

54.04

Application for a Color Trademark Defined by Multiple Images or Photographs

The JPO will handle an application for color trademark defined by multiple images or photographs as follows.

1. Cases where multiple images or photographs are presented to define the area to which the trademark is affixed

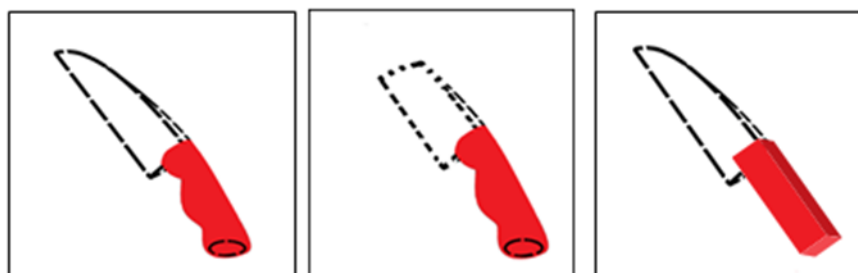
In the case of a position-specific color trademark, when the trademark is presented in an application, the applicant is required to present goods, etc. to define the position of the trademark. In many cases, some goods, etc. included in the designated goods or services are presented (the "designated goods, etc.>").

Since the scope of the exclusive right to use a registered trademark extends only within the scope of the designated goods, etc. (Article 25), the shape of goods, etc. presented to define the position of the trademark claimed in an application should be regarded as exhibiting examples of how to use the trademark for the designated goods, etc.

Therefore, if an application for a position-specific color trademark presents multiple images or photographs of the trademark, the application would be considered to satisfy the requirements specified in the main paragraph of Article 3(1) and Article 6(1) (a single application for each trademark) only if each of those images or photographs satisfies all of the requirements specified in [i] to [iii] below:

- [i] The image or photograph must show goods, etc. included in the designated goods, etc.;
- [ii] The image or photograph must show the same color or the same combination of colors; and
- [iii] The image or photograph must show the trademark affixed to the same area of the goods.

(Examples)



2. Cases where the application shows a representation of a trademark to define its position on the goods, etc. as well as a representation of only the color of the trademark

The exclusive right to use a positional-specific color trademark would extend only to the trademark presented in the application if said trademark is affixed to such area of goods, etc. that is defined in the section "Detailed explanation of the trademark." On the other hand, in the case of a color trademark that may be affixed to any area of goods, etc., the exclusive right to use such trademark would extend to the trademark regardless of which area of goods, etc. the trademark is affixed to.

In this way, the manner of presenting a trademark in an application would affect the scope of the exclusive right to use the trademark. Thus, in the case where an application shows a representation of a position-specific color trademark as well as a representation of only the color of the trademark, if the applicant fails to explain, in the section "Detailed explanation of the trademark," why the representation of only the color of the trademark is presented in the application, the application would be considered to claim two color trademarks and would be considered to fail to define the compositions and other details of those color trademarks. Consequently, the requirements specified in the main paragraph of Article 3(1), Article 5(5), and Article 6(1) (a single application for each trademark) cannot be considered to be satisfied.

However, the same would not apply if it is stated "The purpose of the separate representation of only the color is to clearly show the color" in the "Detailed explanation of the trademark" because it is clear that the application is filed for a position-specific color trademark.

(Example of how to fill out the section "Detailed explanation of the trademark")

[Trademark for which trademark registration is sought]



[Color trademark]

[Detailed explanation of the trademark]

The trademark for which trademark registration is sought (the "Trademark") is a color trademark consisting of a red color (RGB values: R255, G0, B0) affixed to the handle of a kitchen knife.

The purpose of the separate representation of only the color is to clearly show the color. The dashed lines show an example of the shape of the goods and should not be regarded as a component of the trademark.