

Chapter IV Interior Design

1. Outline

Article 8-2 of the Design Act specifies that interior designs are subject to protection under the Design Act, providing, “Where designs for articles, buildings or graphic images that constitute equipment and decorations inside a store, office and the other facilities (hereinafter referred to as “interior”) create a coordinated aesthetic impression as a whole interior, an application for design registration may be filed as one design, and the applicant may obtain a design registration.”

An interior design consists of multiple constituent articles, etc., such as furniture and fixtures, and is an exception to the “one application per design” requirement (Article 7 of the Design Act).

In order to make the aesthetic impression of an entire interior subject to protection, including how each constituent article, etc. is combined and arranged, an application for design registration may be filed as one design, and the applicant may obtain a design registration, for a design for articles, buildings, or graphic images that constitute an interior only where it creates a coordinated aesthetic impression as a whole interior.

This Chapter describes how an examiner should determine whether a design that has been filed as an interior design complies with the requirements for registration as an interior design.

2. Basic concept in examining an interior design

When examining an interior design, basically, the examiner should conduct the examination in accordance with the examination standards for each of the requirements for registration as described in Parts II and III.

This Chapter focuses on specific matters when examining interior design, such as the requirements for categorization as an interior design. For other matters not described in this Chapter, see the relevant parts of the examination standards pertaining to each requirement for registration.

In examining an interior design, the examiner should first determine whether the design for which the design registration is requested falls under an interior design under the Design Act, and if it does, should proceed with the examination in accordance with the examination standards for each of the requirements for registration as described in Parts II and III, as well as with the matters contained in this Chapter.

3. Requirements for categorization as an interior design

Where the filed design complies with all of the following requirements, the examiner should determine that it falls under an interior design provided in Article 8-2 of the Design Act.

- (1) The subject matter is inside a store, office, or other facility (→ see 6.1.1.1)
 - (i) The subject matter falls under a store, office, or other facility
 - (ii) The subject matter falls under the inside
- (2) The subject matter consists of multiple articles, buildings, or graphic images under the Design Act (→ see 6.1.1.2)
 - (i) The subject matter consists of articles, buildings, or graphic images under the Design Act
 - (ii) The subject matter consists of multiple articles, etc.
- (3) The subject matter creates a coordinated aesthetic impression as a whole interior (→ see 6.1.1.3)

For details of each requirement (1) to (3) above, see 6.1.1 “The subject matter constitutes a design” in this Chapter.

4. Filing an application for each design

Article 7 of the Design Act provides that an application for design registration should be filed for each design, and in principle, only one article, etc. may be included in each application. On the other hand, as an exception to this principle, Article 8-2 of the Design Act provides that, where an interior design consisting of multiple articles, etc. complies with the prescribed requirements, an application may be filed and design registration obtained as one design.

As described above, while Article 8-2 of the Design Act specifies that, under prescribed requirements, multiple articles, etc. may be included in a single application, there is no change to the fact that this is limited to cases where the design consisting of these articles, etc. can be recognized as a single design. Therefore, where a design that has been filed as an interior design does not fall under a single interior design, the examiner should determine that the application for design registration has not been filed for each design and does not comply with the provisions of Article 7 of the Design Act.

The examiner should determine whether a design that has been filed as an interior design falls under a single interior design from the following perspectives.

4.1 Concept of one design in statements in the column of “Article to the Design”

If, for example, two or more usages of the interior design are stated together in the column of “Article to the Design” of the application, the examiner should determine that the application for design registration constitutes an application for design registration containing two or more designs.

Example 1: “Interior of an office, interior of a school classroom”

Example 2: “Interior of a hotel guest room, and in addition, interior of a room in a hospital ward”

4.2 Concept of one design in statements in drawings, etc.

When determining whether representations in the drawings, etc. attached to an application for design registration fall under a single interior design, the examiner should examine them from the perspective of whether the interior design relates to a single space. To be included in a single application as a single design, an interior

design must, in principle, relate to a physically continuous single space which is not divided by walls, etc. that partition space. Therefore, if an application includes two or more physically divided spaces, in principle, the examiner should determine that it does not fall under a single interior design. However, where the walls, etc. that partition space are, for example, transparent and the spaces can otherwise be recognized as being visually continuous, the examiner should treat them as a single space.

If the design relates to a single space, like, for example, where a cafe area for rest is incidentally set up within an office space, it may include parts with multiple usages in its interior.

In addition, even if a design includes two or more spaces, if the spaces have commonality in their usage, and if their shape, etc. is recognized as having been created in an integrated manner, the examiner should treat the design as a single interior design.

<Example of a design that is determined to be a single interior design>

Example: “Interior of an office” where workspaces and a cafe for talking business are located in the same space

However, if they are physically separate, such as the cafe for talking business on the first floor and the workspaces on the second floor, and if they have not been created in an integrated manner as a single space, the examiner should not determine the design is a single interior design.

<Examples of designs that are determined not to fall under a single interior design>

Example 1: “Interior of a hotel guest room” and “interior of a hotel lobby” located in separate spaces

Example 2: “Interior of a station building” and “interior of a railway carriage”

4.3 Concept of one design for interior designs with changing shape, patterns, or colors

Regarding interior designs with changing shape, patterns, or colors, based on a single usage and function, the examiner should treat the design, including the shape, etc. before and after the change, as a single interior design.

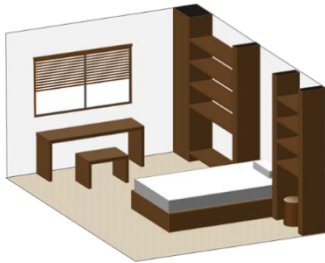
However, such changes are limited to those within the scope of changes necessary in view of the single usage and function. One applicable example of this is the “interior of a break room for an office for rent” which has a movable bed that can be stored against the wall when not in use.

<Example of an interior with changing shape, patterns, or colors>

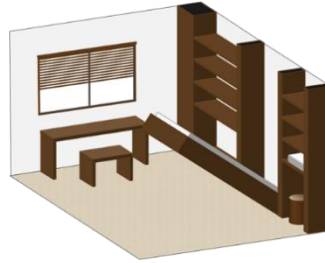
[Article to the Design]: Interior of a break room for an office for rent

[Description of Article to the Design]: The filed design is of the interior of a break room in an office for rent, and has a movable bed for the user to nap on. Since the bed can be stored against the wall when not in use, the space within the office can be used efficiently.

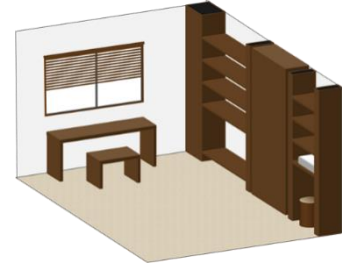
[Perspective view]



[Perspective view showing the bed midway stored]



[Perspective view showing the bed stored]



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

Furthermore, where a graphic image shown on an image display device, etc. contained in the interior changes, or a graphic image projected on a wall or ceiling, etc. by a projector contained in the interior changes, the examiner should treat the graphic image as constituting a single interior design only where changes in the graphic image are within the scope of changes allowable as a single graphic image design (see Chapter I “Design Including a Graphic Image” in this Part). In addition, where a displayed pattern changes by switching on lighting apparatus contained in the interior, the examiner should treat the pattern as constituting a single interior design only where there is relevance in the patterns before and after the change.

On the other hand, many constituent articles, etc. of interior design can be moved arbitrarily. For example, in the “interior of an office conference room” in which desks and chairs are arranged, it is normal for the desks and chairs to be rearranged depending on the conference format, etc. Nevertheless, Article 8-2 of the Design Act protects aesthetic impression, including the arrangement of each article, etc. that constitutes the interior design. Therefore, where the subject matter of an application for interior design includes a rearrangement of each constituent article, etc., the examiner should determine that it includes articles, etc. pertaining to the creation of separate designs, and as described above, except for cases where such changes are within the scope of changes necessary in view of the single usage and function, the examiner should determine that it does not fall under a single interior design.

<Example of subject matter treated as a single interior design, including the shape, patterns, or colors before and after any change>

Example: “Interior of an accessible toilet for hotels” equipped with movable handrails and baby changing table

5. Matters to be stated in the application and drawings, etc. of an application for design registration for an interior design

Some of the matters that must be stated in the application and drawings, etc. of an application for design registration for an interior design differ to those for an article

design. Following are points that applicants should keep in mind when making statement in the application and drawings, etc. of an application for design registration for an interior design.

During examination of an interior design, the examiner should make their finding on the filed design, taking into account that the statement in the application and drawings, etc. attached to the application have been made in accordance with these points.

If the examiner is unable to identify the design for which the design registration is requested even after making a comprehensive determination based on the statement in the application and on drawings, etc. attached to the application, the examiner should notify reasons for refusal based on the design being unspecific.

5.1 Statements in the column of “Article to the Design”

When filing an application for design registration for an interior design, so that the contents of the design are clear, statements complying with both requirements in (1) and (2) below should be included in the column of “Article to the Design” of the application.

- (1) It is clear that the application is for an interior design
“Interior for ○○” or “interior of ○○” should be stated in the column of “Article to the Design”.
- (2) The specific usage of the interior design is clear
A statement should be included in the column of “Article to the Design” clarifying the type of facility and the usage of the interior in that facility, like “interior of a hotel lobby” for example.

Furthermore, many facilities consist of a variety of spaces. Therefore, in addition to the usage of facility, the usage of the actual interior space represented in the attached drawings, etc. should be stated in the column of “Article to the Design”.

For example, if only “interior of a hotel” is stated in the column of “Article to the Design”, since hotels typically consist of several different spaces, it would not be possible to identify whether it is the interior of the hotel lobby or the interior of guest rooms. For this reason, a statement should be included specifically clarifying the usage of the interior, like “interior of a hotel ○○.”

However, with regard to an interior with multiple usages within a single space, it is sufficient for the primary usage of the interior—or if there is no superior-subordinate relationship between each usage, the usage of the actual facility—to be stated in the column of “Article to the Design”, and each specific usage of the interior to be explained in the column of “Description of Article to the Design”.

<Examples of statements that comply with both requirements above>

It should be noted that the items below are all examples of statements, but that examples of statements recognized as appropriate are not limited to the following.

- Examples of statements concerning commercial and office spaces
Interior of a restaurant, interior of a cafe, interior of an office, interior of a grocery store, interior of a drugstore, interior of a home center, interior of a clothing store, interior of a shoe store, interior of a jewelry store, interior of a musical instrument store, interior of a bookstore, interior of an auto showroom, interior of a beauty salon or barbershop, interior for a dry cleaner, interior of a travel agency, interior of an estate agency, interior of a financial institution, interior for an auditorium of a cinema, interior of a game arcade, interior of a bowling alley, interior for a training room in a fitness center, interior of hotel guest rooms, interior of a bathhouse at a Japanese-style inn, etc.
- Examples of statements concerning living spaces
Interior of a residential living room, interior of a residential kitchen, interior of a residential bedroom, interior of a residential bathroom, interior of a residential toilet, etc.
- Examples of statements concerning educational and medical spaces
Interior of a school classroom, interior of a study room for a private tutoring school, interior of a medical treatment room, interior of an operating room, interior of a room in a hospital ward, etc.
- Examples of statements concerning transportation spaces
Interior of an airport terminal lobby, interior of an airplane passenger cabin, interior of a subway platform, interior for a sightseeing train, interior of a bus terminal lobby, interior for an expressway bus, interior of a ferry terminal lobby, interior of a ferry passenger cabin, etc.

<Example of statement for an interior with multiple usages in a single space>

Example: [Article to the Design] Interior of an office

[Description of Article to the Design] In addition to an office workspace, a cafe will be set up in the same space to be used by workers for taking breaks and holding meetings, etc.

5.2 Statements in the column of “Description of Article to the Design”

If the usage of the interior cannot be clarified by statements in the column of “Article to the Design” alone, the specific usage should be stated in the column of “Description of Article to the Design”.

Furthermore, in cases of an interior with multiple usages in a single space, each specific usage should be stated in the column of “Description of Article to the Design”.

5.3 Statements in the column of “Description of the Design”

For an explanation of how to make statements in the column of “Description of the Design”, since it is the same as an application for design registration for an article design, see Part III, Chapter I “Industrially Applicable Design.”

Furthermore, regarding interior designs with changing shape, patterns, or colors, if the changing order or the changing mode is unclear from statements in the drawings alone, an explanation of these should be stated in the column of “Description of the Design”.

5.4 Statements in the drawings, etc.

5.4.1 Necessary drawings

Regarding the requirement for statements in drawings, etc. attached to an application for design registration for an interior design, since it is the same as an application for design registration for an article design, see Part III, Chapter I “Industrially Applicable Design.”

In addition, when filing an application for design registration for an interior design, drawings, etc. must be prepared while giving consideration to the following points.

(1) Disclose at least one floor, wall, or ceiling

One of the requirements for categorization as an interior design is that the subject matter falls under the inside of a facility.

Therefore, at least one floor, wall, or ceiling showing that the subject matter is inside the facility must be disclosed in the drawings, etc.

(2) Sufficient for only the internal shape, etc. of the facility to be disclosed

In drawings, etc. representing interior design, the space that encompasses people must be shown. In principle, this is based on the view from inside the space. Therefore, unlike an article design, which is based on disclosure of the external appearance, it is sufficient to disclose only the internal shape, etc. of the facility.

Furthermore, if the facade of a store, for example, is included in the design registration being requested, in addition to just the internal shape, etc. of the facility, drawings should be attached, where necessary, which also represent the relevant external parts.

(3) Disclosure using various drawing methods is permitted to the extent it does not hinder specification of the design

In addition to just orthographic projection, disclosure using various drawing methods is permitted to the extent it does not hinder specification of the design, such as disclosure based on a combination of the top view and multiple perspective views and disclosure using multiple photographs taken from a variety of angles.

5.4.2 Cases where subject matters other than the design for which the design registration is requested are represented in drawings

Drawings for an interior design (excluding reference views) should only represent the design for which the design registration is requested. However, as with applications for design registration for an article design, this excludes cases where “Description of the Design” includes an explanation of the a subject matter other than the design for which the design registration is requested, as well as cases where subject matters relevant to the design for which the design registration is requested can be clearly recognized from other subject matters because of distinguishing indications in drawings, etc.

5.5 Feature statement

Where a feature statement has been submitted which contains the applicant's subjective intention and so on regarding creation of the filed interior design, the

examiner should take this into consideration while proceeding with the examination. For information that serves as the basis in finding of a design, see 1. “Outline” in Part II, Chapter I “Finding of a Design in an Application for Design Registration.”

Furthermore, although the features of a design are to be included in a feature statement (Article 6 of the Ordinance for Enforcement of the Design Act), a feature statement cannot be submitted at the same time as filing an international application for design registration based on the Geneva Act of the Hague Agreement. Therefore, even if a statement on the features of the design is included in the column of “Description” (treated as equivalent to the column of “Description of the Design” and the column of “Description of Article to the Design” in applications for design registration in Japan), provided that it is not a statement corresponding to a particular reason for refusal, like one that makes the design unclear for example, the examiner should not regard it as an object of reason for refusal.

In addition, as far as ordinary applications filed in Japan are concerned, similarly, cases where a statement on the features of the relevant design is included in the column of “Description of the Design” should also be treated the same.

6. Registration requirements for an interior design

In order for the subject matter of an application for design registration to be registered as an interior design, it must comply with all of the requirements for registration prescribed in the Design Act. Basically, it is carried out the same way as a general examination of registration requirements (see Parts II and III). Following are points that require particular attention regarding the key registration requirements under the Design Act with respect to an application filed for an interior design.

- (1) The subject matter is an industrially applicable design (→ see 6.1)
- (2) The subject matter is novel (→ see 6.2)
- (3) The subject matter involves creative difficulty (is not something that could have been easily created) (→ see 6.3)
- (4) The subject matter is not a design in a later application that is identical or similar to part of a design in a prior application (→ see 6.4)

6.1 The subject matter is an industrially applicable design

If the subject matter of an application for design registration as an interior design does not comply with any of the following requirements, the examiner should determine that it does not fall under an industrially applicable design prescribed in the main paragraph of Article 3, paragraph (1) of the Design Act:

- (1) The subject matter constitutes a design (→ see 6.1.1)
- (2) The subject matter is a specific design (→ see 6.1.2)
- (3) The subject matter is industrially applicable

6.1.1 The subject matter constitutes a design

Regarding the general requirements for constituting a design under the Design Act, see 2. “Determining requirements for design applicability” in Part III, Chapter I “Industrially Applicable Design.”

Furthermore, in order for the subject matter of a filed application to fall under an interior design, it must comply with all of the requirements in (1) through (3) below.

- (1) The subject matter is inside a store, office, or other facility (→ see 6.1.1.1)
 - (a) The subject matter falls under a store, office, or other facility
 - (b) The subject matter falls under the inside
- (2) The subject matter consists of multiple articles, buildings, or graphic images under the Design Act (→ see 6.1.1.2)
 - (a) The subject matter consists of articles, buildings, or graphic images under the Design Act
 - (b) The subject matter consists of multiple articles, etc.
- (3) The subject matter creates a coordinated aesthetic impression as a whole interior (→ see 6.1.1.3)

6.1.1.1 The subject matter is inside a store, office, or other facility

In order to fall under the inside of a store, office, or other facility, the filed design must comply with both requirements (1) and (2) below.

- (1) The subject matter falls under a store, office, or other facility

The facility that is the subject of an interior design must be a “store, office or other facilities” (Article 8-2 of the Design Act). Although this is primarily intended for the interior designs and display designs of stores, designs of office spaces and so on, “and other facilities” is stipulated in the text of the Article so as not to be limited to these.

In accordance with the purpose of the Design Act, this “and other facilities” broadly includes all manner of industrial facilities, such as accommodation facilities, medical facilities, educational facilities, entertainment facilities, and houses.

Specifically, if the design that has been filed as an interior design is “one for the purpose of people spending a certain amount of time therein,” including stores and offices, the examiner should determine that it falls under a “store, office or other facilities.”

Furthermore, this includes movables where they comply with the above requirements. Relevant examples include the interior of simple demountable stores and offices, various types of vehicles and passenger planes, and passenger boats.

- (2) The subject matter falls under the inside

In order to fall under an interior design under the Design Act, the subject matter must fall under the “inside” of the various facilities (Article 8-2 of the Design Act). Therefore, if a design that has been filed as an interior design does not correspond mainly to the inside of the facility, the examiner should determine that it does not fall under an interior design.

Specifically, at least one floor, wall, or ceiling showing that the subject matter is inside the facility must be disclosed in the drawings, etc., and if none of these is disclosed, the examiner should notify reasons for refusal based on the same Article (→ see 5.4.1 “Necessary drawings,” (1) “Disclose at least one floor, wall, or ceiling” in this Chapter). When doing so, if the design is found to be the design of an article or set of articles, etc., in principle, the examiner should also include notification to that effect.

However, creation of an interior design should not necessarily be limited to only the interior of the facility. There is, for example, the creation of an interior which takes into account connections with outside the facility, such as creation which includes the facade and display design at the front of a store, and creation which obscures the boundary between the interior and exterior. Given the reality of such creations, in principle, the examiner need not strictly examine whether the entire internal space of a facility is completely closed. In cases such as where the inside of a facility continues to the openings of the facility and to the outside of the facility, the outside of the facility annexed to the inside may be included.

Furthermore, given that the definition of design under the Design Act is a shape, etc. which “creates an aesthetic impression through the eye” (Article 2 of the Design Act), the examiner should determine that the scope not normally visible to the naked eye of users during normal conditions of use in the context of the usage and function of the facility does not fall under inside the facility. Relevant examples include the ceiling cavity (Note), under the floor, behind walls, and the pipe shaft, which people only ever access for the purpose of maintenance, etc.

(Note) Regarding interiors, etc. where there is no ceiling cavity and piping is exposed, since it is normally visible to the naked eye of users of the facility, the examiner should determine that such spaces, including these parts, falls under inside the facility.

6.1.1.2 The subject matter consists of multiple articles, buildings, or graphic images under the Design Act

In order to comply with the requirement of the subject matter comprising multiple articles, buildings, or graphic images under the Design Act, the filed design must comply with both requirements (1) and (2) below.

- (1) The subject matter consists of articles, buildings, or graphic images under the Design Act

Subject matter capable of constituting an interior design is limited to articles, buildings, or graphic images under the Design Act as exemplified below (Article 8-2 of the Design Act).

<Appropriate examples of subject matter constituting an interior design>

It should be noted that the items below are all examples of statements, but that examples of statements recognized as appropriate are not limited to the following.

- Furniture, such as desks, chairs, and beds
- Fixtures, such as display shelves
(can even include merchandise, etc. recognized as articles under the Design Act)
- Floor lamps, design lamps, etc.
- Graphic images displayed on a monitor fitted to a building that constitutes an interior design, and graphic images projected from a similarly fitted projector onto a wall of the building, etc.

Furthermore, patterns or colors that appear by switching on a lighting apparatus fixed to an interior should be treated as elements constituting the interior design (see (ii) “Subject matter that is not solid” in Part III, Chapter I, 2.1, (2) “Examples of subject matter that is not found to be an article”).

On the other hand, subject matter not falling under a design under the Design Act cannot be found to constitute an interior design as exemplified below.

<Inappropriate examples of subject matter constituting an interior design>

The items below are all examples, but examples are not limited to the following.

- Subject matter not falling under a design under the Design Act
(However, even if a subject matter falls under the following examples, if its position cannot be changed due to being perpetually fixed to the building or land, for example, and if it is within the scope of appurtenances to the building, it should be regarded as constituting part of a building design.)
- Living creatures such as humans, dogs, cats, or ornamental fish
 - Plants (however, artificial flowers fall under an article design under the Design Act)
 - Objects with indeterminate form, such as steam, smoke, dust, flames, or water (excluding, however, those in a container with shape retainability)
 - Non-visual objects that stage the interior space, such as aroma or sound, etc.
 - Actual natural topography

Furthermore, even if a subject matter that does not constitute a design under the Design Act is contained in a filed interior design, if it constitutes part of a building design, which is included in the interior design, the examiner should treat it as potentially constituting the interior design.

(For the handling of cases where the subject matter of an application for building design includes some natural objects or other subject matter not fall under a design under the Design Act, see 4.3 “Concept of one design in cases where something fixed to a building or land is represented” in Chapter II “Building Design” in this Part; for treatment of objects in determining similarity when determining the novelty requirement, see 6.2.5 “Evaluation of shape, etc. in cases where natural objects, etc. that constitute the design are included in part of an interior design” in this Chapter; and for the treatment of objects in determining creative difficulty requirement, see 6.3.5 “Concept in cases where natural objects,

etc. that constitute the design are included in part of an interior design” in this Chapter.)

Furthermore, even if objects are represented in drawings, etc., which do not constitute a design under the Design Act, if statement in the application or distinguishing indications in drawings, etc. are used to make it clear that these objects do not constitute the interior design, they will not be reason for refusal, and they do not need to be deleted.

On the other hand, if it can be determined that an object is included which does not constitute a design under the Design Act, and there are no statements in the application or distinguishing indications in drawings, etc., the examiner should notify reasons for refusal based on Article 8-2 of the Design Act.

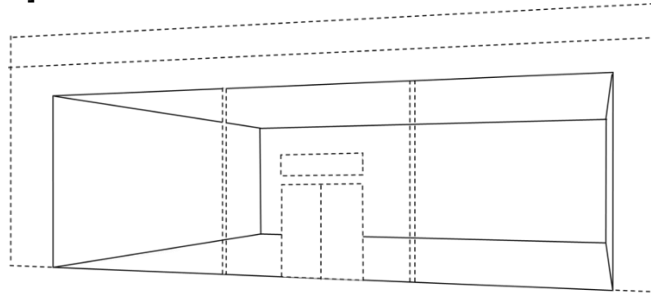
(2) The subject matter consists of multiple articles, etc.

Article 8-2 of the Design Act provides that where an interior, which consists of multiple constituent articles, etc., creates a coordinated aesthetic impression as a whole interior, an application for design registration may be filed as one design, and the applicant may obtain a design registration. Therefore, where it is found that a design, which has been filed as an interior design, consists only of one constituent article, etc.—not of two or more articles, etc.—the examiner should determine that it does not fall under an interior design provided for in the same Article.

Furthermore, where it is found that, under normal conditions of use, other articles, etc. besides the building, etc. that constitutes the actual facility are shown in a state that is visible to users of the interior design, the examiner should determine that the filed interior design complies with this requirement. In cases of an application requesting design registration for part of an interior, in addition to the part for which the design registration is requested, the examiner should also include any other parts in determining whether the filed interior design complies with this requirement.

<Example of subject matter not found to consist of multiple articles, etc.>

[Perspective view]



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

(Explanation) In this case example, only one design of the facility interior is represented, so the subject matter is not found to consist of multiple articles, etc. Furthermore, in this case, the subject matter may be registrable as a design for which the design registration is requested for an inside part of the building.

6.1.1.3 The subject matter creates a coordinated aesthetic impression as a whole interior

Article 8-2 of the Design Act provides that, to obtain design registration as an interior design, the subject matter must create a coordinated aesthetic impression as a whole interior.

As an exception to Article 7 of the Design Act—which provides that an application for design registration should be filed for each design, and in principle, only one article, etc. may be included in each application—this provision allows an application to be filed and design registration obtained as one design for an interior design comprising multiple articles, etc., and in addition, provides that the aesthetic impression of a whole interior, including how each constituent article, etc. is combined and arranged, is subject to protection.

Therefore, the examiner should determine that a design, which has been filed as an interior design, complies with this requirement only where the entire design creates a single, visually cohesive aesthetic impression.

On the other hand, given that articles, etc. constituting an interior design vary widely and it is rare for all of them to be processed with similar shape, etc., if the subject matter complies with this requirement as a whole interior, the question of whether all of the constituent articles, etc. have been processed with uniform shape, etc. should be omitted from consideration.

Furthermore, where the applicant is requesting design registration for part of an interior, the examiner should determine whether the filed design complies with this requirement with respect to the part for which the design registration is requested.

Following are examples that comply with this requirement and examples that do not comply with this requirement.

<Examples of subject matter that creates a coordinated aesthetic impression as a whole interior>

Examples of designs that create a coordinated aesthetic impression as a whole interior include but are not limited to the following.

- (i) Subject matter where constituent objects, etc. have been processed into a common shape, etc.
- (ii) Subject matter where the constituent objects, etc. represent one cohesive shape or pattern as a whole
- (iii) Subject matter where the constituent objects, etc. have conceptual commonality
- (iv) Subject matter where the constituent objects, etc. are arranged based on uniform order
- (v) Subject matter where the entire interior design is created based on a unified creative idea as a single design, and the entire shape, etc. creates a single, visually cohesive aesthetic impression

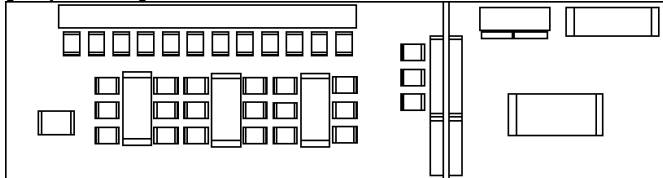
[Case example 1] Subject matter where constituent objects, etc. have been processed into a common shape, etc.

[Article to the Design] Interior of cafe

<Feature statement>

[Feature of design] A feature of the filed design is that the tabular member attached to the wall separating the kitchen, as well as the chairs, tables, and other fixtures, all have beveled corners.

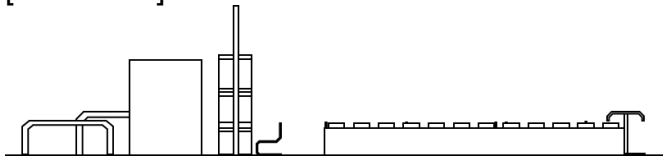
[Top view]



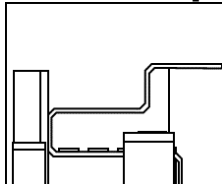
[Front view]



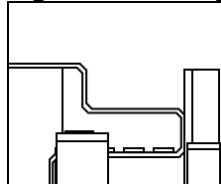
[Rear view]



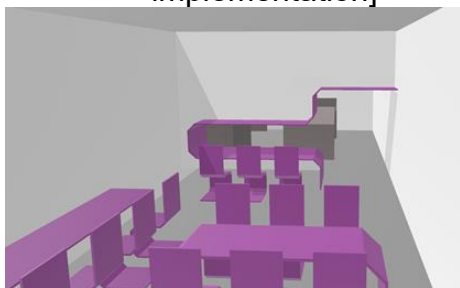
[Left side view]



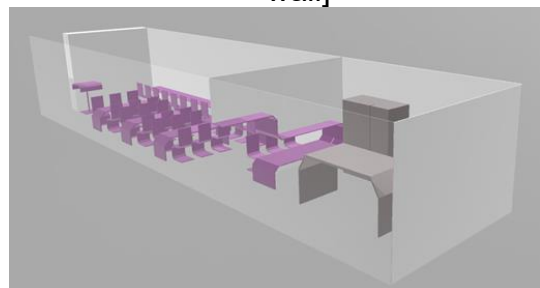
[Right side view]



[Reference view showing state of implementation]



[Reference view looking through front wall]



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

* The purpose of this case example is to explain what creates a coordinated aesthetic impression as a whole interior; it is not for the purpose of indicating compliance with other requirements for registration, such as novelty and creative difficulty.

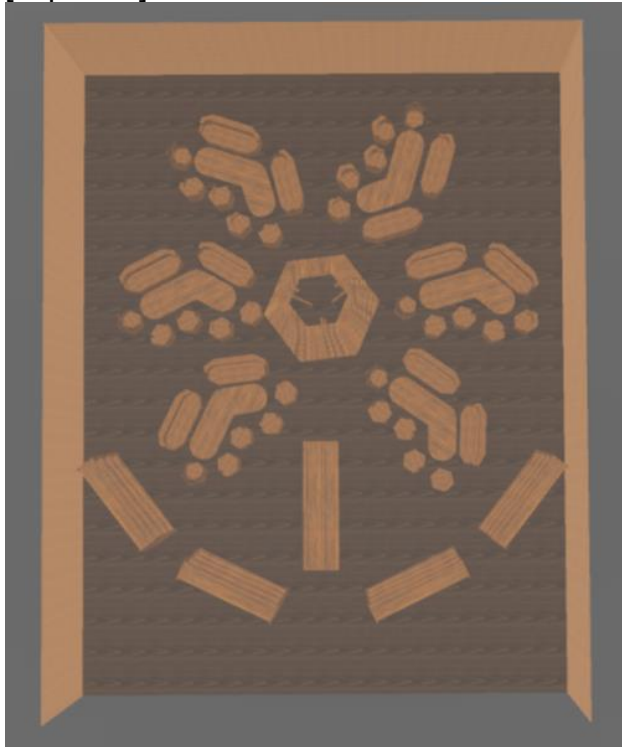
[Case example 2] Subject matter where the constituent objects, etc. represent one cohesive shape or pattern as a whole

[Article to the Design] Interior of a reading room for a library

<Feature statement>

[Feature of the Design] The filed design is the interior of a reading room in a library that holds a collection of botanical books. The walls, ceiling and fixtures all have a common woodgrain, and the fixtures is arranged to look like a single flower when viewing the entire space from above.

[Top view]



- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is to explain what creates a coordinated aesthetic impression as a whole interior; it is not for the purpose of indicating compliance with other requirements for registration, such as novelty and creative difficulty.

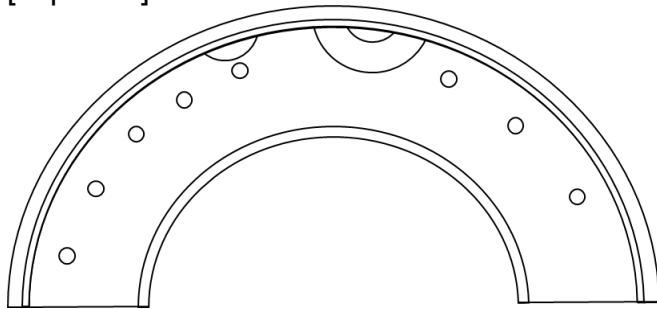
[Case example 3] Subject matter where the constituent objects, etc. have conceptual commonality

[Article to the Design] Interior of a connecting corridor for a museum

<Feature statement>

[Feature of the Design] The purpose of the filed design is to communicate to museum visitors the order and size of planets in the solar system in an easy-to-understand image. Assuming that the length of the entire internal wall is the diameter of the sun, the design features lighting apparatus modeled on each planet placed along the visitor flow, which reproduce the order and proportionate size of each planet.

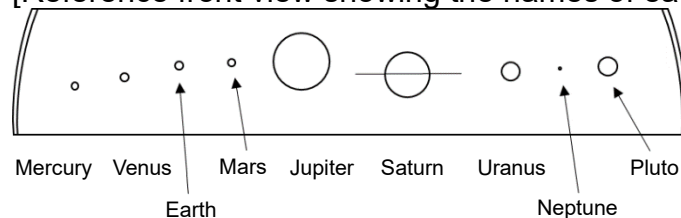
[Top view]



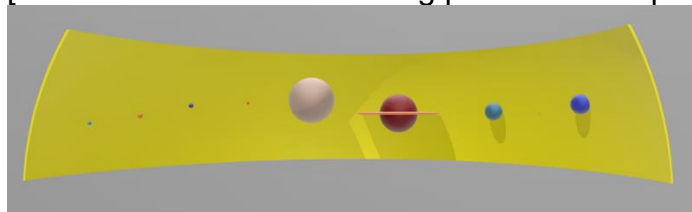
[Front view]



[Reference front view showing the names of each part]



[Reference front view showing practical example]



- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is to explain what creates a coordinated aesthetic impression as a whole interior; it is not for the purpose of indicating compliance with other requirements for registration, such as novelty and creative difficulty.

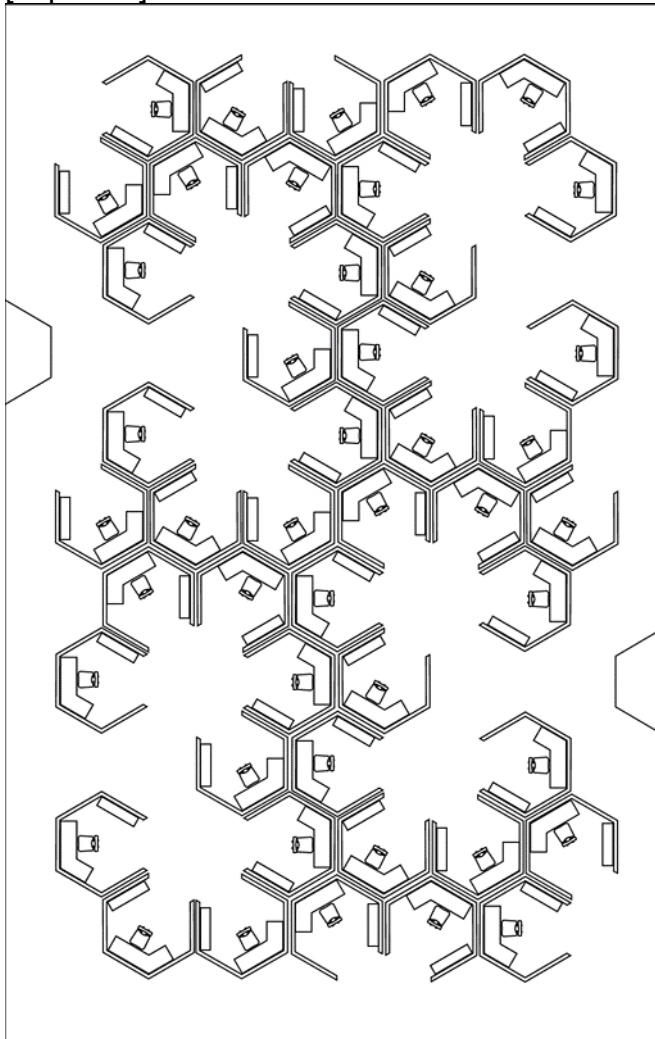
[Case example 4] Subject matter where the constituent objects, etc. are arranged based on uniform order

[Article to the Design] Interior of an office

<Feature statement>

[Feature of the Design] The filed design features individual hexagonal units arranged like a beehive so that individual workers can concentrate on their respective work in their own nook, while each team also maintains a sense of unity. In addition, the trapezoids at the upper left and lower right of the top view are standing desks for small group discussions so that workers can talk with other team members as required.

[Top view]



- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is to explain what creates a coordinated aesthetic impression as a whole interior; it is not for the purpose of indicating compliance with other requirements for registration, such as novelty and creative difficulty.

<Examples of subject matter that do not create a coordinated aesthetic impression as a whole interior>

Examples of subject matter that do not create a coordinated aesthetic impression as a whole interior include but are not limited to the following.

- (i) Subject matter where the entire interior design lacks cohesion, which only creates a complicated impression, and which creates hardly any aesthetic impression
- (ii) Subject matter which is created based on a unified creative idea, but where that sense of unity is not represented visually

6.1.2 The subject matter is a specific design

(1) Requirement for the design to be specific

To obtain a design registration as an interior design, it must be possible to directly derive from the statement in the application and drawings, etc. attached to the application as originally filed, that application for design registration is an application for design registration for an interior design, based on the ordinary skill in the art of the design.

Next, for a design filed as an interior design to be recognized as a specific design, it must be possible to directly derive the contents of a specific single design from the statement in the application and drawings, etc. attached to the application as originally filed, based on the ordinary skill in the art of the design.

If no specific contents concerning (i) through (iv) below can be derived for the filed design, the examiner should determine that the design is not specific.

- (i) Usage and function of the interior
- (ii) Usage and function of the part, if design registration is requested for part of an interior
- (iii) Position, size, and scope of the part, if design registration is requested for part of an interior
- (iv) Shape, etc. of the interior

Regarding the general requirements for statements in an application or drawings, etc. attached to the application, see Part III, Chapter I “Industrially Applicable Design.”

(2) Examples of cases where subject matter cannot be found to be a specific design

If an application for design registration for an interior or the drawings, etc. attached to the application contain any of the following improper descriptions, for example, and if the contents of a specific single design cannot be directly derived 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 specific.

<Examples of cases where the examiner should determine that the design is not specific>

- (i) Where the specific usage of the interior is unclear
- (ii) In the case of a design for which design registration is requested for part of an interior, where the usage and function of that part are unclear
- (iii) Where it is unclear whether the design registration is being requested for an interior design or a building design

- (iv) Where the specific shape, etc. in the design for which the design registration is requested as an interior design is unclear

6.2 The subject matter is novel

The provisions of the items in Article 3, paragraph (1) of the Design Act, which provide for the novelty requirement, should be applied by determining whether or not the filed interior design is identical to any publicly known design, or whether or not it falls under a design similar to a publicly known design (hereinafter this determination is referred to as “determination of similarity”).

For general determination standards concerning the novelty requirement, see Part III, Chapter II, Section 1 “Novelty.” Further points that require particular attention by an examiner when determining similarity of an interior design are described below.

6.2.1 Determining entity in the determination of similarity between interior designs

Likewise with the determining entity in the determination of similarity between article designs, the determining entity in the determination of similarity between interior designs is consumers (including traders) (see 2.2.1 “Determining entity” in Part III, Chapter II, Section 1 “Novelty”).

For example, in the case of the interior of a detached house, in general, the person who becomes the owner and the user of that house is considered the consumer, and in the case of the interior of a commercial facility, in general, the client who becomes the owner of that commercial facility is considered the consumer. However, since it is conceivable that the owner of a commercial facility also takes into account the convenience and focal points of the tenants and their customers, the consumer’s viewpoint may include the viewpoints of those customers and other users.

In the context of the usage of each filed interior design, the examiner should determine similarity from the consumers’ viewpoint according to that usage.

6.2.2 Observation method in determining similarity between interior designs

Interior designs are big enough for a person to enter inside, and consist of multiple articles, etc.

Therefore, when observing a design for the purpose of determining similarity, based on observations with the naked eye under normal use conditions for the facility, and without limiting observation to a single observation method, the examiner should make comprehensive observations from multiple perspectives, such as, for example, if part of the interior has a constituent object with a characteristic shape, etc., observing that constituent object close-up in detail, or if the cohesiveness of the design as a whole is characteristic, pulling back and observing from a bird’s-eye view.

6.2.3 Determining similarity of the usage and function

(1) Determining similarity of the usage and function between interior designs

During the determination of similarity between interior designs, when determining similarity of the usage and function between two designs, the examiner should find the usage and function of both designs based on their purpose of use, state of use, etc., after first taking into account the usage stated in the column of “Article to the Design” of the two designs being compared.

The examiner does not need to make a judgment of similarity based on a comparison of the detailed usage and function of both designs. Instead, the examiner should determine that there is similarity in the usage and function of both designs if they have commonality in their usage and function based on their purpose of use, state of use, etc.

In the case of interior design, like “interior of a residential bedroom” and “interior of a hotel guest room” for example, it is usual for there to be commonality in the usage and function in terms of both being used for people to enter inside and spend a certain amount of time there. Therefore, when determining similarity in the usage and function between interior designs, the examiner should, in principle, determine that there is similarity in the usage and function of all interior designs.

(2) Determining similarity of the usage and function between an interior design and a building design

Similar to (1) above, determining similarity of the usage and function between an interior design and a building design does not require judgment of similarity based on a comparison of the detailed usage and function of both designs. Instead, the examiner should determine that there is similarity in the usage and function of both designs if they have commonality in their usage and function based on their purpose of use, state of use, etc.

Therefore, by way of example, in the case of the “interior of a residential living room,” which is an interior design, and a design, where the part for which the design registration is requested is the living room part inside a “house,” which is a building design, since they have commonality in the usage and function in terms of both being used for people to enter inside and spend a certain amount of time there, the examiner should determine that the two designs have similar usage and function.

(3) Determining similarity of the usage and function between an interior design and an article design

Similar to (1) above, determining similarity of the usage and function between an interior design and an article design does not require judgment of similarity based on a comparison of the detailed usage and function of both designs. Instead, the examiner should determine that there is similarity in the usage and function of both designs if they have commonality in their usage and function based on their purpose of use, state of use, etc.

Therefore, by way of example, in the case of the “interior of a bathroom in a house,” which is an interior design, and a design, where the part for which the design registration is requested is the interior bathroom part of a “bathroom,” which is an article design, since they have commonality in the usage and function in terms of both being used for people to enter inside and spend a certain amount of time there, and since the “bathroom” that is an article design has almost no other usage and function other than people entering inside and spending a certain amount of time there, the examiner should determine that the two designs have similar usage and function.

6.2.4 Evaluating the layout and number of constituent objects in an interior design

Article 8-2 of the Design Act specifies that, for an interior design comprising multiple articles, etc., the aesthetic impression of the entire interior, including the arrangement of each constituent article, etc., is subject to protection.

Therefore, when determining similarity of an interior design, in addition to the shape, etc. of each constituent article, etc., the examiner should also give consideration to the points in common and points of difference in their layout and combination.

In cases where there are differences in the layout of each constituent article, etc., if the differences are insignificant or are commonplace in the art of the design, the impact of that difference on determining similarity is relatively small.

Furthermore, in cases where the shape, etc. of each constituent article, etc. is common, but there are differences in quantity, if the differences are insignificant or are commonplace in the art of the design, the impact of that difference on determining similarity is relatively small.

6.2.5 Evaluation of shape, etc. in cases where natural objects, etc. that constitute the design are included in part of an interior design

Where determining similarity between designs, if part of an interior design includes natural objects, etc. that constitute the design—like the shape, etc. of branches, leaves or flowers on plants for example—the actual shape, etc. consisting of forms created by nature is not taken into consideration as a design characteristic. On the other hand, consideration should be given to formative characteristics with respect to the positional relationship between artificial structures and natural objects, etc., and to the constitution of the entire design of an interior that includes them.

Furthermore, in cases where part of an interior design includes natural objects, etc., for determining whether they constitute the design, see 6.1.1.2 “The subject matter consists of multiple articles, buildings, or graphic images under the Design Act” in this Chapter and 4.3 “Concept of one design in cases where something fixed to a building or land is represented” in Chapter II in this Part.

6.2.6 Case examples of determining similarity between interior designs

(1) Examples where the usage and function are similar

In all of the examples in the box below, their designs have commonality in the usage and function in terms of being used for people to enter inside and spend a certain amount of time there. Therefore, in all cases, the examiner should determine that the usage and function are similar (Note).

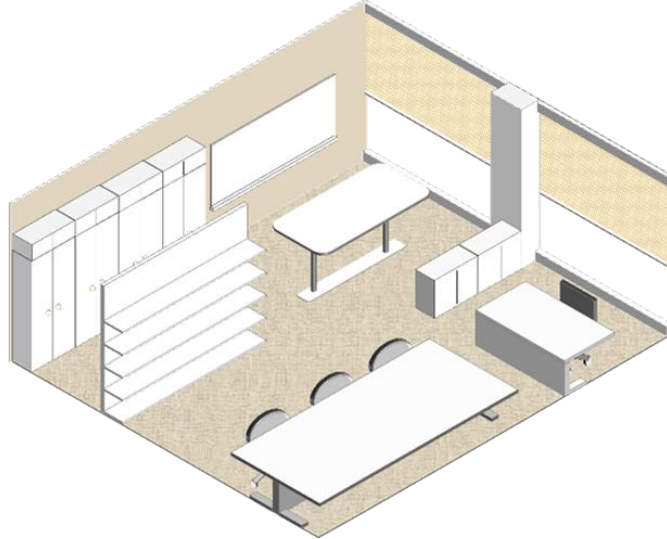
Interior of a restaurant, interior of an office, interior of a hotel guest room, interior of a residential living room, interior of a medical-treatment room, interior of an airport terminal lobby

(Note) However, in cases where the applicant is requesting design registration for part of an interior, if the usage and function of the part for which the design registration is requested is significantly different from the usage and function of the corresponding part in the other design being compared, the examiner may determine that the designs are dissimilar, even if the shape, etc. in the two designs is similar.

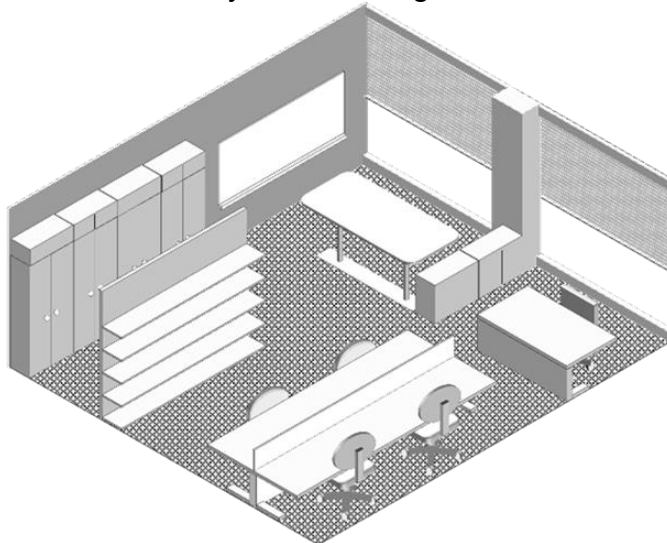
(2) Examples where shape, etc. is similar, and the usage and function are similar

[Case example 1] Example of an office

The basic shape of the overall interior is common to both designs, and the layout and shape, etc. of all constituent objects in the interior are substantially common. On the other hand, the quantity and layout of chairs and the orientation of the standing desk are different. However, since the differences are partial, the impact on determination of similarity is small, and comparing the entire designs, the two designs can be determined to be similar.



Publicly known design: Office



Filed design: Interior of an office

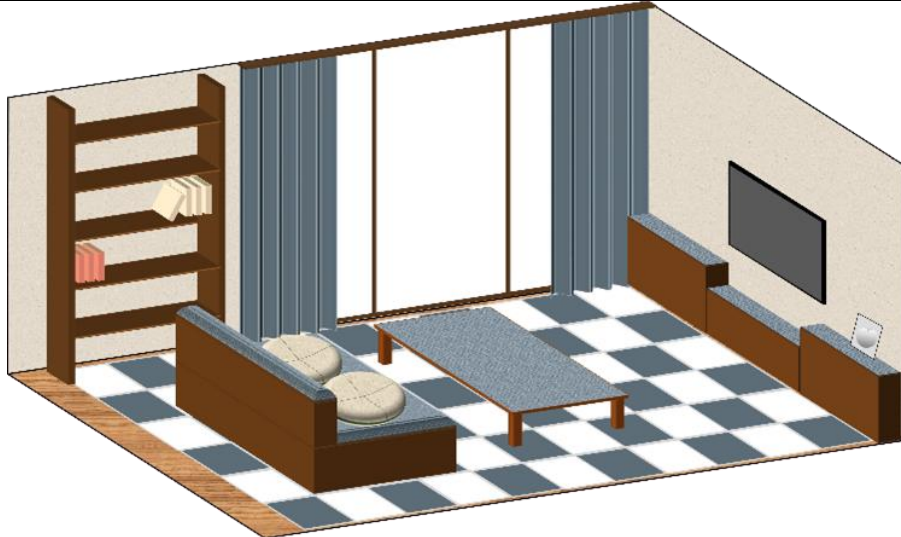
* For the convenience of explanation, the matters to be stated in the application and any other views are omitted.

* The purpose of this case example is to describe an example of determining similarity in interior design; it is not for the purpose of explaining other requirements for registration, such as creative difficulty.

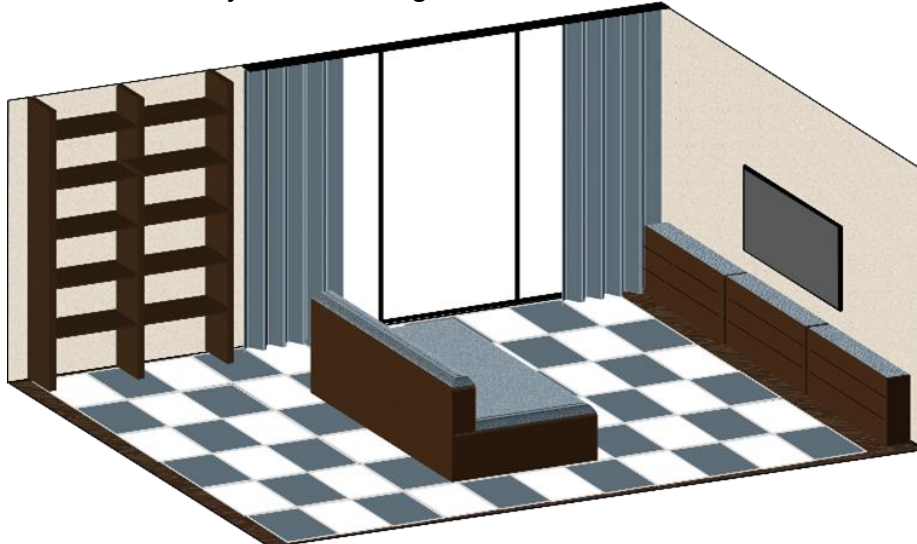
[Case example 2] Example of a waiting room for a hospital

The basic shape of the overall interior is common to both designs, and the layout and shape, etc. of all constituent objects in the interior, such as the blue curtains, the same-colored checkered carpet, and the color-coordinated woodgrain sofa and chests, are substantially common and form the basis of the design.

On the other hand, one design has a low table, and the shape of the shelves and the position, etc. of the sofa are different. However, since all the differences are minor and partial—accounting for only a small proportion of the entire design—the impact on determination of similarity is small, and comparing the entire designs, the two designs can be determined to be similar.



Publicly known design: Interior of Y's residence



Filed design: Interior of a waiting room for a hospital

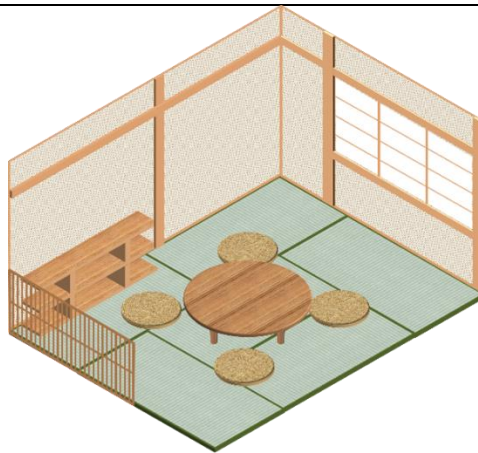
* For the convenience of explanation, the matters to be stated in the application and any other views are omitted.

* The purpose of this case example is to describe an example of determining similarity in interior design; it is not for the purpose of explaining other requirements for registration, such as creative difficulty.

(3) Examples where the usage and function are similar, but shape, etc. is not

[Case example 1] Example of a Japanese-style restaurant

Both designs are for a Japanese-style room with tatami mats. A low table and floor cushions are arranged in the center. A shelf is placed against a wall, and there is a screen at the edge of the tatami mats. Another point in common is that the entire rooms are coordinated with a common wood grain. On the other hand, there are conspicuous differences in the shape, etc. of the low tables. In particular, the shape of the low table in the filed design is extremely distinctive, and combined with the similarly shaped floor cushions, takes up a major part of the entire interior, drawing the attention of consumers. Accordingly, the impact of this difference on determination of similarity is large. Therefore, comparing the entire designs, the two designs can be determined to be dissimilar. Furthermore, although the overall size of the interior and the color of the wood grain are different, both are commonplace in the art of the design, and do not influence the above determination.



Publicly known design: Living room in T's residence



Filed design: Interior of a Japanese-style restaurant

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

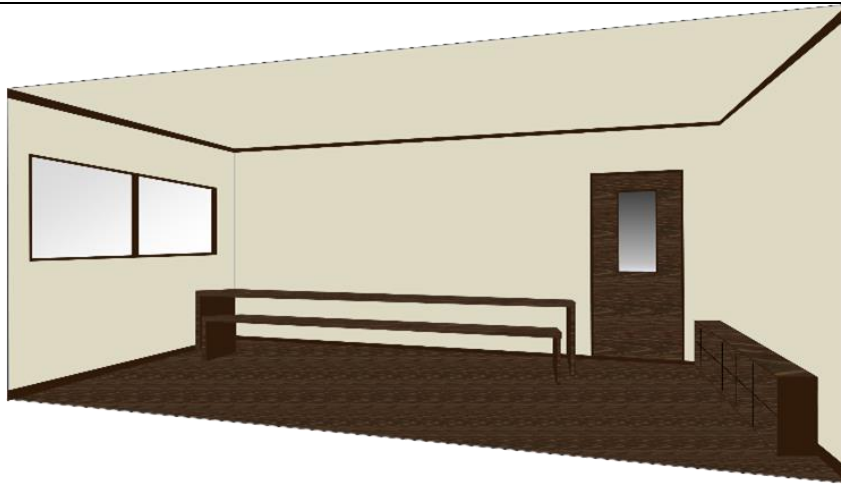
* The purpose of this case example is to describe an example of determining similarity in interior design; it is not for the purpose of explaining other requirements for registration, such as creative difficulty.

[Case example 2] Example of an exhibition room

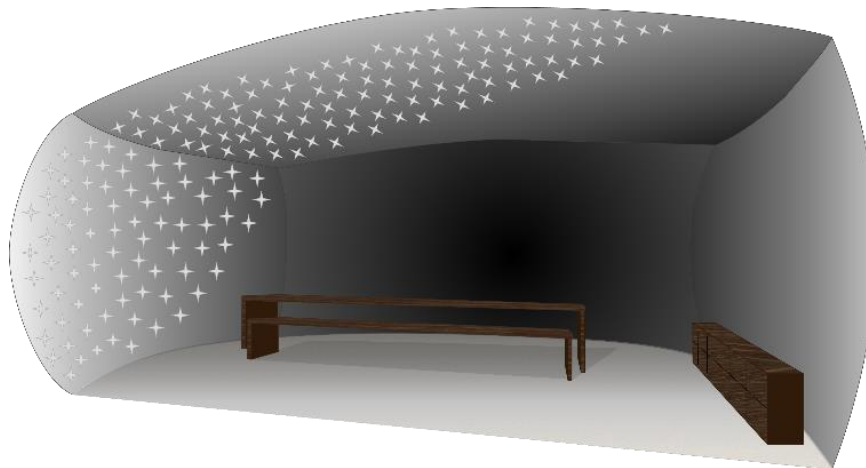
The overall shape of the interior in the two designs is very different. In particular, the shape of the interior in the filed design is extremely distinctive and takes up a large part of the entire interior, forming the tone of the interior, and drawing the attention of consumers. Accordingly, the impact of this difference on determination of similarity is large.

On the other hand, although the shape and layout of furniture is common to the two designs, they are a fraction of the overall interior. And because their shape is widely known, they will hardly draw the attention of consumers. The impact of this point in common on determination of similarity is small, and is buried in the point of difference above.

Therefore, comparing the entire designs, the two designs can be determined to be dissimilar.



Publicly known design: Western-style room



Filed design: Interior of an exhibition room

- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is to describe an example of determining similarity in interior design; it is not for the purpose of explaining other requirements for registration, such as creative difficulty.

6.3 The subject matter involves creative difficulty (is not something that could have been easily created)

6.3.1 Determining entity for creative difficulty in interior designs

The examiner should examine and determine the creative difficulty of the filed interior design, from the viewpoint of a person skilled in the art. A person skilled in the art refers to a person who, as of the time of the filing of the application for design registration, had ordinary skills concerning designs in the industry in which interior designs are produced or sold.

6.3.2 Basic concept in determining the creative difficulty of interior designs

For the basic concept in determining creative difficulty, see 3. “Basic concept in determining creative difficulty” in Part III, Chapter II, Section 2 “Creative difficulty.”

6.3.3 Ordinary techniques and minor modifications

6.3.3.1 Examples of ordinary techniques

Where it is determined that the filed design was created based on constituent elements and specific modes that were publicly known prior to filing, the examiner should examine whether it was created by an “ordinary technique” in the art of the design.

Although examples of the main “ordinary techniques” common to many interior designs are as shown below, the examiner should examine the filed design in light of the actual conditions of creation in the art of the design.

(a) Replacement

Refers to replacing some constituent elements of the design with those of other designs, etc.

(b) Aggregation

Refers to constituting a single design by combining multiple existing designs, etc.

(c) Mere deletion of a constituent part

Refers to simply deleting a part that is recognized as an individual unit of creation of a design.

(d) Change of layout

Refers to merely changing the layout of the constituent elements of a design.

(e) Change of component ratio

Refers to changing the aspect ratio or other proportion, such as by increasing or decreasing the size, while maintaining the features of the design.

(f) Change in number of units of a continuous constituent element

Refers to increasing or decreasing the number of an individual unit of creation of a design which is represented repeatedly.

(g) Use or diversion of a constituent element beyond the framework of the article, etc.

Refers to adopting a variety of existing elements as a motif, and using in or diverting to various articles, etc. without hardly changing their shape, etc.

6.3.3.2 Examples of minor modification

Rather than constituent elements and specific modes that were publicly known prior to filing being represented by ordinary techniques, etc. without change, if the filed design is represented with modifications having been added to those constituent

elements and specific modes, the examiner should examine whether those modifications are nothing more than “minor modifications” in the art of the design.

Although examples of “minor modification” are as shown below, the examiner should examine the filed design in light of the actual conditions of creation in the art of the design.

- (a) Simple rounding or chamfering of corners and edges
- (b) Simple deletion of a pattern, etc.
- (c) Simple change in colors, simple coloring in each compartment, standard coloring based on required functions
- (d) Change in shape, etc. caused by a simple change of material

6.3.4 Novelty and originality of design ideas from the viewpoint of a person skilled in the art

Regarding novelty or original design ideas from the viewpoint of a person skilled in the art, see 4.3 “Novelty and originality of design ideas from the viewpoint of a person skilled in the art” in Part III, Chapter II, Section 2 “Creative Difficulty.”

6.3.5 Concept in cases where natural objects, etc. that constitute the design are included in part of an interior design

Where part of an interior includes natural objects, etc. that constitute the design—like the shape, etc. of branches, leaves or flowers on plants for example—the shape, etc. consisting of forms created by nature is not evaluated as a creation of the design. On the other hand, with respect to the positional relationship between artificial structures and natural objects, etc. and to the constitution of the entire design of an interior that includes them, formative characteristics should be evaluated as a creation of the design.

Furthermore, in cases where part of an interior design includes natural objects, etc., for determining whether they constitute the design, see 6.1.1.2 “The subject matter consists of multiple articles, buildings, or graphic images under the Design Act” in this Chapter and 4.3 “Concept of one design in cases where something fixed to a building or land is represented” in Chapter II “Building Design” in this Part.

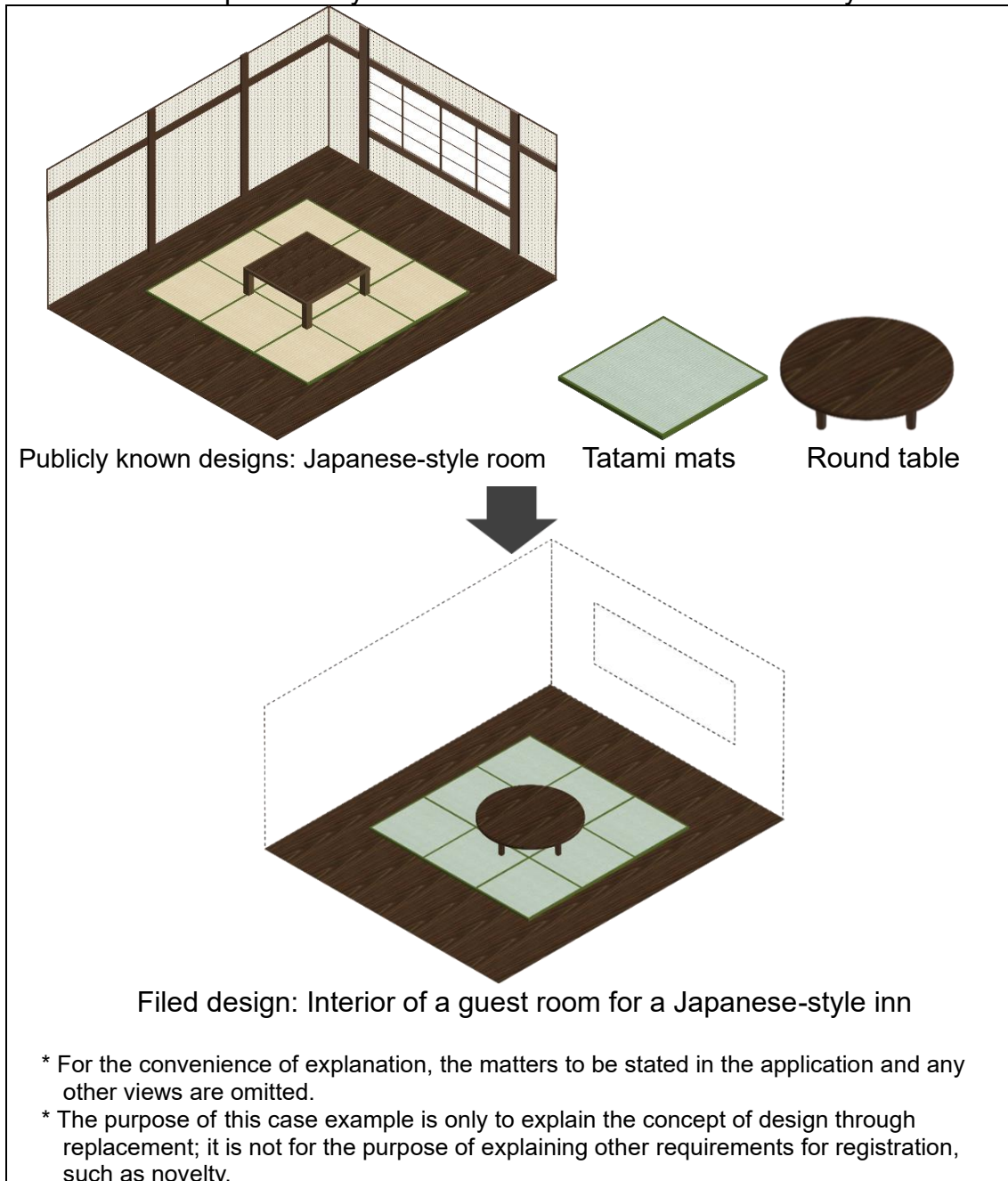
6.3.6 Examples of easily created designs

All of the examples shown below are typical representations of the method for determining creative difficulty in cases where the filed design is assumed to be novel.

6.3.6.1 Design through replacement

[Case example] “Guest room for a Japanese-style inn”

A design which merely represents the replacement of a publicly known table and tatami mats for a Japanese-style room with other items almost as they are

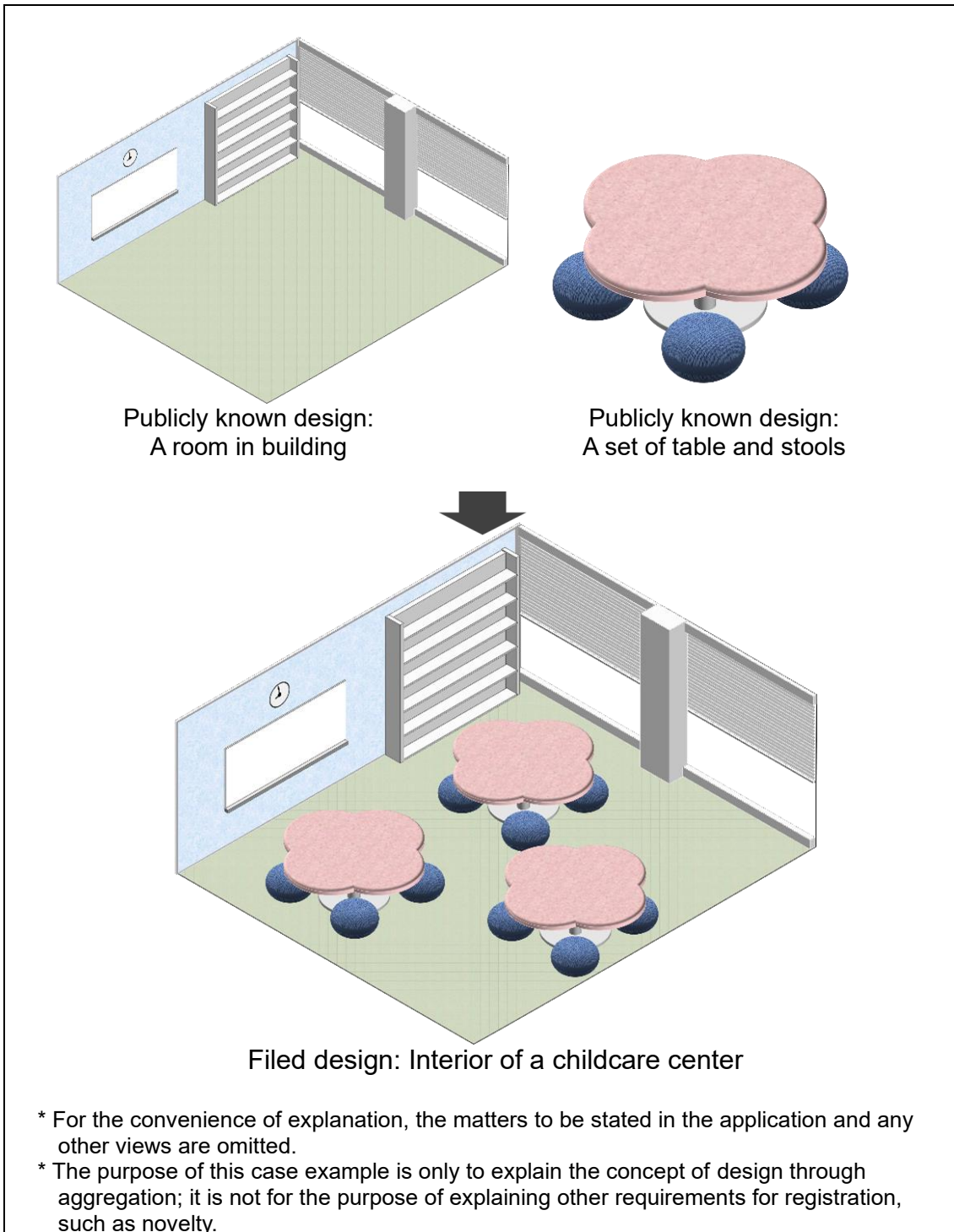


(Note) In this case example, it is assumed that replacing tables and tatami mats with other items is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

6.3.6.2 Design through aggregation

[Case example] “Childcare center”

A design which merely represents the aggregation of publicly known designs for a room and a set of table and stools

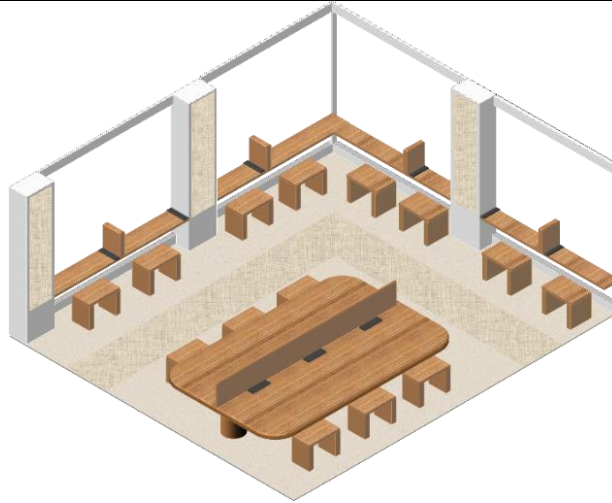


(Note) In this case example, it is assumed that aggregating various constituent objects, such as tables, chairs, and shelves, is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

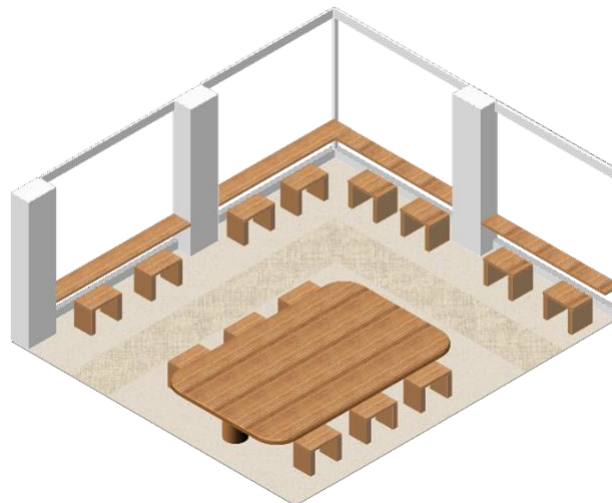
6.3.6.3 Design through mere deletion of a constituent part

[Case example] “Cafe”

A design which merely creates the interior of a cafe by deleting some components of a publicly known design for a study room



Publicly known design: A study room



Filed design: Interior of cafe

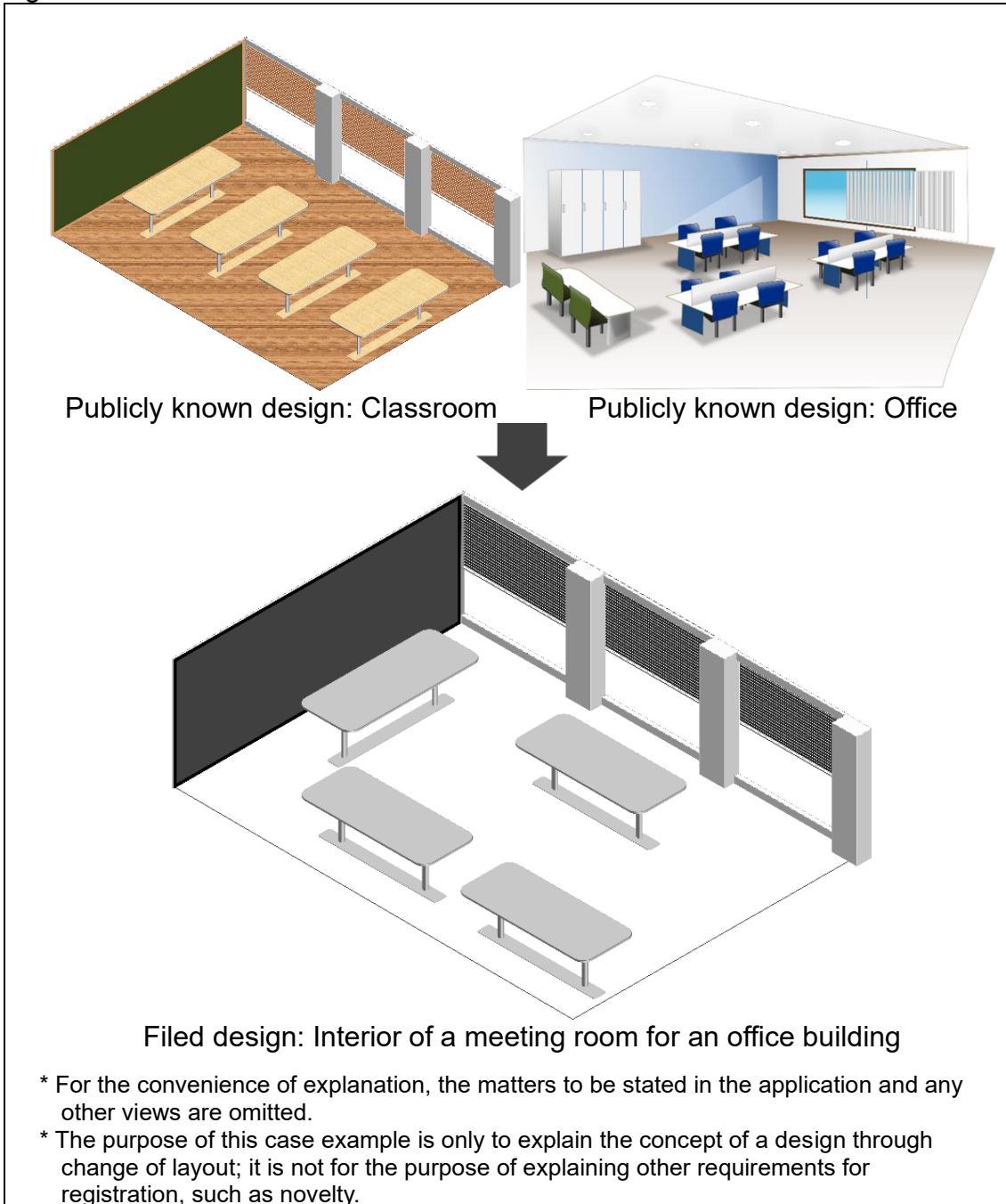
- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is only to explain the concept of a design through mere deletion of a constituent part; it is not for the purpose of explaining other requirements for registration, such as novelty.

(Note) In this case example, it is assumed that deleting some components is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

6.3.6.4 Design through change of layout

[Case example] “Meeting room in an office building”

A design which merely represents the changed layout of desks in a publicly known design for a classroom, according to the layout of desks in another publicly known design for an office

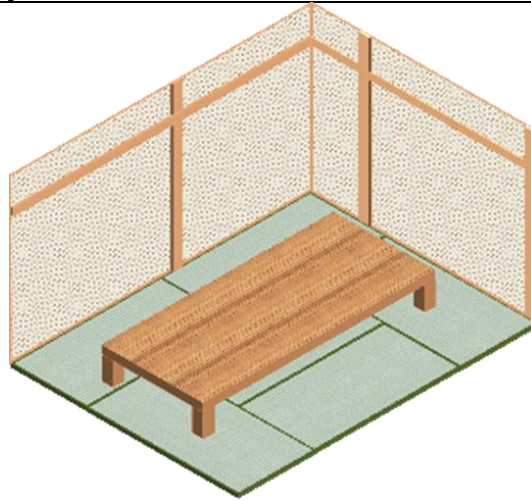


(Note) In this case example, it is assumed that changing the layout of desks is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

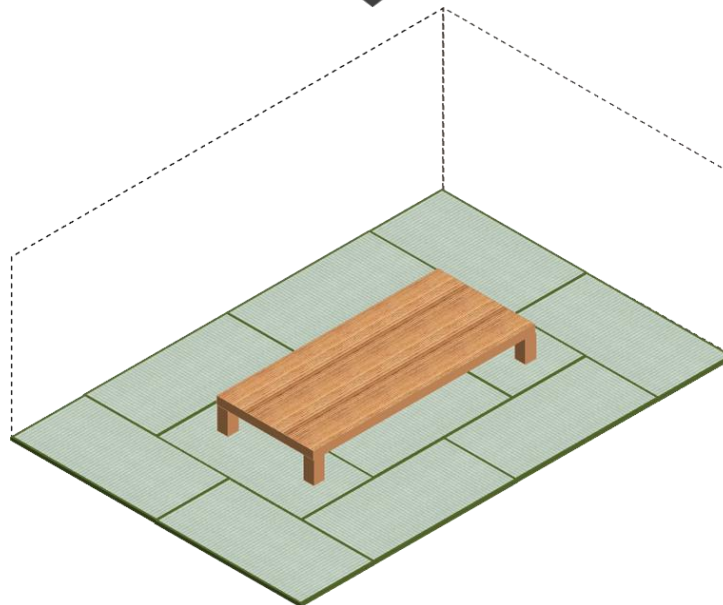
6.3.6.5 Design through change of component ratio

[Case example] “Lounge in a community center”

Design which merely changes the number of tatami mats in a publicly known design for a Japanese-style room



Publicly known design: Japanese-style room



Publicly known design: Interior of a lounge for a community center

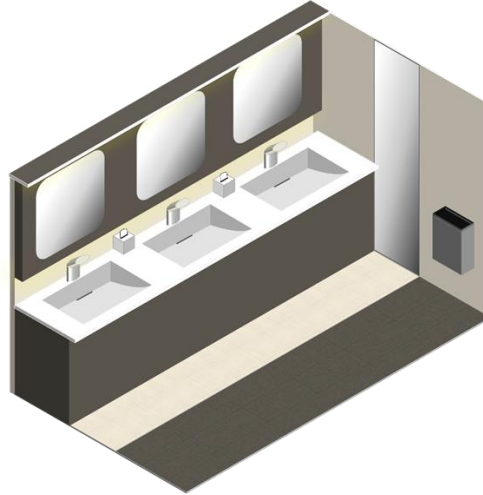
- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is only to explain the concept of a design through change of component ratio; it is not for the purpose of explaining other requirements for registration, such as novelty.

(Note) In this case example, it is assumed that changing component ratios in rooms is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

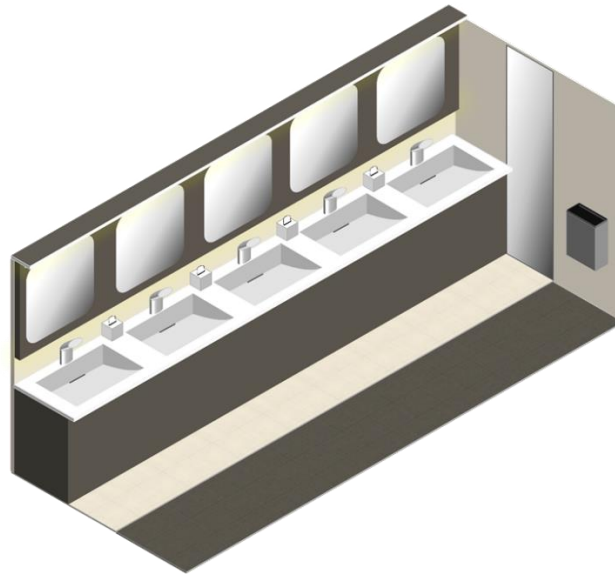
6.3.6.6 Design through change in number of units of a continuous constituent element

[Case example] “Washbasins in an office building restroom”

A design which merely represents washbasins in a publicly known design for an office building restroom almost as they are by increasing the number of washbasins



Publicly known design: A restroom for an office building



Filed design: Interior of washbasins in an office building restroom

- * For the convenience of explanation, the matters to be stated in the application and any other views are omitted.
- * The purpose of this case example is only to explain the concept of design through change in number of units of a continuous constituent element; it is not for the purpose of explaining other requirements for registration, such as novelty.

(Note) In this case example, it is assumed that changing the number of washbasins is an ordinary technique in the art of the filed design, and that the filed design shows no novelty or original design ideas from the viewpoint of a person skilled in the art. The example typically represents a method for determining creative difficulty assuming the filed design is novel.

6.3.6.7 Design through use or diversion of a constituent element beyond the framework of the article, etc.

[Case example 1] A design which represents the interior of a room that appears in a publicly known comic as it is

[Case example 2] A design which represents the interior of a room in a publicly known dollhouse as it is

6.4 The subject matter is not a design in a later application that is identical or similar to part of a design in a prior application

Where the design in a later application is not found to be a creation of a new design, such as when part of the design in a prior application is filed as the design of a later application almost as it is, under Article 3-2 of the Design Act, the design in the later application may not be registered.

The examiner should determine similarity with the part of the design in the prior application in the same manner as with article designs (see Part III, 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”).

7. The subject matter is not similar to the design in a prior application

The examiner should determine similarity with designs in prior applications in the same manner as determining novelty (see 6.2 “The subject matter is novel” in this Chapter).

Furthermore, even if the design is similar to the design in a prior application, if the applicants are the same (or, in the case of joint applications by multiple applicants, if all applicants are the same) and if it complies with the requirements for design registration as a related design (see Part V “Related Design”), given that both designs may be registered by making the design in the prior application (either design if both dates are the same) the principal design and making the design in the later application (the design other than the principal design if both dates are the same) the related design, the examiner should include a statement to that effect in any order for consultation and when notifying reasons for refusal.

8. Amendment and division of interior design

8.1 Amendment of interior design

A person undertaking a procedure with regard to an application for design registration, a request, or any other procedures relating to design registration may make amendments only while the case is pending in examination, trial, or retrial (Article 60-24 of the Design Act).

Below describes the points that examiners should note regarding the amendment of interior designs. For other information on the basic handling of amendments, see Part VI, Chapter I “Amendment” and Chapter II “Dismissal of Amendments.”

8.1.1 Categories of amendments that change the gist

Where an amendment made to the statement in the application or any drawings, etc. attached to the application falls under any of the following, the examiner should determine that it changes the gist of the statement in the application or drawings, etc. attached to the application as originally filed.

- (1) An amendment that makes a change exceeding the scope identical to that which can be inevitably derived based on the ordinary skill in the art of the design
- (2) An amendment that clarifies the gist of design (Note) that was unclear when originally filed

(Note) “Gist of design” refers to the contents of a specific design that can be directly derived from the statement in the application and drawings, etc. attached to the application based on the ordinary skill in the art of the design.

8.1.2 Amendment to building design

Where the subject matter of an application for interior design does not contain multiple articles, buildings or graphic images and is not recognized as an interior design, and if it is recognized that, in essence, it should be filed as a building design, the examiner should determine that an amendment which changes this application to one for design registration for a building design does not change the gist of the statement in the application or drawings, etc. attached to the application as originally filed.

On the other hand, if the subject matter of an application for interior design complies with the requirements for categorization as an interior design, the examiner should determine that an amendment which changes the application to one for a building design does change the gist of the design. (For the requirements for interior designs, see 6.1.1 “The subject matter constitutes a design” in this Chapter.)

Furthermore, when determining whether two designs are the identical, in addition to the shape, etc. of both designs, the examiner should also compare the usage and function, and in the case of designs for which the design registration is requested for part of an article, etc., the examiner should also determine whether their position, size, and scope are the same.

8.1.3 Amendment to a design for a set of articles

Where the subject matter of an application for interior design complies with the requirements for categorization as an interior design, the examiner should determine that an amendment which changes the application to one for a design for a set of articles does change the gist of the design. (For the requirements for interior designs, see 6.1.1 “The subject matter constitutes a design” in this Chapter.)

Furthermore, when determining whether two designs are the identical, in addition to the shape, etc. of both designs, the examiner should also compare the usage and function, and in the case of designs for which the design registration is requested for part of an article, etc., the examiner should also determine whether their position, size, and scope are the same.

8.1.4 Amendment to delete inappropriate constituent objects of an interior design

Where subject matter that is inappropriate as a constituent article, etc. of an interior design is represented together with appropriate subject matter in drawings of an application for design registration for an interior design, the examiner should, in principle, treat an amendment to delete such inappropriate subject matter as not changing the gist of the design.

8.1.5 Amendment to add or delete appropriate constituent objects of an interior design

The examiner should, in principle, treat an amendment to delete or add subject matter that is appropriate as a constituent article, etc. of an interior design as changing the gist of the design.

8.1.6 Amendment to change the layout of appropriate constituent objects of an interior design

The examiner should, in principle, treat an amendment to change the layout of subject matter that is appropriate as a constituent object of an interior design as changing the gist of the design.

8.2 Division of an interior design

Where a design filed as an application for design registration for an interior design does not comply with the requirements provided in Article 8-2 of the Design Act, given that the design as a whole cannot be recognized as one design, division of the design based on the provisions of Article 10-2 of the Design Act is allowed, and the new application for design registration is deemed to have been filed at the time of filing the original application for design registration.

Regarding other determination standards, see Part VIII, Chapter I “Division of Applications for Design Registration.”