the application for each view.

Views showing the front, top and right side	Front view, top view or right side view
Views showing the rear, bottom and left side	Rear view, bottom view or left side view
Views showing the front, left side and top	Front view, left side view or top view
Views showing the rear, right side and bottom	Rear view, right side view or bottom view
Views showing the front, right side and bottom	Front view, right side view or bottom view
Views showing the rear, left side and top	Rear view, left side view or top view
Views showing the front, bottom and left side	Front view, bottom view or left side view
Views showing the rear, top and right side	Rear view, top view or right side view

- (2) Where each view is prepared at different scales and a single design cannot be identified, the examiner should determine that the design is not a specific design. However, this excludes cases where a specific single design can be derived even though each view is prepared at different scale.
- (3) Where a specific single design cannot be identified because the distinction of a cabinet drawing or a cavalier drawing and the inclination angle have not been stated in the column of "Description of the Design" of the application for each drawing prepared by the oblique projection method, the examiner should determine that the design is not a specific design (Form No. 6 Note (9) of the Ordinance for Enforcement of the Design Act).

3.2.11 Where drawings, etc. showing a flat and thin article fall under any of the following

The examiner should determine whether the design for a flat and thin article is a specific design as follows.

Note, a flat and thin article refers to a thin article such as wrapping paper, a vinyl sheet, or woven cloth fabric. However, an article that has an overlapping part and is three-dimensional when used, such as a packaging bag, or a thick article, such as a flocked vinyl sheet, is treated as a three-dimensional article.

- (1) Where drawings, etc. have not been prepared clearly using a surface view and a back side view, and a single design cannot be identified even when comprehensive determination is made based on the statement in the application and drawings, etc. attached to the application, the examiner should determine that the design is not a specific design.

Where the shape, etc. of the entire article to the design is not represented in the drawings, etc. attached to the application, nor is there a statement on omission of views, the examiner should treat such design as one for which the design registration is requested for a part of an article, etc. Where the surface view and the

back side view are identical or mirror images or the back side has no pattern, the back side view may be omitted. In this case, a statement to that effect shall be included in the column of “[Description of the Design]” in the application.

- (2) Where each view is prepared at different scales and a single design cannot be identified, the examiner should determine that the design is not a specific design. However, this excludes cases where a specific single design can be derived even though each view is prepared at different scale.

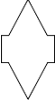
3.2.12 Where drawings, etc. of an article in which a shape or a pattern continues or repeats continuously do not clearly show the continuous state

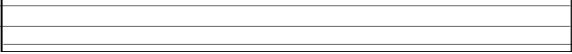
Where drawings of an article in which a shape or a pattern continues or repeats continuously do not clearly show the continuous state, the examiner should determine that the design is not a specific design (Form No. 6 Note (13) of the Ordinance for Enforcement of the Design Act). In each of the following examples, the examiner should determine that the continuous state is obvious.

<Example 1 of a case where the continuous state is obvious>

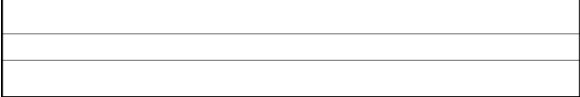
[Top view]

[Left side view]



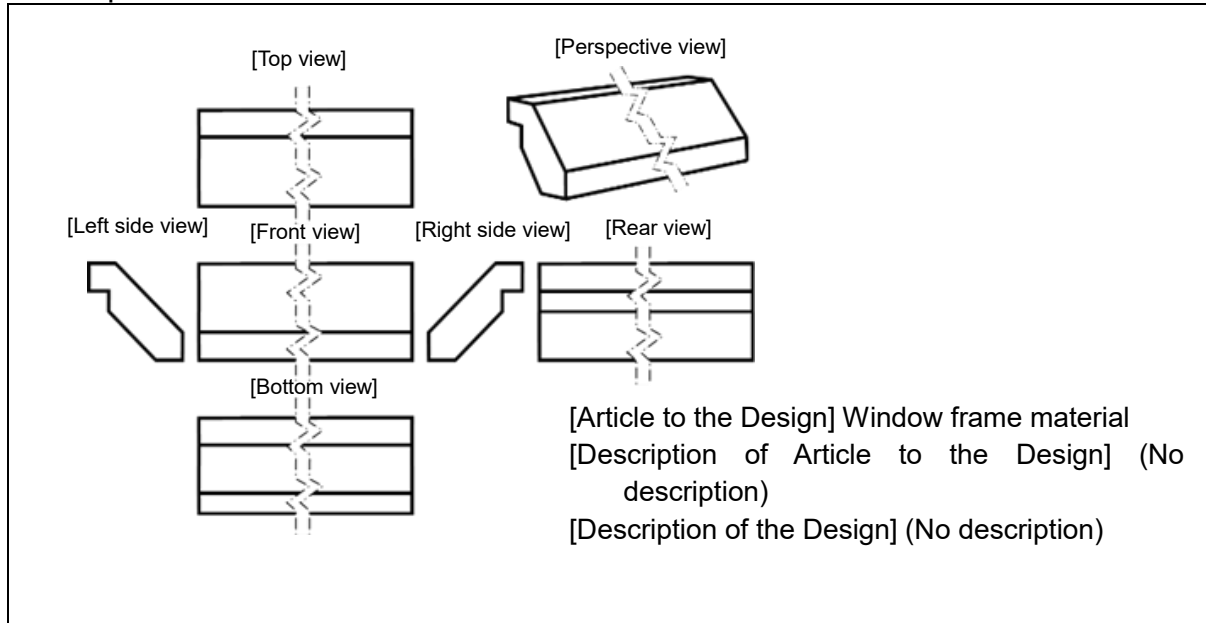


[Front view]



[Article to the Design] Wire
[Description of Article to the Design] (No description)
[Description of the Design] The rear view, right side view and bottom view are omitted as they are identical with the front view, left side view and top view, respectively. This design is continuous only to the left and right in the front view.

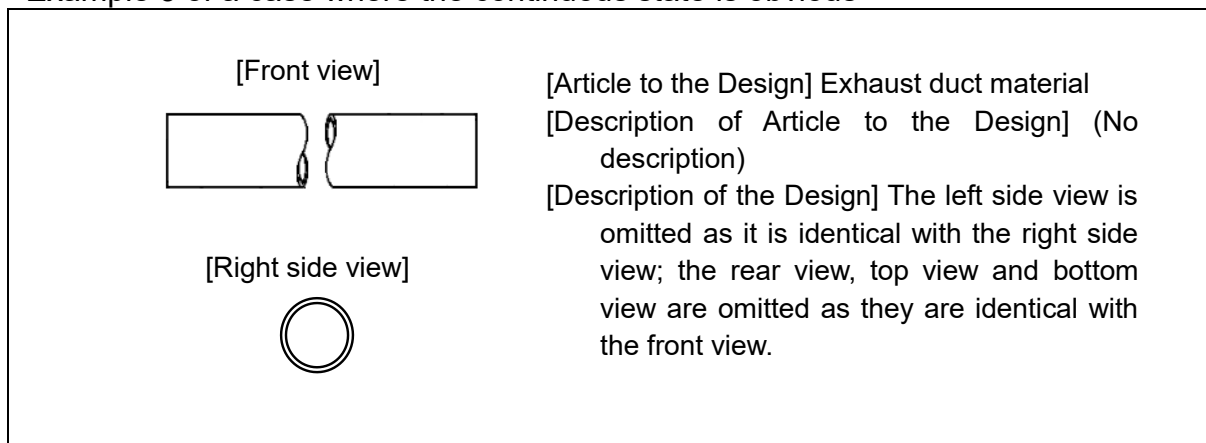
<Example 2 of a case where the continuous state is obvious>



When considering the contents of the drawings and the nature of the article “window frame material,” the continuous state is obvious even without a statement in the column of Description of the Design.

Where the statement in the column of “Article to the Design” is described as “XX material,” and the drawings are represented in a way that the same shape or pattern appears to continue or repeat continuously in one direction only (hereinafter referred to as a “long shaped object”), and no particular statement on the length is found in the column of Description of the Design, the examiner should find the article as a long shaped object.

<Example 3 of a case where the continuous state is obvious>



When considering the contents of the drawings and the nature of the article “exhaust duct material,” the continuous state is obvious even without a statement in the column of Description of the Design.

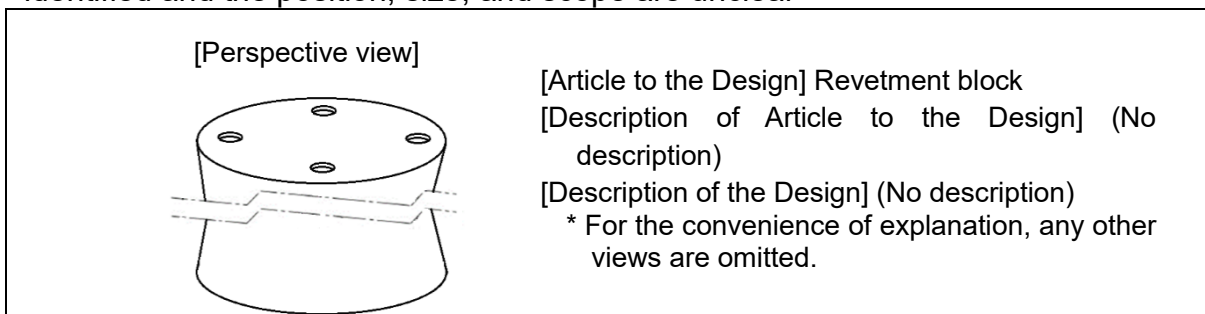
Where the statement in the column of “Article to the Design” is described as “XX material,” and the drawings are represented as a long shaped object, and no particular statement on the length is found in the column of Description of the Design, the examiner should find the article as a long shaped object.

3.2.13 Where there is a deficiency in drawings, etc. in which the middle part of an article, such as a cord, is omitted

Where drawings in which the middle part of an article is omitted (Form No. 6 Note (14) of the Ordinance for Enforcement of the Design Act) fall under the following, the examiner should determine that the design is not a specific design.

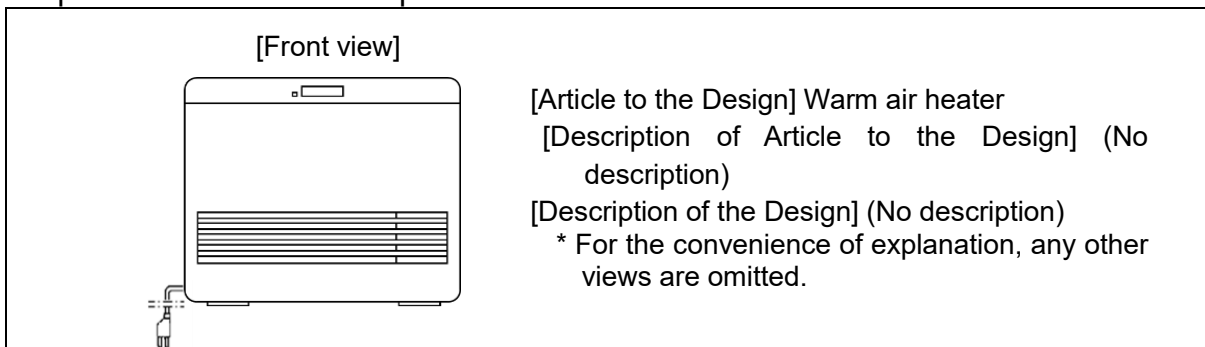
- (1) Where it is unclear as to which part is omitted
- (2) Where the component ratio of the entire design for which the design registration is requested cannot be identified and the position, size, and scope cannot be identified because the omitted part is inappropriate or there is no explanation as to how many centimeters of the omitted part have been omitted on the drawings, etc.

<Example of a case where the component ratio of the entire design cannot be identified and the position, size, and scope are unclear>



However, even if there is no explanation of the omitted part, in cases where the length of the omitted part can be identified from the nature of the article, or in cases where the omitted part, such as the middle section of a power supply cord, varies in length and such length does not constitute a design characteristic, the examiner should determine the contents of the design of the disclosed part to be identifiable even without such explanation of the omitted part.

<Example of a case where the contents of the design can be identified without an explanation of the omitted part>



3.2.14 Where six views or two views alone cannot sufficiently represent the design, and there are no other views

Where a design cannot be identified due to the absence of the following views, the examiner should determine that the design is not a specific design.

- (1) A development view, sectional view, enlarged view, perspective view, etc. as provided in Form No. 6 Note (15) of the Ordinance for Enforcement of the Design Act
- (2) In the case of a building block, structuring block or building, a perspective view as provided in Form No. 6 Note (20) of the Ordinance for Enforcement of the Design Act

3.2.15 Where there is a deficiency in indication of the cross section or the cut part, such as a sectional view

Where indication of the cross section or the cut part, such as a sectional view, falls under the following, and a design cannot be identified, the examiner should determine that the design is not a specific design.

- (1) Where the oblique parallel lines representing the cross section are incomplete or missing
- (2) Where the cut part is not clearly shown by indications (a cutting-plane chain line, codes and arrows)

However, this excludes cases where the cut part is clearly indicated by describing it as the central longitudinal section of a certain view or the central traverse section of a certain view (Form No. 6 Note (16) of the Ordinance for Enforcement of the Design Act).

3.2.16 Where an enlarged view of a part does not have indications of the enlarged part

Where a design cannot be identified due to the enlarged view of a part not having indications of the enlarged part (Form No. 6 Note (17) of the Ordinance for Enforcement of the Design Act), the examiner should determine that the design is not a specific design.

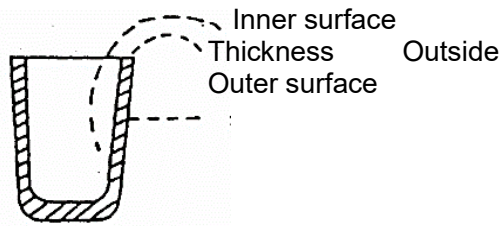
3.2.17 Where a separable article falls under the following

Where the article is separable, such as a cover and a main body, and the state of these constituent parts combined cannot sufficiently represent the design, and the design cannot be identified because the views of combined constituent parts and drawings for each constituent part are absent (Form No. 6 Note (19) of the Ordinance for Enforcement of the Design Act), the examiner should determine that the design is not a specific design.

3.2.18 Where there is a deficiency in drawings of a transparent design

Where a design cannot be identified due to drawings of a transparent design not being prepared according to the provisions of Form No. 6 Note (27) of the Ordinance for Enforcement of the Design Act, the examiner should determine that the design is not a specific design.

<Illustration of “outside” as prescribed in Note (27),
using the longitudinal section view of a cup>



- (1) Where the see-through part needs to be depicted as it is in order to sufficiently represent the design, such as in the case of a light bulb, the article shall be depicted according to Note (27) (a) (thickness, however, shall not be depicted).
- (2) In any other cases, the article shall be depicted like an opaque object, and where the shape or pattern overlaps, it shall be depicted according to Note (27) (b) or (c). The same also applies to cases where the rear part can be seen through and the shape or pattern overlaps, such as in the case of a bird cage (Article 6, paragraph (7) of the Design Act) (see 3.2.8 above).

3.2.19 Where articles other than the design for which the design registration is requested are represented in the drawings (excluding reference views)

Where articles other than the design for which the design registration is requested are represented in the drawings (excluding reference views), the examiner should determine that the design is not a specific design. However, this excludes cases where Description of the Design includes an explanation of the articles extraneous to the design for which the design registration is requested, as well as cases where articles relevant to the design for which the design registration is requested can be clearly recognized from other articles because of distinguishing indications in drawings, etc.

<Example where the design for which the design registration is requested and the subject matter other than the design can be clearly identified>

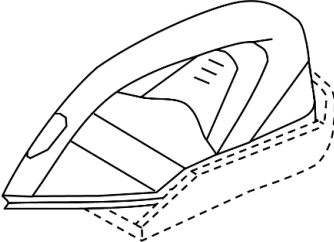
<p>[Front view]</p>	<p>[Article to the Design] Necklace [Description of Article to the Design] (No description) [Description of the Design] The torso represented in white is an article other than the design for which the design registration is requested. * For the convenience of explanation, any other views are omitted.</p>
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<Example where the design for which the design registration is requested and the subject matter other than the design can be identified, but the shape, etc. of the design for which the design registration is requested is unclear, and the subject matter is not a specific design >

<p>[Front view]</p> 	<p>[Article to the Design] Scarf [Description of Article to the Design] (No description) [Description of the Design] In the photograph, the display tool formed by black wire and the tablecloth are articles other than the design for which the design registration is requested. * For the convenience of explanation, any other views are omitted.</p>
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3.2.20 Where the article, etc. to the design in the application for design registration is unclear

Where the article, etc. to the design in the application for design registration is unclear, the examiner should determine that the design is not a specific design.

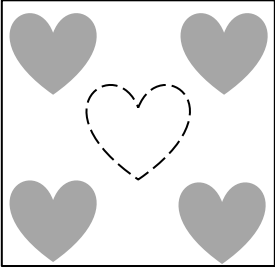
<p>[Perspective view]</p> 	<p>[Article to the Design] Part of steam iron [Description of Article to the Design] (No description) [Description of the Design] (No description) * For the convenience of explanation, any other views are omitted.</p>
<p>(Explanation) Where the statement in the column of “Article to the Design” is inappropriate and there is no statement in the column of Description of the Design, and it is unclear from the contents of the drawings whether the article to the design includes both the main body of the steam iron and the charging base, and design registration is requested for the main body of the steam iron as a part for which the design registration is requested, or whether the article to the design is only the main body part of the steam iron excluding the charging base, and the charging base is represented only for the purpose of showing that it is an article to be used together with the steam iron main body part, the subject matter is not found to be a specific design.</p>	

3.2.21 Cases where it is unclear which part is the one for which the design registration is requested

In cases where there is no statement on the way of specifying the “part for which the design registration is requested” in the column of “Description of the Design” in

the application as originally filed, and hence, even after making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, it is unclear whether the filed design is one for which the design registration is requested for a part of an article, etc. or one for which the design registration is requested for the entire article, etc., or it is unclear which part described in a distinguishing manner in the drawings, etc. is the “part for which the design registration is requested,” the examiner should determine that the design is not a specific design.

[Surface view]



[Article to the Design] Handkerchief


[Description of Article to the Design] (No description)

[Description of the Design] (No description)

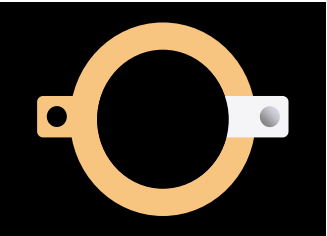
* For the convenience of explanation, any other views are omitted.

(Explanation) Since there is no statement made on the way of specifying the “part for which the design registration is requested” in the column of “Description of the Design,” it is unclear whether the application for design registration is one in which the broken line has been used to represent the parts other than the part for which the design registration is requested, or one for a whole design with a mark stitched at the center.

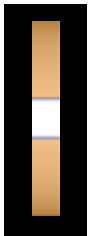
[Top view]



[Front view]



[Right side view]



[Article to the Design] Flange

[Description of Article to the Design] (No description)

[Description of the Design] (No description)

* For the convenience of explanation, any other views are omitted.

(Explanation) Unless there is a statement on the way of specifying the “part for which the design registration is requested” in the column of “Description of the Design,” it is unclear whether the “part for which the design registration is requested” is the part colored in orange or the part colored in white.

3.2.22 Where the specific usage and function of the “part for which the design registration is requested” are unclear

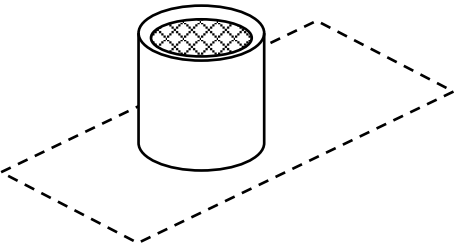
With regard to a design for which the design registration is requested for a part of an article, etc., where the specific usage and function of that part are unclear, the examiner should determine that the design is not a specific design.

3.2.23 Where the position, size, and scope of the “part for which the design registration is requested” cannot be specified

With regard to a design for which the design registration is requested for a part of an article, etc., where the position, size, and scope of that part are unclear, such as in the examples below, the examiner should determine that the design is not a specific design.

- (1) Where “other parts” are not disclosed, and the position, size, and scope of the part for which the design registration is requested cannot be derived even in light of the nature of the article

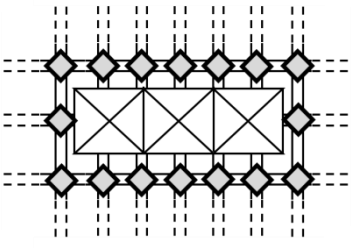
[Perspective view]



[Article to the Design] Humidifier
[Description of Article to the Design] (No description)
[Description of the Design] (No description)
* For the convenience of explanation, any other views are omitted.

(Explanation) In this example, only the area adjacent to the steam outlet is indicated, and the position, size, and scope of the part for which the design registration is requested cannot be specified.

[Front view]



[Article to the Design] Garden fence
[Description of Article to the Design] (No description)
[Description of the Design] (No description)
* For the convenience of explanation, any other views are omitted.

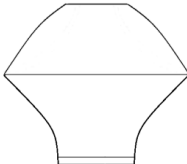
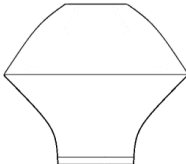
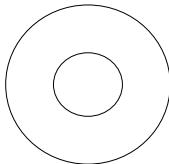
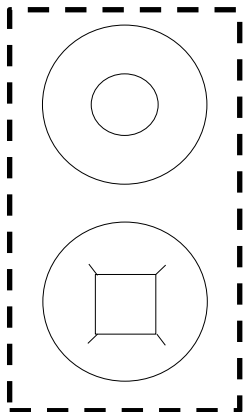
(Explanation) In this example, the position, size, and scope of the part for which the design registration is requested cannot be specified.

- (2) Where the shape, etc. of “other parts” represented by a broken line, etc. is not specific due to inconsistency between the views, and as a result, the position, size, and scope of the “part for which the design registration is requested” within the shape, etc. of the entire article, etc. are not made specific

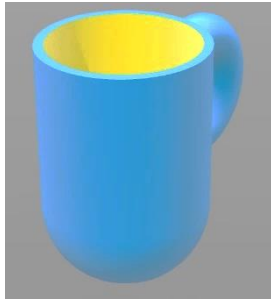
3.2.24 Where the shape, etc. of the “part for which the design registration is requested” is unclear

With regard to a design for which the design registration is requested for a part of an article, etc., where the shape, etc. is unclear, such as in the examples below, the examiner should determine that the design is not a specific design.

- (1) Where the shape, etc. of the “part for which the design registration is requested” is inconsistent in the respective views
- (2) Where the “part for which the design registration is requested” is not a closed area
- (3) Where the “part for which the design registration is requested” is specified only by reference views
- (4) Where the “part for which the design registration is requested” is specified only by text in the column of “Description of the Design” in the application, and the “part for which the design registration is requested” and “any other parts” are not described in a distinguishing manner as required in the drawings
- (5) Where multiple shapes, etc. could be assumed for the part for which the design registration is requested, so that a shape, etc. cannot be derived

[Front view]	[Right side view]	[Top view]	[Bottom view]
			
<p>[Article to the Design] Flower vase [Description of Article to the Design] (No description) [Description of the Design] The rear view is omitted due to it being identical to the front view, and the left side view is omitted due to it being identical to the right side view.</p>			
<p>(Explanation) In this example, a specific design cannot be derived because various shapes could be assumed as shown in the dot frame on the right.</p>			

[Perspective view]



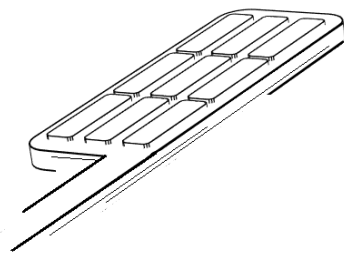
[Article to the Design] Coffee cup
[Description of Article to the Design] (No description)
[Description of the Design] (No description)

(Explanation) In this example, a specific design cannot be derived because, even by examining only the disclosed parts, the shape, etc. of the handle and the shape, etc. near the bottom of the cup body are unclear just from this single view as shown above.

3.2.25 Where the boundary between the “part for which the design registration is requested” and “any other parts” is unclear

With regard to a design for which the design registration is requested for a part of an article, etc., where the boundary between that part and “any other parts” is unclear, the examiner should determine that the design is not a specific design.

[Perspective view]



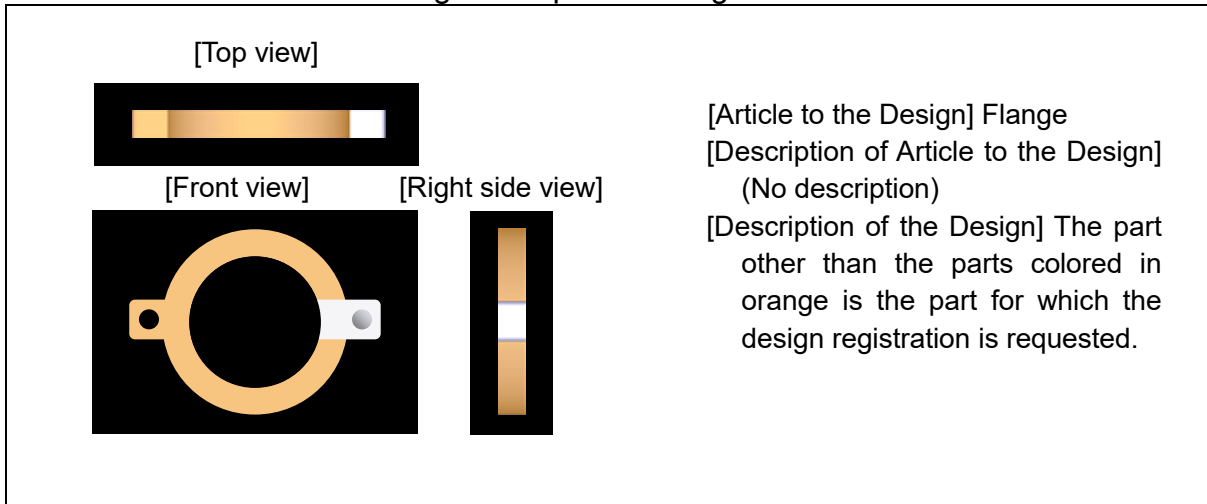
[Article to the Design] Brake pedal
[Description of Article to the Design] (No description)
[Description of the Design] (No description)

3.3 Examples where the design for which the design registration is requested for a part of an article, etc. is determined to be a specific design

Where the contents of a specific single design can be directly derived upon making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, as in 3.3.1 through 3.3.5 below, the examiner should determine that the design for which the design registration is requested for a part of an article, etc. is a specific design.

3.3.1 Where it is clear from the “Description of the Design” and from drawings, etc., that the design is one for which the design registration is requested for a part of an article, etc.

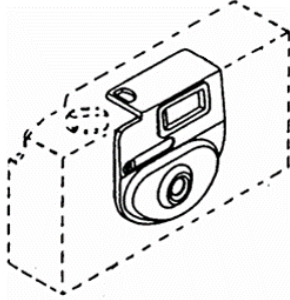
With regard to a design for which the design registration is requested for a part of an article, etc., where it is clear from statements in the column of “Description of the Design” of the application and from specific expressions in the drawings, etc. attached to the application that the application for design registration is one for which the design registration is requested for a part of an article, etc., as long as there are no other deficiencies in statements in the application or drawings, etc., the examiner should determine that the design is a specific design.



3.3.2 Where the “part for which the design registration is requested” is clear from drawings, etc., even without statement in the column of “Description of the Design”

With regard to a design for which the design registration is requested for a part of an article, etc., even if there is no statement on the way of specifying the part for which the design registration is requested in the column of “Description of the Design” in the application as originally filed, where the “part for which the design registration is requested” is clear from specific expressions in the drawings, etc. attached to the application, and it is clear that the application for design registration is one in which the design registration is requested for a part of an article, etc., the examiner should determine that the design is a specific design.

[Perspective view]



[Article to the Design] Digital camera

[Description of Article to the Design] (No description)

[Description of the Design] (No description)

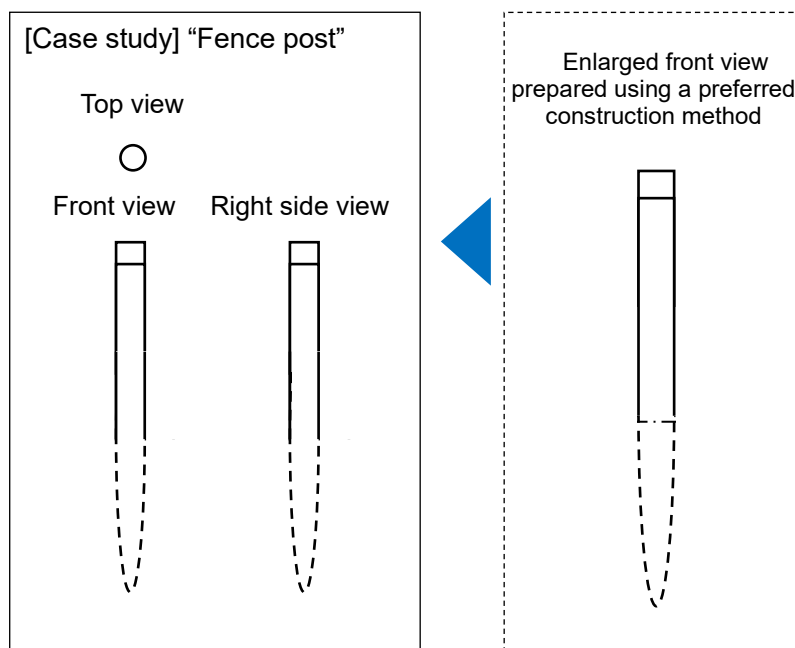
(Explanation) In this example, the respective views in the drawings attached to the application are described in a manner that clearly distinguishes a certain part by using solid lines and broken lines, and it can be inevitably derived that the design is one for which the design registration is requested for the part described in solid lines, even though there is no explanation on the way of specifying the part for which the design registration is requested in the Description of the Design.

3.3.3 Where the boundary between the “part for which the design registration is requested” and “any other parts” is clear, even without indication of a boundary line

Where a lack of indication of a boundary line is found to be an error in constructing drawings, and making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, the boundary of the “part for which the design registration is requested” can inevitably be derived, the examiner should determine that the design is a specific design.

The “part for which the design registration is requested” must be a part that occupies a certain scope of the shape, etc. of the entire article, etc. to the design, that is, a closed area that is included in the appearance of the design (see 2.5 “The subject matter constitutes a part that occupies a certain scope which may be subject to comparison with another design” above).

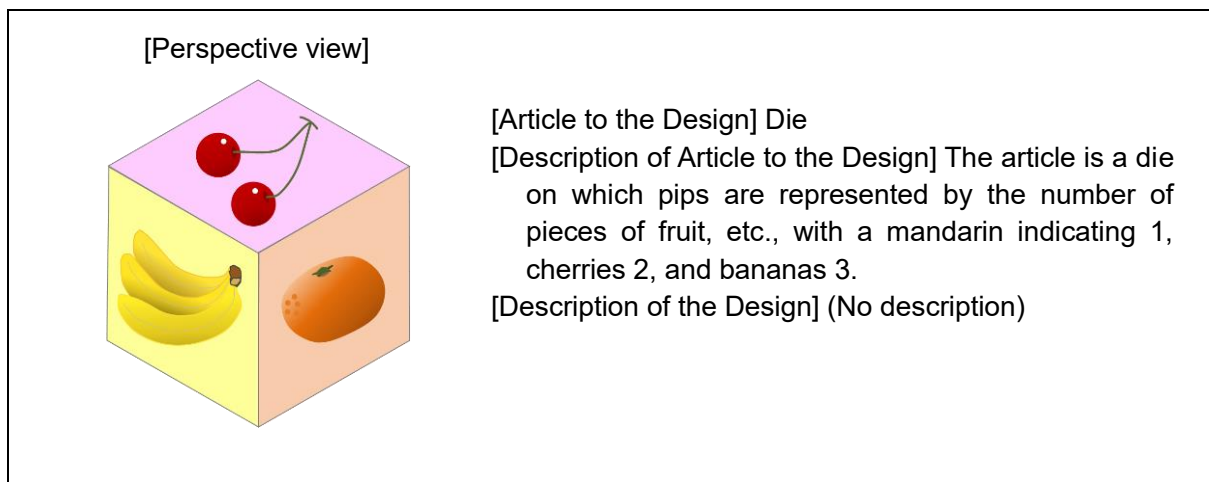
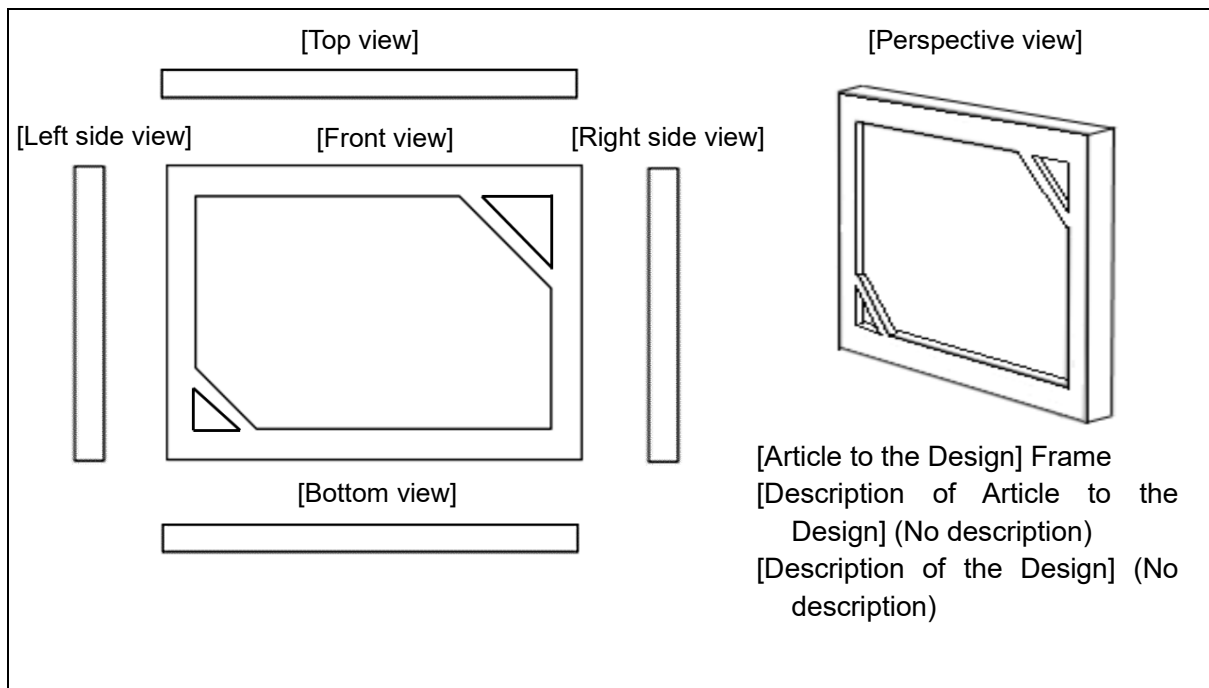
However, for example, where the subject matter is a wire rod or a rod, such as the “fence post” below, and by making comprehensive determination based on the statement in the application and drawings, etc. attached to the application, no problem is found in deeming that the position where the two ends of a solid line representing the outline of the “part for which the design registration is requested” are linked together by a straight line is the boundary, the examiner should treat the “part for which the design registration is requested” as occupying a certain scope.

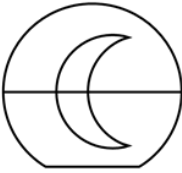
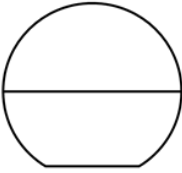
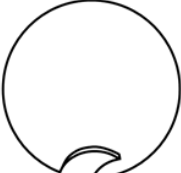
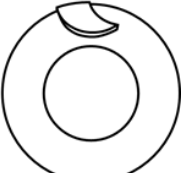
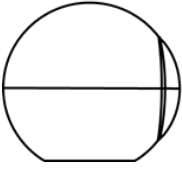
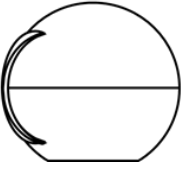


3.3.4 Where only a part of an article, etc. is shown, but there is no problem with the clarity of that part


Where the usage and function of the “part for which the design registration is requested,” the shape, etc. of the part for which the design registration is requested, the position, size, and scope occupied by the part for which the design registration is requested within the entire article, and the boundary between the “part for which the design registration is requested” and “any other parts” are clear even though only a part of the article, etc. for which the design registration is requested is represented in

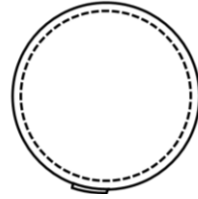
the drawings, etc. attached to the application and there is no statement that views are omitted due to them being identical or mirror images of other views, the examiner should determine that the design is a specific design.



[Front view] 	[Rear view] 	[Top view] 	[Bottom view] 
[Left side view] 	[Right side view] 	<p>[Article to the Design] Accessories case [Description of Article to the Design] (No description) [Description of the Design] (No description)</p>	

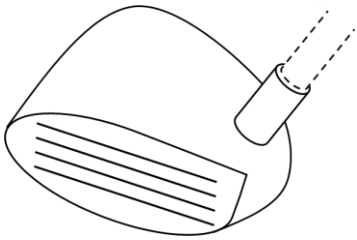
(Explanation) Since the inside of the container is not disclosed, it is viewed as “another part” and shall be treated substantially the same as if the views on the right had been submitted.

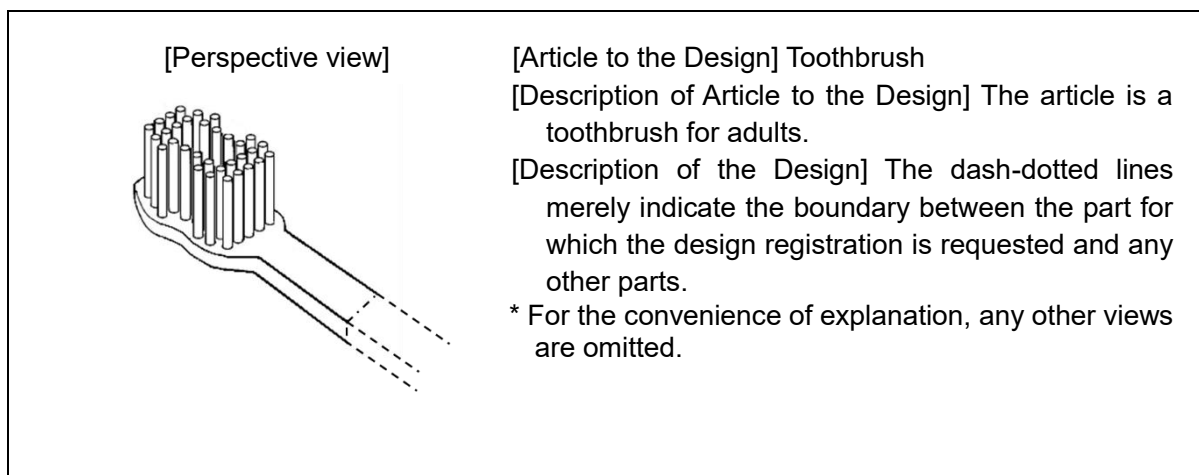
[Front view of lid part with lid open]


[Top view of main body with lid open]


3.3.5 Where the position, size, and scope of the “part for which the design registration is requested” can be derived even though only some of the “other parts” are shown

Where the position, size, and scope of the “part for which the design registration is requested” can be derived in light of the nature of the article even if only some of the “other parts” are indicated, the examiner should determine that the design is a specific design.

[Perspective view] 	<p>[Article to the Design] Golf club [Description of Article to the Design] (No description) [Description of the Design] (No description) * For the convenience of explanation, any other views are omitted.</p>
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4. The subject matter is industrially applicable

Designs protected under the Design Act are limited to designs based on which multiple identical objects can be manufactured, constructed or created.

For example, farm tools are used for farming, but since farm tools themselves can be manufactured in number using industrial technology, their design is categorized as an industrially applicable design.

Where the filed design is for a design registration for a part of an article, etc., rather than determining whether the part is industrially applicable, the examiner should determine whether the entire article, etc. to the design in the filed design satisfies this requirement.

(1) Industrially applicable

In the case of article design, “industrially applicable” means that multiple identical articles can be manufactured.

In the case of building design, “industrially applicable” means that multiple identical buildings can be constructed (corresponding to “manufactured” in the case of article design).

In the case of graphic image design, “industrially applicable” means that multiple identical graphic images can be created (corresponding to “manufactured” in the case of article design).

In addition, in all cases, the subject matter does not need to have been industrially applied in reality. Just having the potential is enough.

(2) Examples of subject matter not found to be industrially applicable

Subject matter that falls under the following is not found to be industrially applicable, and therefore may not be eligible for design registration under the main paragraph of Article 3, paragraph (1) of the Design Act.

(i) Subject matter that uses a natural object as the main element of design, and cannot be mass-produced

Subject matter that uses a natural object in its original form with hardly any processing, like an ornament that uses a natural stone as is—or in other words, subject matter that uses formative beauty created by nature as the main element of

design—is not categorized as industrially applicable, because the same object cannot be produced repeatedly in large volumes by using industrial technology.

(ii) Works that belong to the field of fine art

Works that belong to the field of fine art are not categorized as industrially applicable, because they are not created for the purpose of repeatedly producing the same object in large volumes by using industrial technology.