

Relevant Provisions

Design Act

Article 10 (1) Notwithstanding Article 9(1) or (2), an applicant for design registration may obtain design registration of a design that is similar to another design selected from the applicant's own designs either for which an application for design registration has been filed or for which design registration has been granted (hereinafter the selected design is referred to as the "Principal Design" and a design similar to it is referred to as a "Related Design"), if the filing date of the application for design registration of the Related Design (or when the application for design registration of the Related Design contains a priority claim under Article 43(1), 43-2(1), 43-3(1) or 43-3(2) of the Patent Act as applied mutatis mutandis under Article 15(1) of this Act, the filing date of the earliest application, the filing date of an application that is deemed to be the earliest application under Article 4.C(4) of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967, or the filing date of an application that is recognized as the earliest application under Article 4.(A)2 of the Paris Convention, hereinafter the same shall apply in this paragraph) is on or after the filing date of the application for design registration of the Principal Design and before a lapse of 10 years from the date of filing of the application for design registration of the Principal Design; provided, however, that this shall not apply to a case where the design right of the Principal Design has been extinguished under the Article 44(4), appeal and trial decision to the effect that the design right of the Principle Design is to be invalidated has become final and binding, or the design right of a Principal Design has been waived at the time of the establishment of the design right of the Related Design.

- (2) Among the applicant's own designs which have fallen under item (i) or (ii) of Article 3, paragraph (1), those which are identical with or similar to the Principal Designs of the design for which the registration is requested under the preceding paragraph shall be deemed not to have fallen under item (i) or (ii) of the said Article, paragraph (1), for the purposes of the said Article, paragraph (1) and (2) for such a design for which the registration is requested.
- (3) The design for which the registration is requested under paragraph (1), for the purpose of application of the proviso to Article 3-2, the term "except for a design bulletin in which the matters listed in Article 20(3)(iv) were published under Article 20(4)" in the proviso to Article 3-2 shall be deemed to be replaced with "where the secrecy is requested for the earlier application for design registration under Article 14(1), limited to a design bulletin in which the matters listed in Article 20(3) (iv) were published under Article 20(4)."
- (4) With respect to a design similar only to a Related Design to be to be registered under paragraph (1), the Related Design shall be deemed to be the Principal Design and a design registration may be granted to the design under the said paragraph. The same shall apply to a design that is similar only to the Related

- Design for which the design registration above may be granted and to a design that is similar only to the gradual Related Design linked to the Related Design.
- (5) In the case of the preceding paragraph, for the purpose of application of the paragraph (1), the term "the Principal Design" in the said paragraph shall be deemed to be replaced with "the primarily selected design pertaining to the Related Design".
 - (6) Where an exclusive license has been established for the design right of the Principal Design, a design registration shall not be granted to its Related Designs, notwithstanding the paragraph (1) and (4).
 - (7) Where applications for design registration of the Related Design are filed, if the applications for design registration are for two or more designs and each of such designs falls under the Related Designs (refers to the Related Designs of the Fundamental Design and the gradual Related Designs linked to the Related Design, the same shall apply hereinafter) pertaining to the Fundamental Design (refers to the primarily selected design pertaining to the Related Design, the same shall apply hereinafter), Article 9(1) or (2) shall not apply to these designs.
 - (8) In the case as provided in the preceding paragraph, among the applicant's own designs which have fallen under item (i) or (ii) of Article 3, paragraph (1), those which are identical with or similar to the Related Design pertaining to the Fundamental Design (excluding the cases where an application for design registration of the Related Design has been waived, withdrawn or dismissed, or where the examiner's decision or appeal and trial decision to the effect that an application for design registration of the Related Design is to be refused has become final and binding, or the design right of the Related Design has been extinguished under Article 44(4) or appeal and trial decision to the effect that the design right of the Related Design is to be invalidated has become final and binding or the design right of the Related Design has been waived) shall be deemed not to have fallen under item (i) or (ii) of Article 3, paragraph (1) for the purposes of said Article, paragraph (1) and (2) for such a design for which the registration is requested under the paragraph (1).

Article 21 (1) The duration of a design right (excluding the design right of a Related Design) shall expire after a period of 25 years from the date of the application for design registration.

- (2) The duration of a design right of a Related Design shall expire after a period of 25 years from the date of the application for design registration of its Fundamental Design.

Article 22 (1) The design right of a Fundamental Design and that of its Related Design may not be transferred independently of each other.

- (2) Where the design right of a Fundamental Design has been extinguished under Article 44(4), appeal and trial decision to the effect that the design right of a Fundamental Design is to be invalidated has become final and binding, or the design right of a Fundamental Design has been waived, the design right of its Related Design thereof may not be transferred independently.

Article 27 (1) A holder of a design right may grant an exclusive license on the design right; provided, however, an exclusive license on a design right of a Fundamental

Design or exclusive licenses on design rights of its Related Designs may be granted only where the exclusive licenses on the design rights of the Fundamental Design and all Related Designs are granted to the same person at the same time.

- (2) An exclusive licensee shall have an exclusive right to work the registered design or designs similar thereto as a business to the extent permitted by the contract granting the license.
- (3) Where the design right of a Fundamental Design has been extinguished under Article 44(4), appeal and trial decision to the effect that the design right of a Fundamental Design is to be invalidated has become final and binding, or the design right of a Fundamental Design has been waived, exclusive licenses on design rights of its Related Designs may be granted only where all the exclusive licenses on the design rights of the Related Designs are granted to the same person at the same time.
- (4) Articles 77(3) to (5) (Transfer, etc.), 97(2) (Waiver, etc.) and 98(1)(ii) and (2) (Effect of registration) of the Patent Act shall apply mutatis mutandis to exclusive licenses.