Part V One Application per Design

51 Relevant provisions

Design Act
Article 7 An application for design registration shall be filed for each design in accordance with a classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry.

Ordinance for Enforcement of the Design Act
Article 7 The classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry referred to in Article 7 of the Design Act shall be that set forth in the column of “Classification of Articles” in Appended Table 1.

Appended Table 1 Notes
1. When filing an application for design registration with regard to an article that belongs to a classification of articles listed in the right-hand column of this table, the classification of articles to which the article belongs must be stated in the column of “Article to the Design” of the application.
2. When filing an application for design registration with regard to an article that does not fall under any items of the classification of articles listed in the right-hand column of this table, a classification of articles equivalent in level to the classification of articles listed in the right-hand column must be stated in the column of “Article to the Design” of the application.

Form No. 2 [Notes]
(39) When filing an application for design registration with regard to an article which does not belong to any items of the classification of articles listed in the right-hand column of Appended Table 1, an explanation which can help in understanding the article, such as the purpose of use or the state of use of the article, is to be stated in the column of “[Description of Article to the Design]."

51.1 Provision of Article 7 of the Design Act
Article 7 of the Design Act provides that an application for design registration must be filed for each design.

Article 7 of the Design Act was stipulated from the viewpoint of clarifying the contents of the right to be established; by establishing one design right, which is an exclusive right, for one design, the provision aims to secure the stability of the right and prevent unnecessary disputes, with consideration to the procedural convenience and convenience in the event of an infringement dispute, etc. after the establishment of the right.
Meanwhile, if an applicant for design registration could freely make a statement in the column of "Article to the Design" which is to be stated in the application under Article 6 of the Design Act, such as allowing such a statement as "Pottery," it would have the same result as allowing the filing of an application for design registration for a design with a very broad usage and function, compared to the case of stating "Flower vase" in the column. Therefore, it was decided that the classification of articles should be separately provided by an Ordinance of the Ministry of Economy, Trade and Industry.

51.1.1 Classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry

The classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry refers to the classification of articles indicated in Appended Table 1 as provided in Article 7 of the Ordinance for Enforcement of the Design Act.

Appended Table 1 exemplifies the classification of articles in response to Article 7 of the Design Act which provides that an application for design registration must be filed for each design in accordance with a classification of articles as provided by an Ordinance of the Ministry of Economy, Trade and Industry. However, since it would not be easy to search for an appropriate classification if the over-2,400 classifications of articles were merely listed in Japanese alphabetical order, the table largely divides the classifications into 65 groups, and further subdivides similar classifications into sub-groups as appropriate. The indications in the left-hand and middle columns of Appended Table 1 are merely positioned as headings for the classification of articles listed in the right-hand column.

The classification of articles listed in the right-hand column indicates the classification level of the name of the article required to be used for recognizing a design, which is found to be the name that is normally used for the article and that enables people to clearly understand the usage of the article.

51.1.2 Examples of cases that do not comply with the requirements provided in Article 7 of the Design Act

51.1.2.1 Examples of statements in the column of “Article to the Design” in the application that are not based on classification of articles

A statement in the column of “Article to the Design” in the application which falls under any of the following is not based on a
classification of articles listed in Appended Table 1 or a classification of articles equivalent in level to such classification.

(1) A statement that is not used as a general name in the art
(2) A statement with a proper name, such as a trademark name or "so-and-so type"
(3) A statement using a generic name
   (e.g., stating "Building supplies" for "Window shutter")
(4) A statement using foreign characters
(5) An abbreviated classification of articles which is not used as a common name
(6) A statement using the term "set" although the articles are not those under Appended Table 2 of the Regulation for Enforcement of the Design Act (hereinafter referred to as "Appended Table 2")

51.1.2.2 Examples of applications that are not filed for each design

Where an application falls under either of the following when making comprehensive determination based on the statement in the application and drawings, etc. attached to the application, the application is regarded as containing two or more designs and is not found to be an application for design registration filed for each design.

(1) Where two or more classifications of articles are stated in parallel in the column of “Article to the Design” of the application
(2) Where two or more articles are indicated in the drawings, etc. (including the case where multiple articles are arranged in the drawings, etc.)
   However, this excludes cases where an application for design registration is filed for a design for a set of articles.

51.1.2.2.1 Determination as to whether two or more articles are indicated

If multiple constituent objects constituting the article to the design are indicated in the drawings, etc., whether or not the design in the application for design registration pertains to two or more articles is determined as follows.

(1) Even where multiple constituent objects are indicated in the drawings, etc., if all of the constituent objects are essential for
performing a specific single usage and function from a common sense perspective, they are determined to constitute a single article.

On the other hand, if the multiple constituent objects are found to have no connection with each other for performing a specific single usage and function, they are determined to constitute two or more articles.

However, even where their connection is not strong, if the following apply, whether or not they constitute a single article is determined by also complementarily considering such aspects.

(i) Where all of the constituent objects physically constitute a single bundle, or where they are cohesive as a single form such as the case where they have been created in an integrated manner with close relevance in form
(ii) Where all of the constituent objects are worked in an integrated manner from a common sense perspective

(2) Examples of constituent objects that are determined to constitute a single article

[Case example 1] Solid glue with a container

* It is generally necessary to put a solid glue in a container in order to apply the glue and prevent the glue from drying or otherwise deteriorating in quality, so the solid glue and the container with a lid are found to be essential for performing the usage and function of the solid glue from a common sense perspective, and are determined to constitute a single article.
**Case example 2**] Playing cards

* Playing cards are widely known as a card game consisting of 13 cards (consisting of number cards from 1 to 10 and picture cards jack, queen, and king) for each of the four suits—heart, diamond, club, and spade—plus a joker card. From a common sense perspective, all of these cards are essential for performing the usage and function of the playing cards, so they are determined to constitute a single article.

**Case example 3**] Jelly with a container

* In the case of a jelly with a container, the jelly can be taken out of the container and be put in a bowl, etc., so their connection cannot be regarded as essential for performing a specific single usage and function, but complementarily considering that they are, they have been created cohesively in terms of their forms in totality, from a common sense perspective, manufactured in an integrated manner, distributed on the market in an integrated manner, and exist in an integrated manner when the jelly is eaten, they are determined to constitute a single article.
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[Case example 4] Tail lamp of a passenger vehicle

* This tail lamp for a passenger vehicle is physically separated into a component to be attached to the trunk and a component to be attached to the vehicle body. However, from a common sense perspective, these two components are recognized as a tail lamp of a vehicle as a bundle, and both components are essential for performing the usage and function of a tail lamp for a vehicle, so they are determined to constitute a single article.

[Case example 5] Hot and cold water mixing faucet

* This hot and cold water mixing faucet is physically separated into a spout and handles. However, from a common sense perspective, these three components are recognized as a hot and cold water mixing faucet as a bundle, and all components are essential for performing the usage and function of a hot and cold water mixing faucet. In addition, they are cohesive as a single form, so they are determined to constitute a single article.

(3) Examples of constituent objects that are determined to constitute two or more articles

[Case example 1] Cups

* These multiple cups are not found to be essential for performing a specific single usage and function from a common sense perspective. Also, although these cups bear common patterns, it cannot be said that they have been created cohesively in terms of their forms in totality. In addition, it cannot be said that these multiple cups are sold as a set in general. Due to these reasons, they cannot be determined to constitute a single article, and are determined to constitute two or more articles.
51.1.2.3 Handling in the case of partial design

For examples of cases that do not comply with the requirements provided in Article 7 of the Design Act with regard to partial designs, see Part VII “Individual Applications for Design Registration,” Chapter I “Partial Design,” 71.7.1 “Examples of cases that do not comply with the requirements provided in Article 7 of the Design Act.”