

A2.02

Handling Concerning Identification of Trademarks when the Basic Registration or Basic Application is a Three-Dimensional Trademark

1. With regard to an international trademark application concerning a three-dimensional trademark, when there is more than one drawing or photograph indicating the three-dimensional trademark of the basic registration or basic application, the trademark must be identical in all of the drawings or photographs (this includes similar figures described in the same reduced scale; the arrangement of drawings or photographs can be different). They also must be within a frame of twenty square centimeters.

2. When drawings or photographs of an international trademark application are different from those of the basic registration or basic application in the ways that follow, the three-dimensional trademarks are not to be handled as identical in principle.

- 1) The number of drawings or photographs is not the same.
- 2) Part of the constitutions and forms indicated in drawings or photographs do not match.
- 3) The reduced scale of drawings or photographs is partially different.
- 4) A trademark originally indicated by drawings is indicated by photographs, or vice versa.

3. In definition of identification of trademarks where the base is an application, it shall not be questioned whether or not the constitutions and forms of the three-dimensional trademarks are specified.

[Explanation]

(1) With regard to identification of the trademark concerning an international trademark application, as described in the Trademark Examination Manual A2.01, the constitution and forms of the trademark must, in principle, be identical to that of the basic registration or basic application which the JPO uses to verify the international trademark application, and the same also applies to a three-dimensional trademark.

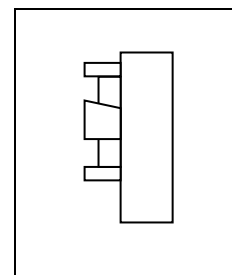
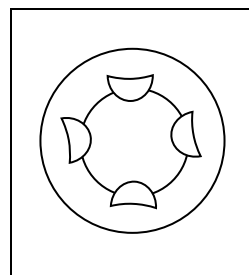
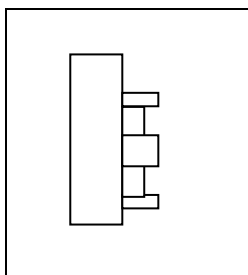
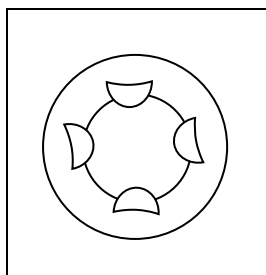
That is to say, a three-dimensional trademark may be indicated by more than one drawing or photograph, and in that case, it is necessary that constitutions and forms indicated in the drawings or photographs are identical or that the whole trademark is indicated in the same reduced scale and in similar shapes as a whole.

Furthermore, even if the arrangement of drawings or photographs is different, trademarks shall be handled as identical when it cannot be said that the overall constitutions and forms of the indicated three-dimensional trademarks have been changed.

(2) Examples in which three-dimensional trademarks are handled as not identical are shown

1) The number of drawings or photographs is not the same.

2) Part of the constitutions and forms indicated in drawings or photographs do not match.

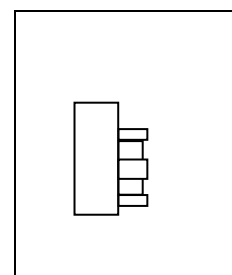
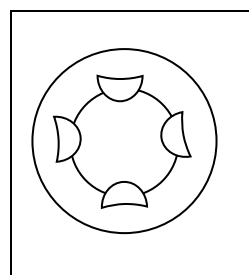
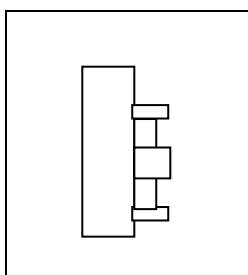
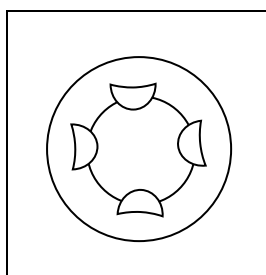


<Three-dimensional trademark of the basic registration or basic application>

<Three-dimensional trademark of an international trademark application>

*The constitution and form of the right-hand-side drawing of the international trademark application are different from the drawings of the basic registration or basic application.

3) The reduced scales of drawings or photographs are partially different.



<Three-dimensional trademark of the basic registration or basic application>

<Three-dimensional trademark of an international trademark application>

*The reduced scale of only the right-hand-side drawing of the international trademark application is different from the drawings of the basic registration or basic application.

4) A trademark originally indicated by drawings is indicated by photographs, or vice versa.

(3) Identification of a trademark based on a presently-pending application is defined according to a description stating that the mark is a three-dimensional trademark in the request of the basic application that the JPO uses to verify an international trademark application, as well as the trademark for which registration is sought (drawings or photographs), and it is not questioned whether the drawings or photographs in the request specify the constitution and form as a three-dimensional trademark.

Therefore, for example, when there is a cross section as a drawing indicating a three-dimensional trademark in the basic application, the identification is defined by also taking

the drawing into consideration.