

Chapter I Feature Statement

1. Outline

The term “feature statement” is a document containing features of the design for which the design registration is requested or the design in an application for design registration. The person requesting design registration or the applicant for design registration may submit the feature statement when submitting an application or while the case is pending in examination, trial or retrial.

2. Feature statement

The examiner must not use the contents of the feature statement as the direct basis for the finding of the design in an application for design registration (see Part II “Finding of the Design & Filing an Application for Each Design”), for the determination of similarity in determining novelty requirement, etc., or for the determination of other reasons for refusal.

On the other hand, since the contents of the feature statement can be used as reference information for deciding an accurate scope for the search in examination, they are expected to expedite examination.

Where a design is registered, publication of the contents of the feature of the design and the explanation view in the Design Bulletin makes it possible to let third parties know the subjective intention of the applicant with regard to creation of the registered design.

Since the contents of the feature statement are not used as the basis for specifying the scope of the registered design provided in Article 24 of the Design Act, they do not have any direct influence on the scope of the right.

3. Submission procedure

Submission of a feature statement is not an obligation, but it is a voluntary procedure whereby a person requesting a design registration or an applicant for design registration may choose to submit the statement.

The person requesting design registration or the applicant for design registration may only submit the feature statement when submitting an application or while the case is pending in examination, trial or retrial.

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 design is included in the column of “Description of the Design” should also be treated the same.

4. Publication in the Design Bulletin

The contents of the feature of the design and the explanation view of a feature statement are, in principle, published in the Design Bulletin exactly as they have been submitted by the applicant. If a new feature statement has been submitted, only the contents of the latest feature statement are published.

Meanwhile, such contents are not published in the Design Bulletin based on the provisions of Article 66, paragraph (3) of the Design Act (bulletin for giving public notice of an application for which refusal has become final and binding in the case where no agreement was reached by consultations or consultations were unable to be held where two or more applications have been filed for identical or similar designs on the same date).

In addition, where a feature statement contains any expression, etc. that is improper to be published in the Design Bulletin, such part is not to be published in the Design Bulletin.