

Relevant Provisions

Design Act

- Article 10-2 (1) An applicant for design registration may extract one or more new applications for design registration out of a single application for design registration containing two or more designs only while examination, appeal and trial or retrial of the application for design registration is pending.
- (2) Where an application for design registration is divided under the preceding paragraph, the new application(s) for design registration shall be deemed to have been filed at the time of the filing of the original application; provided, however, that this shall not apply for the purposes of applications of Article 4, paragraph (3) of this Act and Article 43, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including the cases where they are applied mutatis mutandis pursuant to Article 43-2, paragraph (2) of the Patent Act (including cases where they are applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act) and Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act).
- (3) Where a new application for design registration is filed under paragraph (1), any statements or documents which have been submitted in relation to the original application for design registration and are required to be submitted in relation to the new application under Article 4, paragraph (3) of this Act or Article 43, paragraphs (1) and (2) of the Patent Act as applied mutatis mutandis under Article 15, paragraph (1) of this Act (including cases where they are applied mutatis mutandis pursuant to Article 43-2, paragraph (2) of the Patent Act as applied mutatis mutandis pursuant to Article 15, paragraph (1) of this Act (including cases where they are applied mutatis mutandis pursuant to Article 43-3, paragraph (3) of the Patent Act as applied mutatis mutandis pursuant to Article 15(1) of this Act) and Article 43-3, paragraph (3) of the Patent Act) shall be deemed to have been submitted to the Commissioner of the Patent Office along with the new application for design registration.

Article 13 (1) An applicant of a patent may convert the patent application into an application for design registration; provided, however, that this does not apply after the expiration of three months from the date the certified copy of the examiner's initial decision to the effect that the patent application is to be refused has been served.

- (2) An applicant of a utility model registration may convert the application for a utility model registration into an application for design registration.
- (3) Where the period provided in Article 121, paragraph (1) of the Patent Act is extended pursuant to Article 4 of the Act, the period provided in the proviso to paragraph (1) is deemed to have been extended only for that period so extended.
- (4) Where an application is converted under paragraph (1) or (2), the original application is deemed to have been withdrawn.
- (5) When there is a person who has a provisional exclusive license on a patent application, an applicant of the patent may convert the patent application pursuant to paragraph (1) only in the case where the consent of the person is obtained.

- (6) The provisions of Article 10-2, paragraphs (2) and (3) apply mutatis mutandis to the case of conversion of an application under paragraph (1) or (2).

Article 13-2 (1) An international application that has been deemed to be a patent application pursuant to Article 184-3, paragraph (1) or 184-20, paragraph (4) of the Patent Act may be converted to an application for design registration, only after the fees payable pursuant to Article 195, paragraph (2) of the Act have been paid (or, in the case of an international application that is deemed to be a patent application pursuant to Article 184-20, paragraph (4) of the Act, after the ruling as provided in 184-20, paragraph (4) has been rendered), and, in the case of a Patent Application in Japanese Language under Article 184-6, paragraph (2) of the Act, the procedures under Article 184-5, paragraph (1) of the Act have been completed, or, in the case of a Patent Application in Foreign Language under Article 184-4, paragraph (1) of the Act, the procedures under Articles 184-4, paragraph (1) or (4) and 184-5, paragraph (1) of the Act have been completed.

- (2) An international application that has been deemed to be an application for utility model registration under Article 48-3, paragraph (1) or 48-16, paragraph (4) of the Utility Model Act (Act No. 123 of 1959) may be converted to an application for design registration, only after the fees payable under Article 54, paragraph (2) of the Act have been paid (or, in the case of an international application that is deemed to be an application for utility model registration under Article 48-16, paragraph (4) of the Act, after the ruling as provided in Article 48-16, paragraph (4) has been given), and, in the case of a Utility Model Application in Japanese under Article 48-5, paragraph (4) of the Act, the procedures under Article 48-5, paragraph (1) of the Act have been completed, or, in the case of a Utility Model Application in Foreign Language under Article 48-4, paragraph (1) of the Act, the procedures under Articles 48-4, paragraph (1) or (4) and 48-5, paragraph (1) of the Act have been completed.

Article 17-3 (1) Where an applicant for design registration files a new application for design registration for the amended design within three months from the date on which a certified copy of the ruling dismissing an amendment under paragraph (1) of the preceding Article has been served, the new application is deemed to have been filed at the time when the written amendment of proceedings for the amendment was submitted.

- (2) Where a new application for design registration is filed under the preceding paragraph, the original application for design registration is deemed to have been withdrawn.
- (3) The provisions of the preceding two paragraphs apply only when the applicant for design registration has submitted to the Commissioner of the Patent Office, at the time of the filing of a new application, a document stating a request for the application of paragraph (1) to the new application for design registration under paragraph (1).