

Trial decision

Invalidation No. 2014-880018

Gifu, Japan

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The case of trial regarding the invalidation of design registration for Design Registration No. 1509040 "bucket" between the parties above has resulted in the following trial decision.

#### Conclusion

Design Registration No. 1509040 is invalidated.

The costs in connection with the trial shall be borne by the demandee.

#### Reason

No. 1 The demandant's object of the demand and the grounds therefor

The demandant demanded, in a written demand for trial submitted on December 10, 2014 (Heisei 26), the trial decision that "Design Registration No. 1509040 (hereinafter referred to as 'the Registered Design') is invalidated. The costs in connection with the trial shall be borne by the demandee," summarized grounds for the demand as follows, and submitted Evidence A No. 1 to A No. 33 as means of evidence.

## 1. Gist of reasons for invalidation of design registration

### (Reason 1 for invalidation)

Since the Registered Design (Design Registration No. 1509040) is similar with the design according to product name "Way-be 801" described in Evidence A No. 1 to A No. 4 (hereinafter referred to as "the Cited Design 1"), the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1) of the Design Act.

### (Reason 2 for invalidation)

Since the Registered Design is similar with the design according to product name "Way-be 102" described in Evidence A No. 1 to A No. 4 (hereinafter referred to as "the Cited Design 2"), the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1) of the Design Act.

## 2. History of the procedures

Filing November 28, 2013 (Heisei 25)

Registration September 12, 2014 (Heisei 26)

## 3. Reasons for invalidation of the Registered Design

### A Description of the Registered Design (summary and the like)

Constitutions of the Registered Design are as follows.

- 1) The Registered Design is a bucket with lid, composed of a body and a lid.
- 2) In the upper end part of the body, a flange protruding horizontally toward the outside is provided along the whole circumference.
- 3) Regarding the body, the diameter of the lower end of the flange is slightly longer than the diameter of the bottom part, the height of the body is slightly shorter than the diameter of the bottom part, and the body has an extremely gentle reverse truncated cone in top view.

- 4) On the side face of the body, a lot of vertical and chevron protruding parts are continuously formed from the lower side of the flange to the bottom part.
- 5) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.
- 6) Each of the protruding parts gradually becomes narrow from the upper end side to the lower end side.
- 7) To the position opposite the outside of the opening of the upper end of the body, end parts of the thin plate-like handle formed in semicircle in top view are attached.
- 8) The lid is composed of a disc-like top plate, and a protruded portion arranged in a concentric pattern inside the vicinity of outer circumference of the lower surface thereof.
- 9) In the upper surface of the top plate of the lid, a lot of chevron protruding parts having the same width are continuously formed over the whole surface.
- 10) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.

11) Inside the said protruded portion provided in the reverse face of the lid, a lot of chevron protruding parts having the same width are continuously formed over the whole surface, two protruded portions parallel to the protruding parts and two protruded portions perpendicular to the protruding parts are formed in parallel cross shape.

12) In the center of the reverse face of the lid, there is formed a lid hanging part composed of a thin cylinder perpendicular to the lid and a small thin disc provided in the tip of the cylinder.

#### B Description of the Cited Design 1 (summary and the like)

1) The Cited Design 1 is a bucket with lid, composed of a body and a lid.

2) In the upper end part of the body, a flange protruding horizontally toward the outside is provided along the whole circumference.

3) Regarding the body, the diameter of the lower end of the flange is slightly longer than the diameter of the bottom part, the height of the body is slightly shorter than the diameter of the bottom part, and the body has an extremely gentle reverse truncated cone in top view.

- 4) On the side face of the body, a lot of vertical and chevron protruding parts are continuously formed from the lower side of the flange to the bottom part.
- 5) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.
- 6) Each of the protruding parts gradually becomes narrow from the upper end side to the lower end side.
- 7) To the position opposite the outside of the opening of the upper end of the body, end parts of the thin plate-like handle formed in a semicircle in top view are attached, both end parts of the handle are slightly wide, and a small circular through hole is provided in one of the end parts.
- 8) The lid is composed of a disc-like top plate, and a protruded portion arranged in a concentric pattern inside the vicinity of outer circumference of the lower surface thereof.
- 9) In the upper surface of the top plate of the lid, a lot of chevron protruding parts having the same width are continuously formed over the whole surface.

10) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.

#### C Description of the Cited Design 2 (summary and the like)

1) The Cited Design 2 is a bucket with lid, composed of a body and a lid.

2) In the upper end part of the body, a flange protruding horizontally toward the outside is provided along the whole circumference.

3) Regarding the body, the diameter of the lower end of the flange is slightly longer than the diameter of the bottom part, the height of the body is slightly longer than the diameter of the bottom part, and the body has an extremely gentle reverse truncated cone in top view.

4) On the side face of the body, a lot of vertical and chevron protruding parts are continuously formed from the lower side of the flange to the bottom part.

5) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.

6) Each of the protruding parts gradually becomes narrow from the upper end side to the



lower end side.

7) To the position opposite to the outside of the opening of the upper end of the body, end parts of the thin plate-like handle formed in semicircle in top view are attached, both end parts of the handle are slightly wide, and a small circular through hole is provided in one of the end parts.

8) The lid is composed of a disc-like top plate, and a protruded portion arranged in a concentric pattern inside the vicinity of outer circumference of the lower surface thereof.

9) In the upper surface of the top plate of the lid, a lot of chevron protruding parts having the same width are continuously formed over the whole surface.

10) Each of the chevron protruding parts has a peak-like central part and a symmetrical shape.

#### D Similarity of the Registered Design with the Cited Design

(a) "Design" in the Design Act shall mean the shape, patterns, or colors, or any combination thereof, of an article (including a part of an article), and creates an aesthetic impression

through the eye (Article 2(1) of the Design Act), in addition to design under Article (3)(1)(i) or Article(3)(1)(ii) of the Design Act (publicly known design), design under Article (3)(1)(iii) of the Design Act that is similar with design under Article (3)(1)(i) or Article(3)(1)(ii) of the Design Act, cannot be granted design registration, since it is thought that design is applied to the article which is identical to or similar with an article to a publicly known design, and creates aesthetic impression similar with that of the publicly known design, is not worthy of being granted design registration being an exclusive license, this is a close relationship with the fact that effect of design right may lid a design which is similar with the Registered Design; that is, design which creates an aesthetic impression similar with the Registered Design with an article identical to or similar with the article to the Registered Design (Article 23 of the Design Act).

Thus, determination of similarity of design under Article (3)(1)(iii) of the Design Act is to determine similarity of aesthetic impression created by design to be determined and publicly known design, and the determination should be made by evaluating whether each of the common features and the different features acknowledged among constitutions relating the whole article to the design and constitutions of each part affects determination of similarity, and by taking the evaluations into account generally.

(b) Articles to which the Registered Design, the Cited Designs 1 and 2 are respectively applied are "bucket" and correspond to each other.

(c) Common features and different features between the Registered Design and the Cited Design 1

The Registered Design and the Cited Design 1 are common in the Constitutions 1) to 6), 8) to 10). Further, regarding the Constitution 7), the two designs are common in the feature that "to the position opposite the outside of the opening of the upper end of the body, end parts of the thin plate-like handle formed in a semicircle in top view are attached," and are different in the feature that in the Cited Design 1, both end parts of handle are slightly wide, and a small circular through hole is provided in one of the end parts. In addition, the Constitutions 11) and 12) of the Registered Design are not present in the Cited Design 1.

However, when both designs are viewed from an overall viewpoint, these different features are all insignificant differences compared with the common features, and their effects on aesthetic impression are extremely limited.

(d) Common features and different features between the Registered Design and the Cited

## Design 2

The Registered Design and the Cited Design 2 are common in the Constitutions 1), 2), 4) to 6), and 8) to 10). Further, regarding the Constitution 3), the two designs are common in the feature that "regarding the body, diameter of the lower end of flange is slightly longer than diameter of the bottom part," and the body has "an extremely gentle reverse truncated cone in top view," and are different in the feature that in the body of the Cited Design 2, "the height is slightly longer than diameter of the bottom part." In addition, regarding the Constitution 7), the two designs are common in the feature that "To the position opposite to the outside of the opening of the upper end of the body, end parts of the thin plate-like handle formed in a semicircle in top view are attached," and are different in the feature that in the Cited Design 2, both end parts of handle are slightly wide, and a small circular through hole is provided in one of the end parts.

The Constitutions 11) and 12) of the Registered Design are not present in the Cited Design 2, and this gives rise to a difference therebetween.

However, when the two designs are viewed from an overall viewpoint, these different features are all insignificant differences compared with the common features, and

their effects on aesthetic impression are extremely limited.

(e) Special circumstances

(i) Conspicuous features of the Cited Designs 1 and 2

As described below, buckets related to the Cited Designs 1 and 2 were created and converted into commercialization by the demandant in 1993 (Heisei 5), and the buckets have been produced and sold for more than 20 years.

The bucket related to the Cited Design 1 is a bucket whose product name is "Way-be 801 (lid)" described in Evidence A No. 1 and the product number is 050919 (VE), 050834 (G) or 050841 (B), or whose product name is "Way-be color bucket (with lid) 801" described in Evidence A No. 2 and the product number is 216629 (BL), 216636 (RD) or 216643 (YE), or whose product name is "Fraichair Bucket S" described in Evidence A No. 3 and the product number is 230588 (GR), 230595 (PK) or 230601 (YE), or whose product name "omnioutil S" described in Evidence A No. 4 and the product number is 223757 (PL), 223764 (PK), 223771 (OR), 223788 (TB), 223795 (GR), 228240 (BL), 228257 (IV), 228264 (RPK), 228271 (CA), 228288 (BR), 228783 (WH), or 228790 (BK).

The bucket related to the Cited Design 2 is the bucket whose product name is "Way-be 102 (lid)" described in Evidence A No. 1 and the product number is 050926 (VE), 050933 (G), or 050940 (B), or whose product name is "Way-be color bucket (with lid) 102" described in Evidence A No. 2 and the product number is 216650 (BL), 216667 (RD) or 216674 (YE), or whose product name is "Fraichair Bucket L" described in Evidence A No. 3 and the product number is 230618 (GR), 230625 (PK) or 230632 (YE), or whose product name is "omnioutil L" described in Evidence A No. 4 and the product number is 223873 (PL), 223880 (PK), 223897 (OR), 223903 (TB), 223910 (GR), 228295 (BL), 228301 (IV), 228318 (RPK), 228325 (CA), 228332 (BR), 228806 (WH), or 228813 (BK).

There is no fact that a bucket whose design is similar with the Cited Design, designed by other people, had been sold from 1993 (Heisei 5) to the application for the Registered Design, except the bucket related to the Registered Design. For this reason, each of the Cited Designs 1 and 2 had a conspicuous future in the field of buckets before the application for the Registered Design.

Regarding the Constitution 3), even though the height of the body of the Cited Designs 1 and 2 is insignificantly different from that of the Registered Design, other

features are identical and these designs are substantially identical with each other.

(ii) Good Design Award

The buckets related to the Cited Design 1 and 2 (product names "Way-be 801" and "Way-be 102") received "Good Design Selection" from the Minister of International Trade and Industry in 1994 (Heisei 6), and won "Good Design Award from Commissioner of the Small and Medium Enterprise Agency" from the Commissioner of the Small and Medium Enterprise Agency (Evidence A No. 5 to A No. 7).

(iii) Good Design Long Life Design Award

The bucket related to the Cited Design won "the Good Design Long Life Design Award" in 2010 (Heisei 22) (Evidence A No. 8 and A No. 9). In this way, since the bucket related to the Cited Design won the Good Design Long Life Design Award, it has been publicly recognized that the bucket is a product whose excellent design has been popular and accepted by consumers for a long time.

(iv) Well-known Cited Design

Selling the buckets related to the Cited Design was started from 1993 (Heisei 5), and the number of sales in past 5 years was about 70,000 in 2009 (Heisei 21), about 195,000 in 2010 (Heisei 22), about 157,000 in 2011 (Heisei 23), about 175,000 in 2012 (Heisei 24), and about 135,000 in 2013 (Heisei 25) (Evidence A No. 10).

(v) Press Release (PR) as Good Design Award

Japan Institute of Design Promotion (JDP), which hosts the Good Design Award, tried to achieve diffusion and PR for goods winning Good Design Award with the following PR jobs, and the bucket related to the Cited Design winning 2010 (Heisei 22) Good Design Long Life Design Award was widely and currently diffused and known through the following PR jobs conducted by Japan Institute of Design Promotion (Evidence A No. 11).

a) PR jobs for media

A total of 15 times of domestic press release were distributed in a year.

Of 15 times, 12 times of press release were related to Good Design Award.



b) Main publication

<Good Design Award>

-Sunday Mainichi, October 27 issue, 2010

<Good Design Grand Award>

-November 10, 2010 YAHOO! news, front page

-November 10, 2010 news every (Nippon Television Network Corporation)

-Nikkei Design, January issue, 2011

-Mono Magazine, 16th issue, issued on January 2, 2011

-Brain, January issue, 2011

c) PR by JDP e-mail newsletter

For delivering information for the public, a total of 12 issues of JDP e-mail newsletter were monthly distributed (the number of distributions each time is about 10,

000).

(vi) Introduction in magazines

As the number of sales regarding the bucket related to the Cited Design were rapidly increased, times introduced by the magazine were increased, for example, 6 times in 2010 (Heisei 22), 3 times in 2011 (Heisei 23), 4 times in 2012 (Heisei 24), 4 times in 2013 (Heisei 25) of a total of 17 times, and the bucket was mainly introduced by the national magazine relating to life information on women (Evidence A No. 12 to A No. 29).

In ESSE (monthly publication), the bucket related to the Cited Design was introduced in the March issue and October issue, 2010 (Heisei 22), and the numbers of issues were respectively 513,100 and 624,667 (3 months' sale).

In "MART" (monthly publication), the bucket related to the Cited Design was introduced in the November issue, 2010 (Heisei 22), October issue, 2011 (Heisei 23), and October issue, 2012 (Heisei 24), and the numbers of issues were respectively 211,467, 210,034 and 239,400 (3 months' sale). Further, in "Nice Madam" (monthly publication), the bucket related to the Cited Design was introduced in the June issue, 2011 (Heisei 23)

and January issue, 2013 (Heisei 25), and the numbers of issues were respectively 214,167 and 191,350 (3 months' sale).

(vii) The number of reviews relating to the bucket related to the Cited Design in online shops ranks top in a bucket section (Evidence A No. 30).

The number of reviews relating to the bucket related to the Cited Design in Rakuten's market Web page is numerous (Evidence A No. 31).

(viii) Taking the above circumstances into account, the form of bucket related to the Cited Design has been well-known among consumers interested in interior design as indicating goods manufactured and sold by the demandant since the beginning of 2011 (Heisei 23).

(ix) Background in which the demandee filed the application for the Registered Design

In February, 2013 (Heisei 25), the demandant and demandee came to an agreement to test-market the demandant's products (buckets related to the Cited Design) at about 10 shops of the demandee, the demandant started to sell the demandant's products to traders for the demandee, and the number of sales reached 1,248 in total (Evidence A No. 32).

However, in September, 2013 (Heisei 25), the demandee suddenly stopped selling the demandant's products, and returned 203 of the demandant's products through the traders for the demandee on October 19, 2013 (Heisei 25) (Evidence A No. 33). Immediately after stopping the test-marketing of the demandant's products, the demandee started to sell the demandee's products, and then the demandee filed the application for the Registered Design on November 28, 2013 (Heisei 25). Thus, it is obvious that the Registered Design is created based on the Cited Design.

(f) The Constitutions 1) to 10) of the Cited Designs 1 and 2 are present in the bucket with lid manufactured and sold by the demandant, and a lot of buckets with lid have been distributed in the market for a long period of time, as goods manufactured and sold by the demandant, and thus the Constitutions 1) to 10) had been widely known by consumers as indicating goods of the demandant before the application for the Registered Design. It should be said that the Constitutions 1) to 10) attract the attention of observers.

Taking into account the position of the Constitutions 1) to 10) in the Article related to the design, ratio of the Constitutions to the whole design, and the function of the Constitutions, the Constitutions 1) to 10) are the most distinctive features of both designs

and attract the attention of observers, and these Constitutions are common between the Registered Design and the Cited Design. Against this, both Constitutions 11) and 12) do not attract the attention of observers.

Thus, including other differences, different features between the Registered Design and the Cited Design do not predominate over common features of each of the Constitutions 1) to 10) which are acknowledged as the most distinctive features between both designs and attracting the attention of observers, the two designs do not create different aesthetic impression as the whole design, and thus it should be said that the two designs are similar to each other.

#### 4. Closing

Therefore, since the Registered Design is similar to the Cited Design, the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1)(i) of the Design Act.

## 5. Means of proof

To prove that the Cited Design is a design that was publicly known before the application for the Registered Design was filed, the demandant submits Evidence A No 1 to A No. 29.

(1) Evidence A No. 1 Way-be promotional leaflet (issued in 1993)

(2) Evidence A No. 2 Way-be promotional leaflet (issued in June, 2004)

(3) Evidence A No. 3 Fraichair Bucket promotional leaflet (issued in October, 2013)

(4) Evidence A No. 4 Hachimankasei's product catalog (issued in January, 2014)

(5) Evidence A No. 5 1994 (Heisei 6) Good Design Selection, copy

(6) Evidence A No. 6 1994 (Heisei 6) Good Design Special Award from Commissioner of the Small and Medium Enterprise Agency, certificate, copy

(7) Evidence A No. 7 Japan Institute of Design Promotion Web page, copy

- (8) Evidence A No. 8 2010 Good Design Long Life Design Award, certificate, copy
- (9) Evidence A No. 9 Japan Institute of Design Promotion Web page, copy
- (10) Evidence A No. 10 Statement, copy
- (11) Evidence A No. 11 FAX relating to confirmation of PR job from Japan Institute of Design Promotion, copy
- (12) Evidence A No. 12 Magazine "Mart" October issue, 2010, copy
- (13) Evidence A No. 13 Magazine "Mart" November issue, 2012, copy
- (14) Evidence A No. 14 Magazine "Mart" October issue, 2013, copy
- (15) Evidence A No. 15 Magazine "ESSE" March issue, 2010, copy
- (16) Evidence A No. 16 Magazine "ESSE" October issue, 2010, copy
- (17) Evidence A No. 17 Magazine "Nice Madam" June issue, 2011, copy
- (18) Evidence A No. 18 Magazine "Nice Madam" January issue, 2013, copy

- (19) Evidence A No. 19 Magazine "ELLE DECOR" April issue, 2011, copy
- (20) Evidence A No. 20 Magazine "EFiL" May issue, 2010, copy
- (21) Evidence A No. 21 Magazine "Hobby Gardening Vegetable Time" September issue, 2012, copy
- (22) Evidence A No. 22 Magazine "Today's Health" September issue 2012, copy
- (23) Evidence A No. 23 Magazine "Garden & Garden Today's Health" Spring issue 2012, copy
- (24) Evidence A No. 24 Magazine "NEW MINI STYLE MAGAZINE" Spring issue, 2010, copy
- (25) Evidence A No. 25 Magazine "Bible for Men's interior" Autumn and Winter issue, 2011, copy
- (26) Evidence A No. 26 Magazine "Croissant," May 25 issue, 2010, copy
- (27) Evidence A No. 27 Magazine "Proposal for House, Gifu" Autumn and Winter



issue, 2013, copy

(28) Evidence A No. 28      Mail-order catalog "FAMiLY MAiL" March and April issue,  
2014, copy

(29) Evidence A No. 29      Magazine "FUKUFUKU" November issue, 2013, copy

(30) Evidence A No. 30      Rakuten's market Web page, copy

(31) Evidence A No. 31      Rakuten's market Web page, copy

(32) Evidence A No. 32      Sales check, copy

(33) Evidence A No. 33      Sales check, copy

No. 2 The demandee's reply and the gist of the reasons

1. Object of the reply

The demandee replied that "The demand for trial of the case was groundless. The

costs in connection with the trial shall be borne by the demandant," against the demandant's object of the demand and the grounds therefor.

## 2 Statement of the reply

In the written demand for trial submitted on December 10, 2014, the demandant alleged that since Design Registration No. 1509040 (hereinafter referred to as "the Registered Design") owned by the demandee is similar to the design according to the product name "Way-be 801" described in Evidence A No. 1 to A No. 4 (hereinafter referred to as "the Cited Design 1") and the design according to the product name "Way-be 102" (hereinafter referred to as "the Cited Design 2," or the Cited Designs 1 and 2 may be hereinafter collectively referred to as "the Cited Design".), the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1)(i) of the Design Act.

Against this, the demandee replies as follows that the Registered Design does not correspond to the reasons for invalidation stated in the written demand for trial,

corresponding the main statements of "Statement of the demand" in the written demand for trial.

(1) Regarding "Reasons for invalidation of the Registered Design"

The demandant states reasons for invalidation of the Registered Design in the section of "3. Reasons for invalidation of the Registered Design," the demandee first points out incorrect points in these statements.

A Description of the Registered Design (summary and the like)

Although, regarding the Constitution 5), the demandant states that "Each of the chevron protruding parts has a peak-like central part," as described in "A-A Line Enlarged Edge View" and "B Part Enlarged View" of the Registered Design, it is suitable to think that "each chevron protruding part has the central part having a sharp tip" (see blue broken line of B Part Enlarged View of "the Registered Design" in comparison of the two designs, Evidence B No. 1).

In addition, it is reasonable to think that "the chevron shapes form lines in the top of the mountain side and the bottom part of the valley side, and thus a lot of lines are exhibited

in the side face of the body."

Regarding the Constitution 10) of the protruding parts in the lid, as described above, it is suitable to think that "each chevron protruding part has the central part having a sharp tip." Further, the feature that "a lot of lines are exhibited in the side face of the body" is the same as described above.

Regarding the Constitution 3), the demandant states "extremely gentle reverse truncated cone in top view"; however, top view is circle as indicated in Top View, it is thought that "reverse truncated cone" is in perspective view.

Regarding the Constitution 7), the demandant states "end parts of the thin plate-like handle formed in semicircle in top view"; however it is thought that this statement is mistaken for "end parts of the thin plate-like handle formed in semicircle in side view."

#### B Description of the Cited Design 1 (summary and the like)

Although it is stated by the demandant that, regarding the Constitution 4), "a lot of vertical and chevron protruding parts are continuously formed from the lower side of the flange to the bottom part," it is reasonable to think that the form of protruding parts is

"corrugated shape" as if it is gently undulated more than the chevron shape.

Further, it is stated by the demandant that, regarding the Constitution 5), "each of the chevron protruding parts has a peak-like central part"; however, it is suitable to think that "each corrugated protruding part has shape as if it is gently undulated" (see blue wavy line in "the Cited Design" Evidence A No. 30 (abstract) in comparison of the two designs, Evidence B No. 1).

In addition, it is reasonable to think that "in the corrugated shape, a lot of lines are not exhibited as chevron shape, each raised part of the corrugated shapes forms a slightly long shade depending on the direction of light."

Regarding the Constitutions 9) and 10) relating to the protruding part of the lid, it is reasonable to think the form of protruding parts as [corrugated shape]. The feature that "a lot of lines are not exhibited as chevron shape" is the same as described above.

Regarding the Constitution 7) of the end part of the handle, the demandant states that the "slightly wide" end part is formed in "semicircle in top view"; however as described in (B Description of the Registered Design (summary and the like)), it is thought

that this statement of "top view" is mistaken for side view, this statement is not a suitable expression, and it is suitable to think as "rectangular shape having rounded corners wider than the handle."

The demandant also states that "a small circular through hole provided in the one of the end parts"; however it is suitable to think as "a circle largely formed in the vicinity of the rectangular shape having rounded corners of the handle," not as only "a small circular through hole."

Regarding the Constitution 3), the demandant states "extremely gentle reverse truncated cone in top view"; however, top view is circle as indicated in Top View, and it is thought that "reverse truncated cone" is in perspective view.

#### C Description of the Cited Design 2 (summary and the like)

Regarding the Constitution 4), the demandant states "a lot of vertical and chevron protruding parts are continuously formed from the lower side of the flange to the bottom part"; however it is reasonable to think that the form of protruding parts is "corrugated shape" as if it is gently undulated more than the chevron shape.

Further, regarding the Constitution 5), the demandant states "each of the chevron protruding parts has a peak-like central part"; however, it is suitable to think that "each corrugated protruding part has shape as if it is gently undulated" (see blue wavy line in "the Cited Design" Evidence A No. 30 (abstract) in comparison of the two designs, Evidence B No. 1).

In addition, it is reasonable to think that "in the corrugated shape, a lot of lines are not exhibited as chevron shape, each raised part of the corrugated shapes forms slightly long shade depending on the direction of light."

Regarding the Constitutions 9) and 10) of the protruding parts of the lid, it is reasonable to think the form of protruding parts as [corrugated shape]. The feature that "a lot of lines are not exhibited as chevron shape" is the same as described above.

Regarding the Constitution 7) of the end part of the handle, the demandant states that the "slightly wide" end part is formed in "semicircle in top view"; however, as described in (B Description of the Registered Design (summary and the like)), it is thought that this statement of "top view" is mistaken for side view, this statement is not a suitable expression, and thus it is suitable to think as "rectangular shape having rounded corners

wider than the handle."

The demandant also states "a small circular through hole provided in the one of the end parts"; however, it is suitable to think as "a circle largely formed in the vicinity of the rectangular shape having rounded corners of the handle," not as only "a small circular through hole."

Regarding the Constitution 3), the demandant states "extremely gentle reverse truncated cone in top view"; however, top view is circle as indicated in Top View, it is thought that "reverse truncated cone" is in perspective view, and it is obvious that the Cited Design 2 has a length in a vertical direction longer than the Cited Design 1, it is more correct to think as "vertically long reverse truncated cone."

#### D Similarity of the Registered Design and the Cited design

Regarding (a) and (b) alleged by the demandant, there is no dispute.

(c) Common features and different features between the Registered Design and the Cited Design 1



Among Constitutions alleged by the damandant as "common features," regarding the following Constitutions, there is not dispute.

1) "A bucket with lid, composed of a body and a lid"

2) "A flange of the upper end part of the body"

3) "Reverse truncated cone having a diameter of the lower end of the flange slightly longer than the diameter of the bottom part and the height of the body is slightly longer than the diameter of the bottom part."

6) "Each of the protruding parts in the side face of the body gradually becomes narrow from the upper end side to the lower end side."

8) "The lid is composed of a disc-like top plate, and a protruded portion arranged in a concentric pattern inside the vicinity of the outer circumference of the lower surface thereof."

However, there is no common feature in the Constitutions 4), 5), 7), 9) and 10), and it is thought that aesthetic impression created by these features is totally different between

the two designs. Namely, the demandant alleges that the Constitution 4) that "in the side face of the body, a lot of vertical and chevron protruding parts are continuously formed" is a common feature between the two designs; however, as described above, it is reasonable to think that in Cited Design 1, the form of protruding parts is "corrugated shape" as if it is gently undulated more than the chevron shape, and since the corrugated shape in Cited Design 1 is significantly different from the chevron shape in the Registered Design, the Constitution 4) is the different feature between Cited Design 1 and the Registered Design.

In addition, regarding the Constitution 5), the demandant states that the feature that "each of the chevron protruding parts has a peak-like central part and symmetrical shape" is a common feature between the two designs; however as described above, in Cited Design 1, it is suitable to think that "each corrugated protruding part has a shape as if it is gently undulated," and thus it can be said that this feature is a significant difference between the two designs. Deriving from this difference, a lot of lines are exhibited in the Registered Design; however, in Cited Design 1, a lot of lines are not exhibited as chevron shape, each raised part of the corrugated shapes forms slightly long shade depending on the direction of light, and thus this is another difference between the Registered Design and the Cited Design.

Regarding the Constitution 7) of the end part of the handle, alleged as a common feature by the demandant, in the Registered Design, the end part of the handle is "semicircle"; on the other hand, in Cited Design 1, the end part of the handle is a "rectangular shape having rounded corners wider than the handle" as described above, and thus this feature is a significant difference.

Regarding the Constitutions 9) and 10) of the chevron shape of the lid, alleged as common features by the demandant, the forms of the Registered Design and Cited Design 1 are significantly different from each other, similar with the form of the side face of the body as described above, and thus this feature is a significant difference.

In addition, the constitutions that the demandant acknowledges as " different features" between the two designs are as follows.

7) "Width of both end parts of handle and presence or absence of circular through hole"

11) "Parallel cross protruded portions formed in the reverse face of the lid" (only present in the Registered Design)

12) "A lid hanging part in the center of the reverse face of the lid" (only present in the

Registered Design)

The demandant alleges that these different features are "insignificant differences"; however, this allegation is a rough allegation without specific evidence.

First, the form of both end parts of handle affect operability or handleability of the bucket; for example, how to connect the handle and the body or how to rotate, strongly attracts the attention of traders or consumers, and a difference in this part is not an "insignificant difference."

In addition, a circular through hole of Cited Design 1 is not "a small circular through hole" alleged by the demandant, and as described above, since a wider rectangular shape having rounded corners is formed, this shape has a sense of presence and affects the function of being capable of fixing a hose, and thus this shape strongly attracts the attention of traders or consumers.

The hanging part in the center of the reverse face of the lid only present in the Registered Design significantly affects the function of hanging to the opening of the bucket and the use of the bucket, and thus the hanging part strongly appeals to the eye of a trader

or consumer.

Parallel cross protruded portions formed in the reverse face of the lid of the Registered Design have a unique feature, not present in the Cited Design 1, and taking into account the lid of the Registered Design functioning as a base of the bucket, there are a lot of opportunities for the reverse face to attract the attention of traders or consumers, and it can be said that the form of the reverse face attracts the attention of traders or consumers.

Thus, each of different features is not an "insignificant difference," and taking the function of each part into account, these different features strongly attract the attention of traders or consumers, should be fully evaluated in determination of similarity of the whole design, and significantly affect aesthetic impression of the whole design.

As described above, the form of protruding parts alleged by the demandant as common features are different features between the two designs, and the aesthetic impressions created by the difference are totally different from each other as follows.

Regarding the Registered Design, the central part of each chevron protruding part forms a sharp tip, and the Registered Design gives a sharp impression and a finely knurled

impression with narrow intervals between peaks.

On the other hand, in Cited Design 1, each protruding part forms a corrugated shape as if it is gently undulated, there is a comparatively wide interval between waves, this form strongly gives a gentle and soft impression and does not give a sharp or knurled impression like the Registered Design, and thus the Cited Design is significantly different from the Registered Design (see blue broken line and blue wavy line in comparison of the two designs, Evidence B No. 1).

Regarding the Cited Design, since the application and function as "a seat" or "a simple stool" are introduced in a lot of evidences such as Evidence A No. 2 to A No. 4, the form of the gentle corrugated shape of the lid providing a soft and comfortable impression and the form of side face of the body connected thereto should be fully taken into account in determination of similarity, as unique features of Cited Design in comparison with the form of sharp chevron shape in the Registered Design.

In introduction of the 1994 Good Design Award (Evidence B No. 2), it is described that "Introducing the shape of corrugated board as texture, this household bucket eliminates cold impression created by conventional buckets made of plastic, and a gives natural and

novel impression," and it can be said that the Cited Design is evaluated as a bucket giving a soft and gentle impression, like a hand-made craft made of corrugated board.

(d) Common features and different features between the Registered Design and Cited Design 2

The common features and different features between the Registered Design and Cited Design 2 are approximately the same as the common features and different features between the Registered Design and Cited Design 1 described in the above section (c), it is obvious that Cited Design 2 has a length in a vertical direction longer than that of Cited Design 1, and there is a difference in "vertically long reverse truncated cone" between the Registered Design and Cited Design 2, and it can be perceived that Cited Design 2 gives a smart impression to a vertical direction, that is not present in the Registered Design.

(e) Special circumstances

The demandant submits a lot of evidences to prove that the Cited Design has been continuously used; however, these evidences do not affect determination of similarity.

For example, although the fact of winning the Good Design Award and the like and

becoming well-known design, or introduction in magazines indicates evaluation in market or consumers' awareness, on the other hand, there is no article in the Design Act, such as articles of the Trade Act for protecting unregistered a well-known trademark (Article (4)(1)(x), Article (4)(1)(xv) and the like of the Trade Act), and thus these facts cannot be grounds for denying the validity of the Registered Design.

Regarding the Trade Act, as trademark is continuously used, business reputation is embodied by the trademark and value for protecting the trademark is increased; on the other hand, it is different in the Design Act. In determination of similarity, value for creating novel design as the whole design is evaluated, taking each constitution into account objectively, and it is determined whether or not the aesthetic impression created by the value is common.

If a point, such as evaluation in market and business reputation, which is not directly related to design is unnecessarily emphasized and the design is overprotected for the reason that the design has been continuously used, it means that design not to be protected is protected ignoring the Design Act and violates the purpose of the Design Act, and unpredicted disadvantage for a third party is caused as a result of the overprotection of



design, leading to decrease of activity or motivation for creating design, or violation of the purpose of the Design Act to protect novel designs.

As described above, although the demandant submits a lot of evidences to prove the fact of winning Good Design Award and the like and becoming well-known design, or introduction in magazines, these facts cannot be grounds for denying the validity of the Registered Design.

Regarding "Background in which the demandee filed the application for the Registered Design," alleged by the demandant in section (ix), the demandant only indicates business transactions in time series, and these facts do not affect the validity of the Registered Design.

(f) Comprehensive determination

As described above, the fact that the Cited Design has been well-known by consumers cannot be grounds for denying the validity of the Registered Design.

The demandant alleges that "Taking into account the position of the Constitutions 1) to 10) in the Article to the design, ratio of the Constitutions to the whole design, and the

function of the Constitutions, the Constitutions 1) to 10) are the most distinctive feature of both designs and attract the attention of observers," and "neither Constitution 11) nor Constitution 12) attracts the attention of observers"; however these allegations are rough and abstract allegations, there is no specific description why the Constitutions 1) to 10) are the most distinctive part of both designs and why the Constitutions 11) and 12) are insignificant differences that do not attract the attention of observers, and there is no specific evidence in the demandant's allegation. The allegation is only to arbitrarily describe common features and different features without evidence, and is the demandant's wishful thinking.

As described above, comparing the Registered Design with the Cited Design as a whole and taking each constitution into account objectively, parallel cross protruded portions in the reverse face of the lid (Constitution 11) only present in the Registered Design have a unique feature, not present in the Cited Design 1, taking into account the lid of the Registered Design functioning as a base of the bucket, there are a lot of opportunities that the reverse face attracts the attention of traders or consumers, and it can be said that the form of reverse face attracts the attention of traders or consumers; in addition, the hanging part in the center of the reverse face of the lid only present in the Registered Design

(Constitution 12) affects the function of hanging to the opening of the bucket, and thus these features are not "insignificant differences" and should be fully evaluated as unique features, not present in the Cited Design.

As described above, the form of protruding parts in the side face of the body and the upper surface of the lid, alleged by the demandant as common features between the Registered Design and the Cited Design, is also a difference, and aesthetic impressions created by the difference are totally different from each other.

Taking the above description into account, comparing aesthetic impressions of the whole design between the Registered Design and the Cited Design, it can be said that the difference in the form of protruding parts in the side face of the body and the upper surface of the lid significantly affect aesthetic impression of the whole design.

Since the ratio of the form to the whole design is large in terms of area, as the whole design, the Registered Design gives a sharp impression and a finely knurled impression; on the other hand, the Cited Design mainly gives a gentle and soft impression.

While the Cited Design gives a gentle impression as described above, the form of

the end part of the handle has a rectangular shape having rounded corners wider than the handle, and in the vicinity of the rectangular shape having rounded corners of one end part of the handle, a large circular through hole is present, and thus the Cited Design also gives a variable active impression created by the vicinity of a connection part between the handle and the body, and this impression is a distinctive feature in the whole design.

Against this, in the Registered Design, since the handle has the same width as the end part, and there is no large circular through hole having sense of presence, different from the Cited Design, the vicinity of a connection part between the handle and the body gives a comparatively simple and gentle impression and highlights the sharp impression and finely knurled impression perceived by the form of protruding parts of the side face of the body and the upper surface of the lid, and thus this feature is significantly different from the Cited Design.

Regarding Cited Design 2 of the Cited Designs, as described above, it is obvious that Cited Design 2 has a length in a vertical direction longer than Cited Design 1, Cited Design 2 gives a smart impression to the vertical direction; on the other hand, the Registered Design does not give such impression, and thus the impression created by Cited

Design 2 is significantly different from that created by the Registered Design, in comparison with Cited Design 1.

Among matters described in the design bulletin (Design Registration No. 1509040) relating to the Registered Design, Evidence B No. 3, "Publicly Known Information in Design Division of Japan Patent Office No. HC13008776" is described in the column of [References]. Publicly Known Information in Design Division of Japan Patent Office No. HC13008776 is publicly known information as indicated in Evidence B No. 4, and this information is substantially identical to Evidence A No. 1 submitted by the demandant. Namely, the Cited Design was taken into account as a Reference in the examination of the application for the Registered Design. Thus, the presence of the Cited Design was not overlooked in the examination of the application for the Registered Design, and as described in design bulletin as References, the application for the Registered Design was examined while taking into account the presence of the Cited Design.

As described above, in the examination of the application for the Registered Design, the examiner recognized the presence of the Cited Design and examined the similarity between the Cited Design and the Registered Design in detail, and as a result, the examiner

judged that the Cited Design is not similar to the Registered Design and approved the registration, and thus this fact judged by the examiner should be fully respected.

Comprehensively determining the above description, the Registered Design and the Cited Design create completely different aesthetic impressions, and are not similar to each other.

## (2) Closing

As described above in detail, it is obvious that the Registered Design is free from defect and does not fall under the category of Article 3(1)(iii) of the Design Act. Therefore, the demandee requests the trial decision that the demand for trial of the case is groundless.

## 3. Means of proof

(1) Evidence B No. 1 Comparison of the Registered Design with the Cited Design

(2) Evidence B No. 2 Introduction of bucket [Way-be] 102 winning 1994 Good Design Award

(3) Evidence B No. 3 Design bulletin of Design Registration No. 1509040, copy

(4) Evidence B No. 4 Publicly Known Information in Design Division of Japan Patent

Office No. HC13008776, copy

No. 3 Oral proceeding

In the trial of the case, the body conducted Oral proceeding on October 27, 2015 (Heisei 27). (Oral Proceeding Record submitted on October 27, 2015 (Heisei 27)) (In the Oral proceeding, the Chief administrative judge notified the demandant and demandee that the trial was concluded.)

1. Demandant

1-1 Oral proceedings statement brief

In an Oral proceedings statement brief submitted on September 28, 2015 (Heisei 27), the demandant alleged as follow.

(1) To the written reply for the trial case submitted by the demandee on July 21, 2015 (Heisei 27) (hereinafter referred to as "the written reply"), the demandant replies as follows.

To correct errors, the demandant corrects "top view" in the last line on page 2 of the written demand for trial to "side view," "semicircle in top view" in line 8 on page 3 of the written demand for trial to "semicircle in side view," "top view" in line 27 on page 3 of the written demand for trial to "side view," "front view" in line 5 on page 4 of the written demand for trial to "side view," "top view" in line 20 on page 4 of the written demand for trial to "side view," "semicircle in front view" in line 28 on page 4 of the written demand for trial to "semicircle in side view," "semicircle in front view" in line 1 on page 6 of the written demand for trial to "semicircle in side view," "top view" in line 13 on page 6 of the written demand for trial to "side view," and "semicircle in top view" in line 16 on page 6 of the written demand for trial to "semicircle in side view."

(2) The demandee alleges that "the demandant alleges that the Constitution 4) that 'in the side face of the body, a lot of vertical and chevron protruding parts are continuously formed' is a common feature between the two designs; however, as described above, it is reasonable to think that in Cited Design 1, the form of protruding parts is "corrugated



shape" as if it is gently undulated more than chevron shape, and since the corrugated shape in Cited Design 1 is significantly different from the chevron shape in the Registered Design, Constitution 4) is the different feature between Cited Design 1 and the Registered Design." (lines 6 to 10 on page 6 of the written reply).

However, since "chevron shape" means "shape like a mountain" or "mountain-like shape" and a lot of such "chevron shapes" are continuously provided in Cited Design 1, the expression "'corrugated shape" as if it is gently undulated" is exaggerated. Since a lot of "chevron shapes" are continuously provided in the Registered Design, this feature is a common feature between the Registered Design and the Cited Design 1.

Thus, the allegation of demandee is unreasonable.

(3) The demandee alleges that regarding the Constitution 5), the demandant states that the feature that "each of the chevron protruding parts has a peak-like central part and symmetrical shape" is a common feature between both designs; however, as described above, in the Registered Design, "each chevron protruding part has the central part having a sharp tip," and on the other hand, in Cited Design 1, "each corrugated protruding part has shape as if it is gently undulated," and thus it can be said that this feature is a significant

difference between the two designs (lines 11 to 16 on page 6 of the written reply).

However, each of the chevron protruding parts of the Cited Design 1 has a peak-like central part and a symmetrical shape, and is not "formed as if it is gently undulated." Since each of the chevron protruding parts of the Registered Design has a peak-like central part, it should be said that the two designs are common in this feature.

Thus, the allegation of the demandee is unreasonable.

(4) The demandee alleges that "Deriving from this difference, a lot of lines are exhibited in the Registered Design; however, in Cited Design 1, a lot of lines are not exhibited as chevron shape, each raised part of the corrugated shapes forms slightly long shade depending on the direction of light, and thus this is another difference between the Registered Design and the Cited Design." (lines 16 to 19 on page 6 of the written reply).

However, in the " bucket with lid" of Cited Design 1, a lot of chevron protruding parts which are continuously provided over the whole of the side face of the body and upper surface of the lid have a peak-like central part, a lot of lines are exhibited, the peak of the central part forms shade depending on the direction of light, and thus it should be said that this feature is a common feature between both designs.

Thus, the allegation of the demandee is unreasonable.

(5) The demandee alleges that "As described above, the form of protruding parts alleged by the demandant as a common feature is the different feature between the two designs, and aesthetic impressions created by the difference are totally different from each other.

Regarding the Registered Design, the central part of the chevron protruding part forms a sharp tip, and the Registered Design gives a sharp impression and a finely knurled impression with narrow intervals between the peaks.

On the other hand, in Cited Design 1, the protruding part forms a corrugated shape as if it is gently undulated, there is a comparatively wide interval between waves, this form strongly gives a gentle and soft impression, does not give a sharp or knurled impression like the Registered Design, and thus the Cited Design is significantly different from the Registered Design (see blue broken line and blue wavy line in comparison of both designs, Evidence B No. 1)." (line 26 on page 7 to line 7 on page 8 of the written reply).

However, according to [B Part Enlarged View] of the Registered Design, the inner angle of the chevron peak-like central part of the Registered Design is not an acute angle

but an obtuse angle (110 degrees), and thus the chevron shape in the Registered Design forms a symmetrical gentle chevron shape with the peak-like central part as the center. In addition, since peaks and valleys are continuously provided with 110 degrees, it is reasonable to think that a lot of gentle chevron shapes are continuously provided in the Registered Design.

Thus, comparing the Registered Design with the Cited Design, the chevron shapes of both designs have insignificant difference that the tip of the peak-like central part is round or sharp, the feature of symmetrical gentle chevron shape with the peak-like central part as center is a common feature, and a lot of chevron shapes are continuously provided, and thus it should be said that the feature gives observers a common impression (aesthetic impression) between the two designs.

(6) The demandee alleges that "Taking the above description into account, comparing aesthetic impression of the whole design between the Registered Design and the Cited Design, it can be said that the difference in the form of protruding parts in the side face of the body and the upper surface of the lid significantly affects aesthetic impression of the whole design.

Since the ratio of the form to the whole design is large in term of area, as the whole design, the Registered Design gives a sharp impression and a finely knurled impression, while on the other hand, the Cited Design mainly gives a gentle and soft impression." (line 25 on page 10 to line 1 on page 11 of the written reply).

However, a lot of chevron protruding parts constituting both designs are continuously provided over the whole side face of the body, and the whole upper face of the lid of the bucket to both designs compared herein, and the ratio of the form to the whole design is large in term of area, and thus it should be said that constitutions of the side face of the body and the upper surface of the lid, on which a lot of chevron protruding parts are continuously arranged, affect aesthetic impression of the whole design. Further, comparing the Registered Design with the Cited Design, although there is a difference between the two designs that the chevron central part has a sharp or round tip, the feature of the symmetrical gentle chevron shape with the peak-like central part as the center is a common feature, a lot of chevron shapes are continuously provided, and thus it should be said that the feature gives observers a common impression (aesthetic impression) between the two designs.

Thus, the allegation of demandee is unreasonable.

(7) The demandee alleges that "While the Cited Design gives a gentle impression as described above, the form of end part of the handle has a rectangular shape having rounded corners wider than the handle, and in the vicinity of the rectangular shape having rounded corners of one end part of the handle, a large circular through hole having sense of presence is present, and thus the Cited Design also gives a variable active impression created by the vicinity of a connection part between the handle and the body, and this impression is a distinctive feature in the whole design.

Against this, in the Registered Design, since the handle has the same width between the end parts, and there is no large circular through hole having sense of presence, different from the Cited Design, the vicinity of a connection part between the handle and the body gives a comparatively simple and gentle impression and highlights a sharp impression and a finely knurled impression perceived by the form of protruding parts of the side face of the body and the upper surface of the lid, and thus this feature is significantly different from the Cited Design." (lines 2 to 13 on page 11 of the written reply)

However, there are the common features that in each designs "handle" is a thin plate-like handle formed in semicircle in side view, and the handle is attached to the

position opposite the outside of the opening of the upper end of the body, the form of protruding parts in the side face of the body and the upper surface of the lid significantly affects aesthetic impression of the whole design, and thus it should be said that the features that both end parts of the Cited Design are slightly wide and a small circular through hole is provided in one of the end parts of the Cited Design do not affect impression (aesthetic impression) created by the two designs to observers.

Thus, the allegation of demandee is unreasonable.

There is a similar allegation of the demandee at lines 10 to 13 on page 7 of the written reply, and this allegation is also unreasonable as described above.

(8) The demandee alleges that the hanging part provided in the center of the reverse face of the lid of the Registered Design appeals to the eye of traders or consumers, and parallel cross protruded portions provided in the reverse face of the lid attract the attention of traders or consumers (lines 14 to 21 on page 7 of the written reply).

A lot of chevron protruding parts constituting both designs are continuously provided over the whole side face of the body and the whole upper face of the lid of the

bucket to both designs, the ratio of the form to the whole design is large in terms of area, and thus it should be said that constitutions of the side face of the body and the upper surface of the lid affect aesthetic impression of the whole design give stronger impression (aesthetic impression) to observers; on the other hand, the reverse face of the lid is inconspicuous, and it should be said that this part does not appeal to the eye of traders or consumers and does not attract the attention of traders or consumers.

(9) The demandee alleges that "Although the demandant submits a lot of evidences to prove the fact of winning Good Design Award and the like and becoming a well-known design, or introduction in magazines, these facts cannot be grounds for denying the validity of the Registered Design." and "Regarding 'Background in which the demandee filed the application for the Registered Design,' alleged by the demandant in section (ix), the demandant only indicates business transactions in time series, and these facts cannot be grounds for denying the validity of the Registered Design." (line 26 on page 8 to line 24 on page 9 of the written reply).

However, the Cited Design won the 1994 (Heisei 6) Good Design Special Award from Commissioner of the Small and Medium Enterprises Agency, and the 2010 Good



Design Long Life Design Award, and the demandant has manufactured and sold " buckets with lid" of the Cited Design for a long period of time with considerable efforts despite being a small company. On the other hand, the demandee purchased in stock " buckets with lid" of the Cited Design from the demandant and sold them from February to September in 2013 (Heisei 25); this fact shows that the demandee knew that the Cited Design has been an excellent and popular design. Further, the demandee took advantage of the Cited Design not being registered, and the demandee filed the application for the Registered Design on November 28, 2013 (Heisei 25), slightly changing the specific constitutions of the Cited Design. As repeatedly alleged by the demandee, if these facts do not affect the validity of the Registered Design, the purpose of the Design Act to contribute to the development of industry through promoting the protection of designs is obviously violated.

#### 1-2 Written statement

In a Written statement submitted on October 27, 2015 (Heisei 27), the demandant alleged as follows.

It is alleged by the demandee in the Written statement submitted on October 19, 2015 (Heisei 27) that the demandant describes on the demandant's Web site that creating design according to a bucket with lid similar with the Cited Design 1, "the shape of 'waves' of corrugated cardboard is used as a reference," the demandant appeals that the form is created by using "waves" as a reference, and there is no dispute that it is reasonable to think that the form in the Cited Design 1 is "corrugated shape." However, the determination of similarity of the designs is determination whether those designs are similar or not, and determination whether there is a similarity between them in an aesthetic aspect from consumers' view point.

Although determination of similarity between designs largely depends on human senses, the determination will be made based on the objective impression that consumers will have when the designs are observed, while eliminating the subject perspective of the creator in creating the design. These matters are defined in Examination Guidelines for Design.

The description of "waves" on the demandant's Web site is only a description in a subjective view of the demandant, the creator of Cited Design 1. Thus, the description of

"waves" on the demandant's Web site cannot affect determination of similarity between designs.

## 2. Demandee

### 2-1 Oral proceedings statement brief

In an Oral proceedings statement brief submitted on October 13, 2015 (Heisei 27), the demandee alleged as follows.

The demandant corrects errors and states allegations in the Oral proceedings statement brief submitted on September 28, 2015 (hereinafter referred to as "brief"); however, the allegations other than correction of errors (allegations in sections of "5. Statement brief (2) to (9)" of brief) are unreasonable, and sufficient grounds for denying the validity of the Registered Design are not found.

The demandee replies as follows, corresponding to each statement of "5. Statement brief" of brief submitted by the demandant.

Regarding (1)

Because of correction of errors, there is no dispute in this section.

Regarding (2)

The demandant alleges that the form of protruding parts provided in the side face of the body of the Cited Design 1 is "chevron shape" and the expression "corrugated shape" is exaggerated.

However, the demandant's allegation that the expression "corrugated shape" is "exaggerated" is only the demandant's subjective view.

As evidenced by seeing blue wavy lines in "the Cited Design" Evidence A No. 30 (abstract) in comparison of the two designs, Evidence B No. 1, stated by the demandee in the written reply, in the form of protruding parts of the Cited Design 1, a gentle curve is regularly and continuously provided and there is not a sharp tip in the central part of the protruding part, but on the other hand, the sharp tips are present in the Registered Design, it is more suitable to think that this form is a "corrugated shape" not a "chevron shape," and thus this expression is appropriate and not "exaggerated" based on the object fact.

The demandant strongly alleges that the form of protruding parts of the Cited Design 1 is "chevron shape," assuming that the form is "mountain shape" or "chevron shape," the top of "mountain" is generally termed as "peak," when "mountain shape" or "chevron shape" is used to express the shape of articles, "peak" is generally associated with "tip" and "tip" is a point located in the edge of angle, and thus there is no "tip" in each protruding part of the Cited Design 1 in which a curve is continuously provided as described above. Even assuming that the form is "mountain shape" or "chevron shape," it is not reasonable to think that the form of protruding parts of the Cited Design 1 is "chevron shape" with no "tip," and thus the demandant's allegation that "chevron shape" is a common feature between the Registered Design and the Cited Design 1 is unreasonable.

Regarding (3)

The demandant alleges that the form of protruding parts formed in the side face of the body of the Cited Design 1 has a chevron peak-like central part having a substantially symmetrical shape, and is not formed as if it is gently undulated.

However, as described in above "Regarding (2)," it is not reasonable to think that the form of protruding parts of the Cited Design 1 is "chevron shape" and it is more suitable

to think that this form is "corrugated sharp," and thus the demandant's allegation that this forms is "chevron shape" is obviously unreasonable.

Regarding (4)

The demandant alleges that regarding chevron protruding parts provided in the side face of the body of the Cited Design 1, since the central part has a peak, a lot of lines are exhibited, the peak of the central part forms shade depending on the direction of light, and thus this feature is the common feature between the two designs.

However, as described above, the demandant's recognition that the form of protruding parts of Cited Design 1 is "chevron shape" is mistaken. In addition, the Registered Design in which the central part of each protruding part has a sharp tip and a lot of distinct lines are exhibited, and Cited Design 1 in which the raised part of the corrugated shape indistinctly forms slightly long shade depending on the direction of light are fully different in this constitution, and since this feature is a significant difference between the two designs, the demandant's allegation that this feature is a common feature between both designs is unreasonable.

Regarding (5)

The demandant alleges that according to [B Part Enlarged View] of the Registered Design, the inner angle of the chevron peak-like central part of the Registered Design is not an acute angle but an obtuse angle (110 degrees), and thus the chevron shape in the Registered Design forms symmetrical a gentle chevron shape with the peak-like central part as the center. In addition, since peaks and valleys are continuously provided with 110 degrees, it is reasonable to think that a lot of gentle chevron shapes are continuously provided in the Registered Design.

The demandant also alleges that chevron shapes of the two designs have insignificant difference that the tip of the peak-like central part is round or sharp, the feature of symmetrical gentle chevron shape with the peak-like central part as the center is a common feature, a lot of chevron shapes are continuously provided, and thus it should be said that the feature gives observers a common impression (aesthetic impression) between the two designs.

However, the demandee alleges in the written reply that impression (aesthetic impression) of the Registered Design is "a sharp and finely knurled impression" (the last

line on page 7 to line 1 on page 8 of the written reply), the demandant recognizes that the chevron peak-like central part in the Registered Design is "sharp" (lines 11 to 12 on page 4 of brief), and thus this impression can be perceived, since the chevron peak-like central part is sharp. Whether the inner angle of chevron peak-like central part is an acute angle or an obtuse angle, as obviously recognized by the demandant, the chevron peak-like central part in the Registered Design is sharp and this form gives sharp or knurled impression, and thus there is no need to discuss acute angle or obtuse angle.

Regarding the chevron central part, the difference between sharp tips in the Registered Design and chevron central parts in the Cited Design, expressed by the demandant as "round," that there is no tip and the form is as if it is gently undulated, significantly predominates over the common features that chevron shape and corrugated shape is symmetrically and continuously provided, and thus the difference affects aesthetic impression of the two designs.

Thus, the demandant's allegation is unreasonable.

Regarding (6)



The demandant alleges that constitutions of the side face of the body and the upper surface of the lid in which a lot of chevron protruding parts are continuously provided affect aesthetic impression of the whole design, the feature of symmetrical gentle chevron shape with the peak-like central part as the center is a common feature, and the feature gives observers a common impression (aesthetic impression) between the two designs.

However, as repeatedly described above, it is reasonable to think that the form of protruding parts of the Cited Design is "corrugated shape," not "chevron shape," and the demandant's allegation that the symmetrical chevron form and impression (aesthetic impression) created by the form are common features is obviously unreasonable.

Regarding (7)

The demandant alleges that there is the common feature that "the handle" of each of designs is thin plate semicircle in side view and is provided to the position opposite the outside of the opening of the upper end of the body, the form of protruding parts in the side face of the body and the upper surface of the lid significantly affect aesthetic impression of the whole design, and on the other hand, a feature that both end parts of the Cited Design are slightly wider than that of the Registered Design or a feature that a small circular

through hole is provided in one of the end parts in Cited Design does not affect impression (aesthetic impression) between the two designs to observers.

However, as alleged by the demandee in the written reply, the form of both end parts of handle affect operability or handleability of the bucket, for example, how to connect the handle and the body or how to rotate, and the form attracts the attention of traders or consumers (lines 6 to 8 on page 7 of the written reply), difference in this part should not be relatively discounted for reasons that the form of protruding parts of the side face of the body and the upper surface of the lid significantly affects aesthetic impression of the whole design, and the handle is provided to the position opposite the outside of the opening of the upper end of the body.

Especially, regarding the circular through hole provided in the handle, as alleged by the demandee in the written reply, this hole is not "a small circular through hole," and since a wider rectangular shape having rounded corners is formed, this shape has a sense of presence and affects the function of being capable of fixing a hose, and thus this shape strongly attracts the attention of traders or consumers (lines 10 to 13 on page 7 of the written reply), the difference between the presence and absence of the circular through hole

significantly affects impression (aesthetic impression) between the two designs.

Thus, the demandant's allegation is unreasonable.

Regarding (8)

The demandant alleges that a lot of chevron protruding parts constituting both designs are continuously provided over the whole side face of the body and the whole upper face of the lid of the bucket to both designs, the ratio of the form to the whole design is large in term of area, and thus it should be said that constitutions of the side face of the body and the upper surface of the lid affect aesthetic impression of the whole design give stronger impression (aesthetic impression) to observers, and on the other hand, the reverse face of the lid is inconspicuous, and these parts do not appeal to the eye of traders or consumers and do not attract the attention of traders or consumers.

However, it has to be said that the allegation "the reverse face of the lid is inconspicuous" is a rough allegation without specific evidence. Even though the hanging part is provided in the reverse face of the lid, when the hanging part is provided in the center of the bottom part of the lid as the Registered Design, the hanging part significantly

affects the function of hanging to the opening of the bucket and the use of the bucket, and thus the hanging part strongly appeals to the eye of traders or consumers. The demandant does not take this feature into account, and does not present any evidence that the form of reverse face of the lid is discounted.

Among matters described in the design bulletin (Design Registration No. 1509040) relating to the Registered Design, Evidence B No. 3 in the written reply, three bulletins, Japanese Unexamined Utility Model Application Publication No. S50-109749, Japanese Unexamined Utility Model Application Publication No. H1-11146, Japanese Unexamined Utility Model Application Publication No. H7-33243 are listed in the column of [References], in these bulletins, the form that a part corresponding to the hanging part of the Registered Design is provided in the reverse face of the lid is described (Evidence B No. 5 to B No. 7), and this means that the form of reverse face of the lid was taken into account in detail in the examination of the application for the Registered Design. As alleged by the demandant, if determination of similarity was made with recognition that "the reverse face of the lid is inconspicuous," the above three bulletins would not be listed as [References]. Thus, the demandant's allegation is unreasonable.

Regarding (9)

The demandant alleges that, as alleged in the written demand for trial, the demandant has manufactured and sold "buckets with lid" of the Cited Design for a long period of time with considerable efforts, and repeatedly alleges background in which the demandee filed the application for the Registered Design, and also alleges that if these facts do not affect the validity of the Registered Design, the purpose of the Design Act to contribute to the development of industry through promoting the protection of designs is obviously violated.

However, as described in the written reply submitted by the demandee (lines 12 to 20 on page 9 of the written reply), if the design is overprotected with the presence of these facts, it means that design not to be protected is protected ignoring the Design Act and violates the purpose of the Design Act, unpredicted disadvantage for a third party would be caused as a result of the overprotection of design, leading to decrease of activity or motivation for creating design, or violation of the purpose of the Design Act to protect novel designs. That is, it can be said that leading to invalidation of the Registered Design on grounds of the above facts alleged by the demandant violates the purpose of the Design

Act to contribute to the development of industry.

In the demand for trial of the case, the demandant states reasons for invalidation that since the Registered Design is similar with the Cited Design, the Registered Design should be invalidated under the provisions of Article 3(1)(iii) and Article 48(1)(i) of the Design Act, and thus whether the Registered Design is invalidated or not should be determined only by determining whether the Registered Design is similar with the Cited Design. Regarding the relation between the above fact and determination of similarity, the demandant's allegation is ambiguous in the written demand for trial and the brief, and the demandant does not describe in detail that the above facts affect determination of similarity. Alleging that the Registered Design should be invalidated taking special circumstances into account, separately from determination of similarity between the two designs, the article of the Design Act on grounds should be present; however, the demandant does not present the article of the Design Act on grounds.

Thus, since the above fact alleged by the demandant does not affect the validity of the Registered Design, the demandant's allegation is unreasonable.

(Summary)

As described above, it is obvious that all the allegations of demandant are unreasonable, and the Registered Design is free from defect and does not fall under the category of Article 3(1)(iii) of the Design Act. Therefore, the demandee requests the trial decision that the demand for trial of the case is groundless.

(Evidence)

(1) Evidence B No. 5 Japanese Unexamined Utility Model Application Publication No. S50-109749, copy

(2) Evidence B No. 6 Japanese Unexamined Utility Model Application Publication No. H1(S64)-11146, copy

(3) Evidence B No. 7 Japanese Unexamined Utility Model Application Publication No. H7-33243, copy

2-2 Written statement

In a Written statement submitted on October 19, 2015 (Heisei 27), the Demandee

alleged as follows.

The demandee states in section "Statement brief" of Oral proceedings statement brief submitted on October 13, 2015 that it is suitable to think that the form of protruding parts formed in the side face of the body of the Cited Design 1 is "corrugated shape," this expression is appropriate based on the objective fact, and thus the demandant's allegation that the expression "corrugated shape" is exaggerated is unreasonable.

In this feature, there is a description on the demandant's Web site that in creating design according to a bucket with lid similar with Cited Design 1, the shape of waves of corrugated cardboard is used as a reference, and the bucket with lid is introduced (see yellow highlight in Evidence B No. 8).

The demandant alleges in the Oral proceedings statement brief submitted on September 28, 2015 (Heisei 27) that "since "chevron shapes" are continuously provided in Cited Design 1, the expression ""corrugated shape as if it is gently undulated is exaggerated; on the other hand, the demandant describes on the Web site that creating a design according to a bucket with lid similar with the Cited Design 1, the shape of "waves" of corrugated cardboard is used as a reference.



This fact supports that the demandant obviously recognizes the form of protruding parts formed in the side face of the body of the Cited Design 1 as "corrugated shape." As repeatedly alleged by the demandee, the expression "corrugated shape" is appropriate based on the objective facts, and as described above, the demandant appeals that the form is the shape of "waves" of corrugated cardboard is used as a reference, and there is no dispute that it is reasonable to think that the form in the Cited Design 1 is "corrugated shape."

Regarding a "trash bin," different from a "bucket," in which protruding parts having "corrugated shape" are formed in the side face of the body, similar with Cited Design 1, the demandant describes the trash bin as a "corrugated trash bin" on the demandant's Web site "Hachimankasei online store" (see yellow highlight in Evidence B No. 9).

The demandant specifies Cited Design 1 as "Way-be 801" and Cited Design 2 as "Way-be 102" with Evidence A No. 1 and the like indicated in the written demand for trial, it is obvious from Evidence B No. 9 that the above "trash bin" is included in series of "Way-be," it is predicted that "Way-be" is a word made by the demandant and is derived from the word "wave," the constitutions of the side face of the body are the same in "corrugated shape," and thus it is reasonable to think that the form of protruding parts

formed in the side face of the body of Cited Design is "corrugated shape."

(Evidence)

(1) Evidence B No. 8 "Hachimankasei online store" omnioutil infinite applications bucket with lid Web page (<http://www.hachimankasei-store.jp/products/sceltevie/omnioutil.html>) copy

(2) Evidence B No. 9 "Hachimankasei online store" waybe bin collection Web page (<http://www.hachimankasei-store.jp/products/waybe/waybe-c.html>) copy

### 3. Oral Proceeding Record

(1) Demandant

Object and statement of the demand are stated as described in the written demand for trial, Oral proceedings statement brief submitted on September 28, 2015 (Heisei 27), and Written statement submitted on October 27, 2015 (Heisei 27). Validity of Evidence B No. 1 to B No. 9 submitted by the demandee is acknowledged.

(2) Demande

Object and statement of the reply is stated in the written reply for the trial case submitted on July 21, 2015 (Heisei 27), Oral proceedings statement brief submitted on October 13, 2015 (Heisei 27), and Written statement submitted on October 19, 2015 (Heisei 27). Validity of Evidence A No. 1 to A No. 33 submitted by the demandant is acknowledged.

(3) Chief administrative judge

The body examined Evidence A No. 1 to A No. 33 and Evidence B No. 1 to B No. 9.

The trial is concluded.

No. 4 Judgment by the body

The demandant alleges that, as Reasons for invalidation 1, that since the Registered Design (Design Registration No. 1509040) is similar with the design according to the product name "Way-be 801" described in Evidence A No. 1 to A No. 4 (Cited Design 1),

the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1) of the Design Act, and as Reasons for invalidation 2, since the Registered Design is similar to the design according to the product name "Way-be 102" described in Evidence A No. 1 to A No. 4 (hereinafter referred to as "the Cited Design 2"), the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1) of the Design Act.

The body judges that since the Registered Design is similar to Cited Design 1 that was a publicly known design in Japan before the application for the Registered Design was filed, falls under the category of Article 3(1)(iii) of the Design Act, and thus should not be registered with Reasons for invalidation 1. The Reasons are as follows.

1. Registered Design (Evidence B No. 3) (see Appendix 1)

The application for the Registered Design (Design Registration No. 1509040) was

filed on November 28, 2013 (Heisei 25) and an establishment of the design right was registered on September 12, 2014 (Heisei 26), the Article to the Registered Design is a "bucket," and the form is as described in the application and photographs in lieu of drawings attached to the application.

That is, the Registered Design is a "bucket" with a lid and a handle, and the form is as follows.

That is, the whole bucket is composed of a body of the bucket (hereinafter referred to as "a body"), a lid, and a handle, and uniform asperity is formed in the whole side face of the body and the whole lid.

The body has an approximately cylindrical shape with a litter taper in a downward direction, the height of the body is shorter than the diameter of the upper surface of the body, the body has a narrow edge having approximately the same thickness as the lid which is provided in the periphery of the upper surface of the body and slightly protrudes outward as forming a reverse L-shape, handle attaching parts having flat rectangular shape provided from the narrow edge in a downward direction (hereinafter referred to as a "handle attaching part") are located at a symmetrical position opposite in front view, a lot of vertical

and thin linear asperity over the whole height of the side face (except the upper end edge) are continuously provided in a circumferential direction, and the inner side face of the body and the inner and outer surface of the bottom part are smooth surfaces.

In the handle, a narrow and thin plate body is an approximately semi-arc arch shape in front view, and the tip of both ends is approximately U-shape in side view and is provided outside the handle attaching part of the body.

The lid has a disc-like shape having approximately the same diameter as the upper end edge of the body, thin linear asperity is formed in substantially the whole front and reverse faces of the lid, a narrow flat part is provided in the outer edge of the reverse face, and a narrow and thin convex frame part is provided inside the narrow flat part and along the circumference (hereinafter referred to as "convex frame part"), parallel cross reinforcement ribs in which each two of vertical and horizontal thin protruding parts crossing each other are provided inside the convex frame part, and a projection part in which a small circular plate in bottom view is provided in the tip of a short cylinder being a hanging part to the body is provided in the center of the reverse face (hereinafter referred to as "projection part").

Asperity formed in the body and the lid is the form in which chevron protruding parts in sectional view that have a sharp tip and are composed of narrow flat slant are continuously repeated.

The lid is of a slightly light tone, and the body and the handle are dark tone than the lid.

## 2. Reasons for invalidation 1

According to "1. Gist of reasons for invalidation of design registration" in the written demand for trial, the demandant recognizes the design according to the product name "way-be 801" described in Evidence A No. 1 to A No. 4 as Cited Design 1, and the demandant alleges that the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated under the provisions of Article 48(1) of the Design Act.

Evidence A No. 1 to A No. 4 will be examined.

Evidence A No. 1 is a promotional leaflet for "Way-be" issued by Hachimankasei Co., Ltd., and three unicolor of buckets, natural beige, flat green, and flat black, whose product numbers are 050919 (VE), 050834 (G) and 050841 (B), respectively, and whose product name is "Way-be 801 (lid)," are described. In the written demand for trial, it is stated that the leaflet was issued in 1993; however the issue date is not described in Evidence A No. 1.

Evidence A No. 2 is a promotional leaflet for "Way-be" issued by Hachimankasei Co., Ltd., and three unicolor of buckets, blue, red, and yellow, whose product numbers are 216629 (BL), 216636 (RD), and 216643 (YE), respectively, and whose product name is "Way-be color bucket (lid) 801" are described. In the written demand for trial, it is stated that the leaflet was issued in June, 2004; however the issue date is not described in Evidence A No. 2.

Evidence A No. 3 is a promotional leaflet for "Fraichair Bucket" issued by Hachimankasei Co., Ltd., and three kinds of buckets whose product numbers are 230588 (GR) (green lid and beige body), 230595 (PK) (baby-pink lid and pink-red body), and 230601 (YE) (yellow lid and gray body), respectively, and whose product name is



"Fraichair Bucket S" are described. In the written demand for trial, it is stated that the leaflet was issued in October, 2013; however the issue date is not described in Evidence A No. 3.

Evidence A No. 4 is a catalog "sceltevie" issued by Hachimankasei Co., Ltd., and on pages 12 to 15, 12 kinds of buckets whose product numbers are 223757 (PL) (pink-red lid and purple body), 223764 (PK) (orange lid and pink-red body), 223771 (OR) (turquoise-blue lid and orange body), 223788 (TB) (purple lid and turquoise-blue body), 223795 (GR) (brown lid and green body), 228240 (BL) (deep-blue lid and baby-blue body), 228257 (IV) (brown lid and beige body), 228264 (RPK) (gray lid and baby-pink body), 228271 (CA) (red lid and beige body), 228288 (BR) (baby-green and brown lid and brown body), 228783 (WH) (only white), and 228790 (BK) (only black), respectively, whose product name is "omnioutil S" (bucket with lid) are described. In the written demand for trial, it is stated that the catalog was issued in January, 2014; however the issue date is not described in Evidence A No. 4.

As described above, there is no bucket for which the product name is obviously "Way-be 801" in Evidence A No. 2 to A No. 4.

However, in "D Similarity of the Registered Design with the Cited Design, (e) Special circumstances, (i) Characteristic forms of the Cited Designs 1 and 2" in "3. Reasons for invalidation of the Registered Design" of the written demand for trial, the product names described in Evidence A No. 1 to A No. 4 are listed, it is acknowledged that each design described in Evidence A No. 2 to A No. 4 is a design similar in small size, form, and volume with the design according to the product name "Way-be 801" described in Evidence A No. 1, and thus it can be presumed that the demandant recognizes each design described in Evidence A No. 1 to A No. 4 as the Cited Design 1 and as buckets similar in form and different in color.

However, there is need to specify publicly known design (the Cited Design) relating to reasons for invalidation, the design according to "bucket" whose product name is "omnioutil S" (bucket with lid) 223764(PK) (see Appendix 2) described on pages 12 and 13 of catalog "sceltevie," issued by Hachimankasei Co., Ltd., of Evidence A No. 4 is acknowledged by the body as Cited Design 1 among designs described in Evidence A No. 1 to A No. 4, because the form of the inside of the body and the front and reverse faces of the lid of this bucket are distinctively expressed, the color of the body and the lid is common with the Registered Design, and the similarity between the Registered Design and

the Cited Design will be judged as follows.

According to the description of the written demand for trial, the publication of Evidence A No. 4 was issued in January, 2014; that is, Evidence A No. 4 was issued after the application for the Registered Design (November 28, 2013 (Heisei 25)), and according to Evidence A No. 9 (see Appendix 3), the design according to the bucket whose product name is "omnioutil S" (bucket with lid) 223764(PK) described in Evidence A No. 4 is described in the list of goods winning the 2010 Good Design Long Life Design Award hosted by the Japan Institute of Design Promotion, and these goods winning the Good Design Long Life Design Award are published in winning year, and thus it can be presumed that design according to the bucket of "omnioutil S" (bucket with lid) 223764(PK) described in Evidence A No. 4 had been publicly known since the end of March, 2011 (Heisei 23).

Further, in Evidence A No. 26, a photograph of a bucket having the same small size as that described in Evidence A No. 4 is introduced as a " bucket with lid" on page 137 of magazine "Croissant," May 25 issue (volume 781), 2010 (Heisei 22).

In addition, according to information recorded and provided by Wayback Machine

of Internet Archive Co., Ltd., a bucket with lid "omnioutil" having the same small size as that described in Evidence A No. 4 was posted and published on a website of Hachimankasei Co., Ltd., on January 2, 2011 (Heisei 23) (Reference Design 1: see Appendix 4).

Thus, it is acknowledged that a "bucket" whose product name is "omnioutil S" (bucket with lid) 223764(PK) described on pages 12 and 13 of a catalog "sceltevie" issued by Hachimankasei Co., Ltd., Evidence A No. 4, has a high possibility of having been well-known before November 28, 2013 (Heisei 25), the filing date of the application for the Registered Design.

Further, regarding the fact that Evidence A No. 1 to A No. 4 had been publicly known before the application according for the Registered Design was filed, the demandee does not have a doubt.

For the reasons, Cited Design 1 is a bucket whose product name is "omnioutil S" (bucket with lid) 223764(PK) (hereinafter the design to this bucket is referred to as "Cited Design 1"), and the form is as described in the photographs appearing on pages 12 and 13 of catalog "sceltevie" of Evidence A No. 4, issued by Hachimankasei Co., Ltd.

The Cited Design 1 is a "bucket" with a lid and a handle, and the form is as follows.

That is, the whole bucket is composed of a body, a lid, and a handle, and uniform asperity is formed in the whole side face of the body and the whole lid.

The body has an approximately cylindrical shape with a slight taper in a downward direction, the height of the body is shorter than the diameter of the upper surface of the body, the body has a narrow edge having approximately the same thickness as the lid which is provided in the periphery of the upper surface of the body and slightly protrudes outward as forming a reverse L-shape, handle attaching parts having a flat rectangular shape provided from the narrow edge in a downward direction are located at symmetrical positions opposite in front view, a lot of vertical and thin linear asperity over the whole height (except the upper end edge) of the side face are continuously provided in a circumferential direction, and the inner side face of the body and the inner and outer surface of the bottom part are smooth surfaces.

In the handle, a narrow and thin plate body is of approximately semi-arc arch shape in front view, both ends of the thin plate body have a slightly wide rectangular shape having rounded corners, the tips of both ends are of gentle arc shape, the rectangular shape

having rounded corners is provided outside the handle attaching part of the body, and a small circular through hole having an edge is provided in the upper side of one of the rectangular shape having rounded corners.

The lid has a disc-like shape having approximately the same diameter as the upper end edge of the body, thin linear asperity is formed in the substantially whole front and reverse faces of the lid, a narrow flat part is provided in the outer edge of the reverse face, and a narrow and thin convex flame part is provided inside the narrow flat part and along the circumference.

Asperity of the body and the lid has the form in which corrugated protruding parts in sectional view composed of narrow curve are continuously repeated.

Each color of the lid and the handle is light tone and light canary yellow, and the body is pink-red, darker than the lid and the handle.

3. Comparison of the Registered Design with Cited Design 1 (hereinafter referred to as "both designs" or "the two designs")

(1) Article to the design

First, regarding the article to which both designs are respectively applied, since the Registered Design is a "bucket" and Cited Design 1 is also a "bucket," and each of the buckets is a bucket with a lid and a handle, articles to which both designs are respectively applied correspond to each other.

(2) Common features in form

The two designs have the following common features.

(A) The whole bucket is composed of a body, a lid, and a handle, and uniform asperity is formed in the whole side face of the body and the whole lid.

(B) The body has an approximately cylindrical shape with a slight taper in a downward direction, the height of the body is shorter than the diameter of the upper surface of the body, the body has a narrow edge having approximately the same thickness as the lid which is provided in the periphery of the upper surface of the body and slightly protrudes outward as forming a reverse L-shape, handle attaching parts having flat rectangular shape provided from the narrow edge in a downward direction are located at symmetrical positions

opposite in front view, and a lot of vertical and thin linear asperity over the whole height (except the upper end part) is continuously provided in a circumferential direction.

(C) The lid has a disc-like shape having approximately the same diameter as the upper end edge of the body, thin linear asperity is formed in substantially the whole front and reverse faces of the lid, a narrow flat part is provided in the outer edge of the reverse face, and a narrow and thin convex frame part is provided inside the narrow flat part and along the circumference.

(D) In the handle, the narrow and thin plate body has an approximately semi-arc arch shape in front view, and each tip of both ends has an arc shape and is provided outside the handle attaching part of the body.

(E) The lid is slightly light tone, and the body is darker than the lid.

(3) Different features in form

The two designs have the following different features.

(a) Regarding the handle, in the Registered Design, both end parts have approximately U-



shape in side view, and on the other hand, in Cited Design 1, the plate-like both end parts have slightly wide rectangular shape having rounded corners, and a small circular through hole having an edge is provided in the upper side of one of the rectangular shapes having rounded corners.

(b) Regarding asperity of the body and the lid, the form in the Registered Design is that chevron protruding parts having a slightly sharp tip in sectional view are continuously provided; on the other hand, the form in Cited Design 1 is that corrugated protruding parts having a slightly gentle tip are continuously provided.

(c) Regarding the reverse face of the lid, in the Registered Design, parallel cross reinforcement ribs in which each two of vertical and horizontal thin protruding parts crossing each other are provided, and a projection part in which a small circular plate in bottom view is provided in the tip of a short cylinder that is a hanging part to the body and is provided in the center of the reverse face, and on the other hand, there is no projection part and parallel cross reinforcement rib in Cited Design 1.

(d) Regarding the light and dark tones of the handle, in the Registered Design, the tone is dark similar with that of the body, and on the other hand, in Cited Design 1, the tone is light

similar with that of the lid.

#### 4. Determination of similarity between the two designs

Since Articles to which both designs are respectively applied correspond to each other, common features and different features in form between the two designs will be examined and similarity between the two designs will be judged as follows.

##### (1) Common features

Regarding the common feature (A) that the whole bucket is composed of a body, a lid, and a handle and forms a structure of the form of both designs, although the constitution itself composed of the body, the lid, and the handle is common form and does not give strong common impression of the two designs, the form that uniform and fine asperity is formed in the whole appearance of the body and the lid gives unity of the whole design and significantly a strong common impression of the two designs to observers, and thus this common feature affects determination of similarity between the two designs.

Next, regarding the common feature (B) that the body has an approximately cylindrical shape with diameter gradually narrowed to the bottom, the height of the body is shorter than the diameter of the upper surface of the body, the body has a narrow edge having approximately the same thickness as the lid which is provided in the periphery of the upper surface of the body and slightly protrudes outward as forming a reverse L-shape, and handle attaching parts having flat rectangular shape provided from the narrow edge in a downward direction are located at symmetrical positions opposite in front view, and although the form is common in the field of these buckets, this form is unique form in the bucket that vertical and thin linear asperity over the whole height (except the upper end part) of the side face is continuously provided in a circumferential direction, this form was not present before the publication of the Cited Design 1, the form gives stronger common impression in the form of body to consumers, and thus this common feature affects determination of similarity between the two designs.

In addition, regarding the common feature (C) that the lid has a disc-like shape having approximately the same diameter as the upper end edge of the body, thin linear asperity is formed in the substantially whole front and reverse faces of the lid, a narrow flat part is provided in the outer edge of the reverse face, the common feature forms unique

appearance that thin linear asperity is continuously provided in the circular lid like the body, even though the lid has asperity, the lid has approximately the same diameter as the upper end edge of the body and is simple as in contact with the body without clearance, this common feature is unique form and gives impression in common with both designs, and thus this common feature affects determination of similarity between the two designs.

In addition, regarding the common feature (D) that in the handle, the narrow and thin plate body has approximately a semi-arc arch shape in front view, and each tip of both ends has an arc shape and is provided outside the handle attaching part of the body, although the form is common in the field of these buckets and is not a unique form, the common feature gives common impression with the simple narrow and thin plate body, this common feature is more conspicuous in comparison with the body and the lid in which thin linear asperity is continuously provided, and thus it can be said that this common feature affects determination of similarity between the two designs in combination with the whole constitution of the common feature (A).

In addition, regarding the common feature (E) that the lid is slightly light in tone, and the body is darker than the lid, although this common feature is a partial common

feature, and it increases common impression by means of the light and dark tones in common, and it can be said that this common feature slightly affects determination of similarity between the two designs in combination with other common features.

Thus, the forms regarding the common feature (A), common feature (B), and common feature (C), taking visual effect caused by the combination of the forms into account, are highly common in basic shape and feature, give stronger common aesthetic impression to consumers, especially, the common feature (B) and common feature (C) significantly affect determination of similarity between the two designs; in addition, although the form itself regarding the common feature (D) or common feature (E) does not significantly affect determination of similarity between the two designs, the form gives common aesthetic impression to consumers in combination with the common features (A) to (C), and thus the common features (A) to (E) determine determination of similarity between the two designs.

## (2) Different features

Against this, different features do not significantly affect determination of similarity between the two designs, and do not predominate over the common aesthetic impression

with the two designs.

That is, regarding the different feature (a) of the form of end parts of the handle, comparing the two designs as a whole, the difference is difference in a limited part, only the end part of the handle, and is not conspicuous, and it can be said that this difference is an insignificant difference buried by impression in common with the whole of both designs created by the form of common features (A) to (C); in addition, it can be said that the form that the tip in a downward direction in the Registered Design side view is formed in an approximately U-shape is a general form in the field of these buckets (e.g. Reference Design 2, Design Registration No. 805878: see Appendix 5) and is not a unique form of the Registered Design, and thus it cannot be said that the different feature (a) significantly affects determination of similarity between the two designs.

Next, regarding the different feature (b) of asperity of the body and the lid, even though the difference is that the tip is sharp or slightly gentle, it can be said that this difference is an insignificant difference buried by impression created by the unique form of common feature (A) and common feature (C) that thin linear asperity is exhibited in the whole side face over the whole height in a vertical direction and also exhibited in the

circular lid; that is, the asperity is exhibited outside of the body, the different feature (b) between both designs is not total difference and thus it cannot be said that the different feature (b) significantly affects determination of similarity between the two designs.

In addition, regarding the different feature (c) of the presence or absence of a projection part and a reinforcement rib in the lid, this difference is a difference in the reverse face of the lid of the Registered Design and both the presence of the projection part being a hanging part and the presence of the reinforcement rib is insignificant difference, and it cannot be said that these differences affect aesthetic impression of the whole design, and taking the whole design into account, it can be said that these differences are present in the reverse face of the lid; that is an inconspicuous part, the different feature (c) between the two designs is not a total difference and thus it cannot be said that the different feature (c) significantly affects determination of similarity between the two designs.

Further, regarding the different feature (d) of the light and dark tones, since in the field of these buckets, variations in color are common, there are various combinations of the light and dark tones and the area ratio of handle to the whole is small, the difference that the handle is light in tone in the same manner as the lid or dark in tone like the body is

not conspicuous, it can be said that this difference is an insignificant difference buried by impression in common with the whole both designs created by the form of common features (A) to (C), and thus it cannot be said that the different feature (d) significantly affects determination of similarity between the two designs.

(3) The demandee's allegation

The demandee alleges that regarding difference in asperity, there is a description on the demandant's Web site that creating a design according to a bucket with lid similar with the Cited Design 1, the shape of waves of corrugated cardboard is used as a reference, the bucket with lid is introduced, and asperity of the body and the lid of the Cited Design 1 is a gentle corrugated shape and is different from the chevron shape in the Registered Design; however, as described above regarding the different feature (b), the difference in asperity of the body and the lid of the two designs is that the tip is sharp or slightly gentle, the common feature that asperity is uniformly provided in the whole appearance of the body and lid gives stronger impression than the insignificant difference of the asperity, it can be said that this difference is an insignificant difference buried by the strong impression created by the common feature forming the keynote of the whole design and is not a significant difference



between the two designs.

In addition, the demandee alleges that when the projection part is provided in the center of the bottom part of the lid as the Registered Design, the projection part significantly affects the function of hanging to the opening of the bucket and the use of the bucket, and thus the project part strongly appeals to the eye of traders or consumers; however, even though the projection part is provided in the center of the reverse face of the lid, taking the whole design into account, it can be said that the projection part is a partial and limited difference, and this difference is an insignificant difference which does not predominate over the common features (A) to (C) that thin linear asperity is provided in the side face of the body; namely, in the whole outside of the body, in a vertical direction, in the same manner as the lid, and thus it cannot be said that the projection part affects the determination of similarity between the two designs.

#### (4) Summary

As described above, articles to which both designs are respectively applied correspond to each other, and regarding the form, taking the different features into account generally, as effect of design appealing to the eye, the common features (A) to (C)

significantly affect determination of similarity between the two designs, effect caused by the common features predominates over effect of different features, the common features cause common aesthetic impression of consumers as the whole design, and thus the Registered Design is similar with Cited Design 1.

Thus, since the Registered Design is similar with Cited Design 1 which is a design described in a distributed publication in Japan or a foreign country, prior to the filing of the application for the Registered Design, the Registered Design falls under Article 3(1)(iii) of the Design Act.

#### 5. Reasons for invalidation 2

According to "1. Gist of reasons for invalidation of design registration" in the written demand for trial, the demandant recognizes the design according to the product name "Way-be 102" described in Evidence A No. 1 to A No. 4 as Cited Design 2, and the demandant alleges that the Registered Design cannot be granted design registration pursuant to the provisions of Article 3(1)(iii) of the Design Act and should be invalidated

under the provisions of Article 48(1) of the Design Act.

Evidence A No. 1 is a promotional leaflet for "Way-be" issued by Hachimankasei Co., Ltd., and three unicolors of buckets, natural beige, flat green, and flat black, whose product numbers are 050926 (VE), 050933 (G), and 050940 (B), respectively, and whose product name is "Way-be 102 (lid)" are described. In the written demand for trial, it is stated that the leaflet was issued in 1993; however, the issue date is not described in Evidence A No. 1.

Evidence A No. 2 is a promotional leaflet for "Way-be" issued by Hachimankasei Co., Ltd., and three unicolors of buckets, blue, red, and yellow, whose product numbers are 216650 (BL), 216667 (RD), and 216674 (YE), respectively, and whose product name is "Way-be color bucket (lid) 102" are described. In the written demand for trial, it is stated that the leaflet was issued in June, 2004; however, the issue date is not described in Evidence A No. 2.

Evidence A No. 3 is a promotional leaflet for "Fraichair Bucket" issued by Hachimankasei Co., Ltd., and three kinds of buckets whose product numbers are 230618 (GR) (green lid and beige body), 230625 (PK) (baby-pink lid and pink-red body), and

230632 (YE) (yellow lid and gray body), respectively, and whose product name is "Fraichair Bucket L" are described. In the written demand for trial, it is stated that the leaflet was issued in October, 2013; however, the issue date is not described in Evidence A No. 3.

Evidence A No. 4 is a catalog "sceltevie" issued by Hachimankasei Co., Ltd., and on pages 12 to 15, 12 kinds of bucket whose product numbers are 223873 (PL) (pink-red lid and purple body), 223880 (PK) (orange lid and pink-red body), 223897 (OR) (turquoise-blue lid and orange body), 223903 (TB) (purple lid and turquoise-blue body), 223910 (GR) (brown lid and green body), 228295 (BL) (deep-blue lid and baby-blue body), 228301 (IV) (brown lid and beige body), 228318 (RPK) (gray lid and baby-pink body), 228325 (CA) (red lid and beige body), 228332 (BR) (baby-green and brown lid and brown body), 228806 (WH) (only white), and 228813 (BK) (only black), respectively, and whose product name is "omnioutil L" (bucket with lid) are described. In the written demand for trial, it is stated that the catalog was issued in January, 2014; however, the issue date is not described in Evidence A No. 4.

According to "1. Gist of reasons for invalidation of design registration" in the

written demand for trial, even though the demandant recognizes the design according to the product name "Way-be 102" described in Evidence A No. 1 to A No. 4 as Cited Design 2, there is no bucket whose product name is obviously "Way-be 102" in Evidence A No. 2 to A No. 4, as described above. However, in "D Similarity of the Registered Design with the Cited Design, (e) Special circumstances, (i) Characteristic forms of the Cited Designs 1 and 2" in "3. Reasons for invalidation of the Registered Design" of the written demand for trial, the product names described in Evidence A No. 1 to A No. 4 are listed, it is acknowledged that each design described in Evidence A No. 2 to A No. 4 is a design different in color and similar in form from/with the design according to the product name "Way-be 102" described in Evidence A No. 1, and thus it can be presumed that the demandant recognizes each design described in Evidence A No. 1 to A No. 4 as the Cited Design 2 and as buckets similar in form and different in color.

It is acknowledged that each design described in Evidence A No. 1 to A No. 4 has large size and these buckets are similar to each other in shape and volume.

There is need to specify publicly known design (the Cited Design) relating to reasons for invalidation; the design according to "bucket" whose product name is

"omnioutil L" (bucket with lid) 230595(PK) (see Appendix 2) described on pages 12 and 13 of catalog "sceltevie," issued by Hachimankasei Co., Ltd., of Evidence A No. 4 is acknowledged by the body as Cited Design 2, among designs described in Evidence A No. 1 to A No. 4, because the form of the inside of the body and the front and reverse faces of the lid of this bucket are distinctively expressed, and the color of the body and the lid is common with the Registered Design.

#### 6. Comparison and determination of similarity between the Registered Design and Cited Design 2

However, Cited Design 2 is described in the same leaflet as that in which Cited Design 1 is described, the form is substantially similar with that of Cited Design 1, and it can be said that Cited Design 2 is design that was publicly known before the application for the Registered Design was filed, and although Cited Design 2 is different from Cited Design 1 in shape and volume because the height of the body of Cited Design 2 is slightly higher than that of Cited Design 1, Cited Design 2 is similar to Cited Design 1 in the other features and it is acknowledged that Cited Design 2 differs from Cited Design 1 only in size.

Thus, comparing with the Registered Design, since Cited Design 2 differs from the Cited Design 1 only in size, in addition to the determination of similarity with Cited Design 1, there is no need to compare and determine similarity of the Cited Design 2 and the Registered Design.

## 7. Summary

Therefore, the Registered Design is similar with Cited Design 1, which is a design described in a distributed publication in Japan or a foreign country, prior to the filing of the application for the Registered Design, and the Registered Design cannot be granted design registration since it falls under Article 3(1)(iii) of the Design Act, and it is judged that the Registered Design has reasons for invalidation.

## No. 5 Closing

As described above, since the Registered Design falls under Article 3(1)(iii) of the

Design Act and the Registered Design cannot be granted design registration (Reasons for invalidation 1), the Registered Design should be invalidated under the provisions of Article 48(1)(i) of the Design Act.

Therefore, the trial decision shall be made as described in the conclusion.

June 2, 2016 (Heisei 28)

Chief administrative judge: HONDA, Seiichi

Administrative judge: SAITO, Takae

Administrative judge: KUBOTA, Daisuke



Appendix 1 Registered Design (Evidence B No. 3)

Evidence B No. 3

(19) [Publisher] Japan Patent Office (JP)

(45) [Issue date] October 14, 2014 (Heisei 26)

(12) [Class] Design bulletin (S)

(11) [Registration number] Design Registration No. 1509040 (D1509040)

(24) [Registration date] September 12, 2014 (Heisei 26)

(54) [Description of the article to the design] bucket

(52) [Classification for Industrial Designs] C3-351

(51) [Classification for Industrial Designs (reference)] 07-05, 07-07, 09-09, 23-02

(21) [Application Number] Japanese Design Application No. 2013-27943 (D2013-27943)

(22) [Filing date] November 28, 2013 (Heisei 25)

(72) [Creator]

[Name] ICHIKAWA Koji

[Address] CAINZ Co., Ltd., 1-2-1, Wasedanomori, Honjo, Saitama

(72) [Creator]

[Name] OGIWARA Keisuke

[Address] CAINZ Co., Ltd., 1-2-1, Wasedanomori, Honjo, Saitama

(73) [Design right holder]

[Identification Number] 500367067

[Name] CAINZ Co., Ltd.

[Address] 1-2-1, Wasedanomori, Honjo, Saitama

(74) [Agent]

[Identification number] 100064908

[Patent attorney]

[Name] SHIGA Masatake

(74) [Agent]

[Identification number] 100108578

[Patent attorney]

[Name] TAKAHASHI Norio

(74) [Agent]

[Identification number] 100086379

[Patent attorney]

[Name] TAKASHIBA Tadao

(74) [Agent]

[Identification number] 100137017

[Patent attorney]

[Name] MASHIMA Ryuichiro

[Seeking the application of exceptions to lack of novelty] This application seeks the application of exceptions to lack of novelty under Article 4(2) of the Design Act.

[Examiner] NAITO Hiroki

(56) [References] Japanese Unexamined Utility Model Application Publication No. S50-109749, Japanese Unexamined Utility Model Application Publication No. H1-11146, Japanese Unexamined Utility Model Application Publication No. H7-33243, e-con eco-container, page 12 (Publicly Known Information in Design Division of Japan Patent Office No. HC13008776)

(55) [Description of the article to the design] As indicated by Reference Perspective View 1 Showing the State of Use, the article is a bucket in which a lid can be hanged to the opening of the lid. In addition, as indicated by Reference Perspective View 2 Showing the State of

Use, the lid can be used as a base of the lid.

(55) [Description of the Design] Rear View is omitted since Rear View is the same as Front View. Right Side View is omitted since Right Side View is the same as Left Side View.

[Drawings]

[Perspective View]

Design Registration No. 1509040

(2)



[Front View]



[Top View]

Design Registration No. 1509040

(3)



[Bottom View]





[Left Side View]

Design Registration No. 1509040



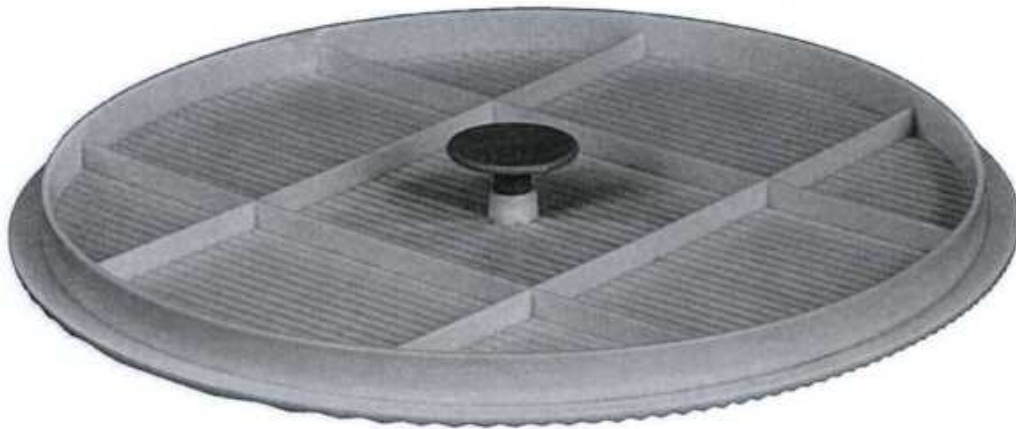
[Perspective View of only body]



[Perspective View of only lid]

Design Registration No. 1509040

(5)



[Enlarged Front View of lid]



[Reference Perspective View 1 Showing the State of Use]

Design Registration No. 1509040

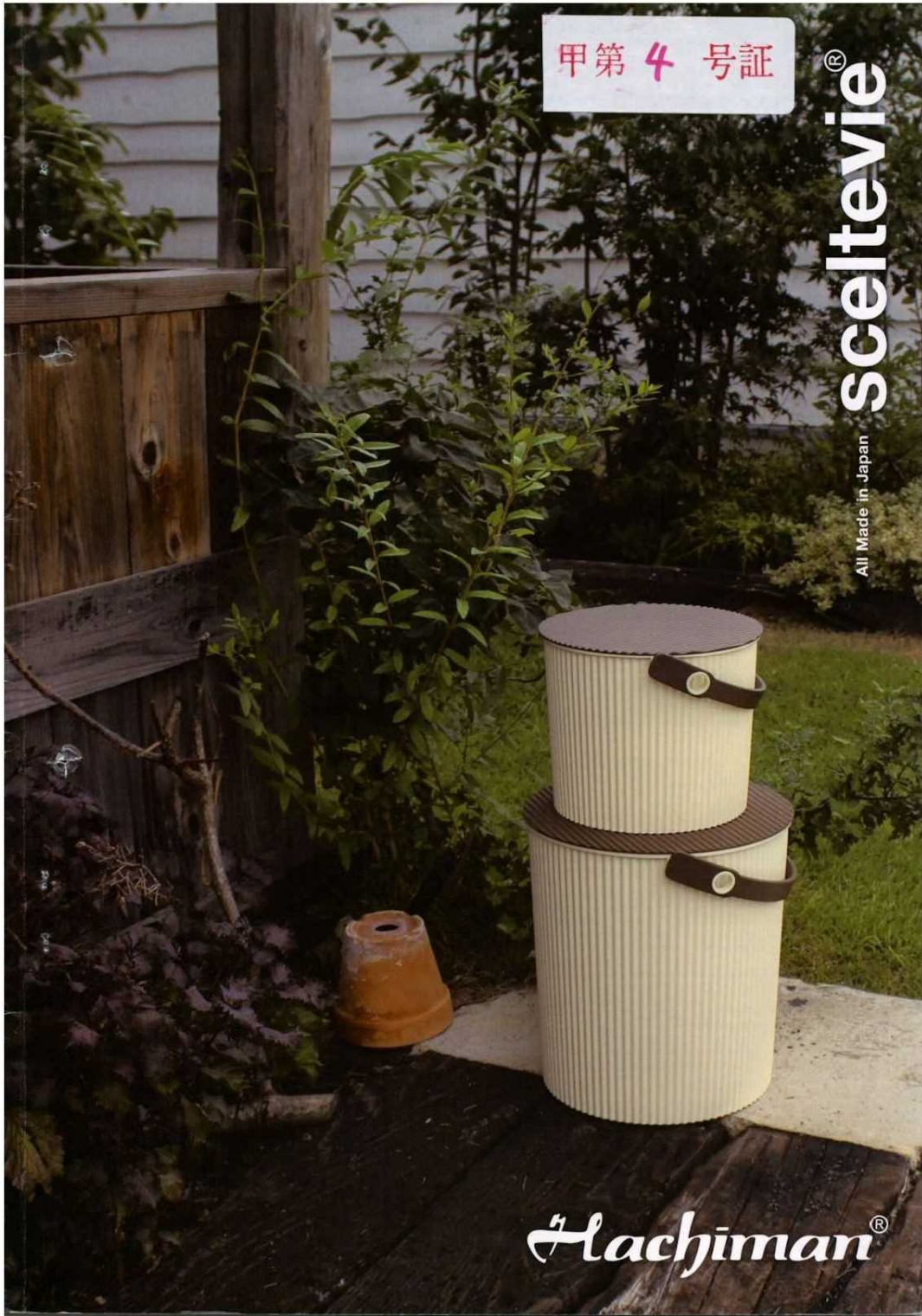


[Reference Perspective View 2 Showing the State of Use]



[A-A Line Enlarged Edge View]

Appendix 2 Evidence A No. 4



甲第 4 号証

sceltevie®  
All Made in Japan

Hachimani®



# omnioutil® bucket



GOOD DESIGN AWARD 2010  
LONG LIFE  
DESIGN AWARD



ダンボールの蓋々をモチーフにデザイン。カラフルなカラーリングはインテリアのアクセントにもなります。フタがあるので簡易スツールにもなり\*耐荷重は150kg。例えば、お子様のオモチャ入れとして、フタをすれば積み重ねができてスッキリ片付きます。キッチン収納、ランドリー収納、つげ置き洗い、清掃に。アウトドアでは、ガーデニングの土入れ、道具の収納、洗車時の道具入れとして、海、山、川でのレジャーの道具入れ、簡易スツールとして大活躍します。ハンドルにはホースを通せる穴があり、水圧で外れない工夫があります。



A myriad of uses  
At first glance, one may think these buckets look perfectly commonplace, when in fact they offer unlimited possibilities.



\*耐荷重150kg(試験済み・目し、フタ全体荷重)  
\*Tested for weight tolerance up to 150kg / 330 lb (whole unit with the lid on).

- オムニウッティ(フタ付きバケツ)/ Buckets with Lid**
- omnioutti S**  
Size: W271×D254×H211mm  
Volume: 3L  
Quantity: 24pcs  
Weight: 730g  
Color: PL 223757 PK 223764 OR 223771  
Color: TB 223788 GR 223793
  - omnioutti L**  
Size: W282×D267×H265mm  
Volume: 10L  
Quantity: 24pcs  
Weight: 825g  
Color: PL 223970 PK 223980 OR 223987  
Color: TB 223993 GR 223910
  - omnioutti LL**  
Size: W330×D312×H338mm  
Volume: 20L  
Quantity: 16pcs  
Weight: 1170g  
Color: PL 224008 PK 224010 OR 224012  
Color: TB 224029 GR 224026

D・Hサイズはハンドル含まず  
D and H dimensions do not include the handle.

Material: Polypropylene (Container, Lid and Handle)  
Polyethylene (Ring)  
Cold & Heat Tolerance: -20°C ~ 120°C



LLサイズの中にS・Lサイズが収納可能です!

- LLサイズにL、Sの蓋をそれぞれ入れ、蓋を閉めます。
  - Sのフタを入れ、Lの蓋のフタを上にもせます。
  - 最後にLLのフタも入れ、Sサイズをトップアップです!
- 
- Stack three sizes LL, L and S buckets together without lids shown as above.
  - Put the lid on the S-sized bucket, then on the L-sized bucket.
  - Lastly, put the LL-sized lid on, and you're all done!

Appendix 3 Evidence A No. 9

## 2010

2010年度 から 年度を絞り 特賞を含む 詳細検索表示

検索結果件数 1,110件

### GOOD DESIGN GRAND AWARD グッドデザイン大賞

**エプソンアライナー**  
 AMQ1 エプソンアライナー、AMQ2 エプソンアライナー、AMQ3 エプソンアライナー

### GOOD DESIGN GOLD AWARD グッドデザイン金賞

- |  |   |                                    |
|--|---|------------------------------------|
| <b>電子ドラム</b><br>DTX950K                      | <b>電気自動車「日産リーフ」の電気...</b><br>電気自動車「日産リーフ」の電気... | <b>ハイブリッド乗用車</b><br>CR-Z           |
| <b>高級ボイラシステム</b><br>BP-301、SQ-3030...        | <b>ヒドセカタン_日産自動車</b><br>日産自動車 赤松第一号              | <b>カプセルホテル</b><br>新・1アインアワード       |
| <b>燃料電池自動車</b><br>Mirai                      | <b>高級建築用照明器具</b><br>FAZONE CB                   | <b>平野美術館</b><br>「あほう」日本美術村         |
| <b>レンズ交換式デジタルカメラ...</b><br>Eマウントレンズ交換式「G」... | <b>ハイビジョン液晶テレビ</b><br>ブラビア N4180シリーズ            | <b>業務用ノートパソコン</b><br>Latitude 2100 |
| <b>モノクロ複写機</b><br>コニカミノルタ bizhub...          | <b>エンターテインメントプロジェク...</b><br>AKB48              |                                    |

### GOOD DESIGN SUSTAINABLE DESIGN AWARD サステナブルデザイン賞

- |                      |                      |                     |
|----------------------|----------------------|---------------------|
| <b>建築資材</b><br>タナポート | <b>革命性電</b><br>環境ハイソ | <b>市庁舎</b><br>山形市庁舎 |
|----------------------|----------------------|---------------------|

### GOOD DESIGN LIFE-SCAPE DESIGN AWARD ライフスケープデザイン賞

- |                                 |                                    |  |
|---------------------------------|------------------------------------|--|
| <b>自転車</b><br>40周年記念            | <b>お刺入れ_パン</b><br>プレミアムデザインシリーズ... | <b>らくがき機_メモパッド_印刷</b><br>クラフトデザインシリーズ... |
| <b>CDプレーヤー</b><br>30周年記念CDプレーヤー | <b>収納用品</b><br>ポリプロピレン収納ケース        | <b>壁</b><br>スター&コニト&エルフ                  |
| <b>バスド</b><br>壁付バスド             | <b>エレゴトリックコンピューター</b><br>EC-01     | <b>子育て支援サービス</b><br>赤ちゃんの国               |

### GOOD DESIGN AWARD OF SMALL AND MEDIUM ENTERPRISES 中小企業庁長官賞

- |                                |                            |                            |
|--------------------------------|----------------------------|----------------------------|
| <b>ゴム作り作業用手袋</b><br>エプソンターモックス | <b>折りたたまぬ紙</b><br>フナイブリックス | <b>うちわ</b><br>鳥居のちわ「Dijig」 |
|--------------------------------|----------------------------|----------------------------|




 <b>上村付藤倉</b> メラフェイス ルカーノ スリース...	 <b>ディーキヤニスター</b> Karmi	 <b>木製椅子</b> sansa chair
 <b>木製椅子</b> GNA	 <b>木製椅子</b> Cornado	 <b>住宅</b> 新時代の住まい (HABITA ...)
 <b>食品検査用X線貨物検査機</b> SX2040W シリーズ	 <b>ゴム射出成形機</b> ST1-L0-220VR-2	 <b>製菓用パン用オーブン</b> バックスルーオープン・フルオ...
 <b>社屋</b> 中川政七商店新社屋	 <b>スタッキングチェア</b> Tiga	 <b>ローカル鉄道駅のリノベーション</b> 土佐くろしお鉄道 中村駅 リノ...
 <b>メディアコントロール</b> スピン/タイフーン		

**GOOD DESIGN AWARD OF THE JAPAN CHAMBER OF COMMERCE AND INDUSTRY** | 日本商工会議所会賞







 **日産市から発信する課題解決プロダ...**  
obsugi design

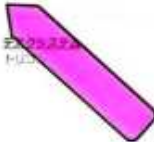
**GOOD DESIGN SPECIAL AWARD OF JUDGING COMMITTEE CHAIRMAN** | 審査委員長特別賞

 **日本発の新たな学術領域**  
システム・バイオロジー

**GOOD DESIGN LONG LIFE DESIGN AWARD** | グッドデザイン・ロングライフデザイン賞

 <b>チューインガム</b> ブロッグブロッグガム	 <b>接着剤</b> ボンド 木工用	 <b>油性ボールペン</b> ビックオレング
 <b>ノートパッド</b> プロジェクトペーパー	 <b>コードリール</b> ケーブルスタートル	 <b>ペーパーホルダー</b> hane ペーパーホルダー
 <b>録音ハーモニカ</b> メロディオン PR0-37v2	 <b>ガソリンランタン</b> コールマン 286A74C3 ...	 <b>情報誌</b> グランドセイコー メカニカルモ...
 <b>二眼レフカメラ用交換レンズ</b> smc PENTAX FA L...	 <b>身体計量器</b> フェアブル ミニ	 <b>生物顕微鏡</b> エクリアス E200
 <b>電子式個人線量計</b> マイドーズミニ	 <b>ドライバ</b> アスツクドライバーNo.60...	 <b>ラジオペンチ</b> アルツール ラジオペンチ SD...
 <b>開閉用ハサミ</b> ミニクリエーションF	 <b>ドアクローゼ</b> ドアクローゼ 1000シリーズ	 <b>アルミ踏台</b> ナローステップ
 <b>内装用壁紙</b> 健康壁紙 エコカラット	 <b>植栽鉢ばね式自在植替手</b> サカイ商器植替手LAD-Cシリ...	 <b>かさ面蓋装置</b> B-BOX (ビーボックス ...)
 <b>皿止め</b> LP-57Aシリーズ	 <b>スプーン</b> のめじスプーン (カットスプーン...	 <b>ダブルウェア</b> ベアシック
 <b>茶碗 (土瓶、急須、巾のみ)</b> 水玉 茶碗	 <b>牛乳びん</b> 2900×286g	 <b>米びつ</b> ライスディスペンサー

-  **2010年度グッドデザイン賞**  
オニニワッディ
-  **2010年度グッドデザイン賞**  
オニニワッディ (特選) 60cm×6...
-  **2010年度グッドデザイン賞**  
ワールドワイド
-  **2010年度グッドデザイン賞**  
オニニワッディ
-  **2010年度グッドデザイン賞**  
金庫アール  
インターレイスシリーズ モーテ...
-  **2010年度グッドデザイン賞**  
新橋橋  
キングストロークウォーク (特選)



GOOD DESIGN AWARD | 2010年度グッドデザイン賞受賞対象一覧

2010

2010年度 から 年度を選択 特別賞を選択 詳細検索を表示

GOOD DESIGN LONG LIFE DESIGN AWARD | ウッドデザイン・ロングライフデザイン賞



マイナート ヴィジュアル 絞り

受賞対象名	フタ付きバケツ [オムニウッティ]
事業主体名	八幡化成株式会社
分類	ウッドデザイン・ロングライフデザイン賞
受賞企業	八幡化成株式会社 [検索用]
受賞番号	10L0102B

受賞対象の概要 ※特許している場合は、受賞対象の商品のため、類似の権利を保有する場合があります。

概要  
一般的な荷物も無いバケツのように思えますが、実は使い方は数種。ダンボールの紐をモチーフにデザインし、オシャレでカラフルなカラーリングはインテリアのアクセントにもなります。また、フタがあるので掃除ツールにもなり、容量は150kgまでOK。例えば、お子様のオムチャ入れとして、フタをすれば積み重ねができ、スリッパも付きます。キッチンで野菜入れやお米の収納、ごみの分別、ガーデニングでは、土入れ、肥料入れ、肥料の収納に、アウトドア

## Appendix 4 Reference Design 1

URL: <http://www.hachimankasei.co.jp/product/sceltevie/omnioutil/omnioutil.html>

http://www.hachimankasei.co.jp/product/sceltevie/omnioutil/omnioutil.html

hachimankasei co. ltd

NEWS ABOUT US PRODUCT DEVELOPMENT PRESS LINK

TOP PAGE > 製品情報 > sceltevie セルテヴィエ > omnioutil オムニウツティ

# sceltevie®

【セルテヴィエ】®

「上質で洗練されたデザインを入りの生活に」をコンセプトに開発したプラスチック雑貨のブランドです。シンプルでムダがなく機能的、且つ奥行きのあるデザイン開発を主眼としていくことがセルテヴィエのテーマであり夢でもあります。

- Grace Royal
- quanager 460
- quanager mini
- omnioutil
- mobile deco panier
- mobile deco berceau
- Grace regina
- Tunell

# way-be®

【ウェイビー】®

ウェイビーは、「新しいプラスチックの有り方」をコンセプトに、素材をプラスチックでデザイン・リプロダクションした雑貨です。シンプルでフェルミナライズスタイルを提案させています。

- way-be
- AMBRE Ag+

# PRODUCT

製品情報

## omnioutil オムニウツティ



使い方は無限大〜フタ付きバケツ「オムニウツティ」  
一見筒の底がないバケツのように思えますが、実は使い方は無限大。ダンボールの底をモチーフにデザインし、オシャレでカラフルなカラーリングがインテリアのアクセントにもなります。また、フタがあるので簡単スツールにもなり耐荷重は150kgまで可。例えば、お子様のおもちゃ入れとして、フタをすれば積み重ねができます。キッチンで野菜入れや、お米の収納、ランドリー収納、つけ置き洗い、洗車に。  
ガーデニングでは、土入れ、肥料入れ、道具の収納として。  
アウトドアでは、海、山、川でのレジャーの荷入れ、道具入れ、イスとして大活躍します。  
また、洗車などの道具入れ、踏み台、イスとして、ハンドルにはホースを通せる穴があり、水圧で外れない工夫を凝らしています。  
2010年ロングライフデザイン賞受賞作品です。

### ○ SPECS

- 材質：本体・フタ・ハンドル：ポリプロピレン / リング：ポリエチレン
- 容量：58リットル / 110リットル / 120リットル
- 重量：9730g / L825g / LL1170g
- 耐荷重：150kg



7から

http://www.bachmarket.co.jp/product/way-be/ambire/way-be/

Go

1 2 3  
2 30th 2012

Way-be  
2012年11月

● **ambire duo barocco**

● **Gracia regina**

● **Tunell**

**way-be**  
[2012年11月]

ウェイビーは、「新しいプラスチックのあり方」をコンセプトに、素材をプラスチックでデザイン・リプロダクションして提供。シンプルでかジュアルなライフスタイルを提案させていただきます。

● **Way-be**

● **AMBIRE Ag+**

**使い方は無限大〜フタ付きバケツ「ボムニウッティ」**  
 一般的には洗剤を1リットルのように思いますが、実は使い方は無限大。タンボールの蓋を毛布でデザインし、オシャレでおしゃれなカラーリングはインテリアのアクセントにもなります。また、フタがあるので乾燥スチールにも耐えられる容量は150kgまで可。例えば、お子様の毛布を入れて、フタをすれば積み重ねがてまスキリ付きます。キッチンで野菜入れ、浴室の収納、ランドリー収納、お風呂洗い、掃除機。

ガーデニングでは、土入れ、肥料入れ、道具の収納として。アウトドアでは、魚、山、おでのレジャーの道具入れ、道具入れ、イスとしてお楽しみします。また、洗車のお水の道具入れ、踏み墊、イスとして、ハンカチの入れを添わせるれがあり、水足で折れないエネを感らしています。

2010年ロングライフデザイン賞受賞商品です。

○ **SPECS**

- **材質**：本体・フタ・ハンドル：ポリプロピレン / リング：ポリエチレン
- **容量**：66リットル / 110リットル / 130リットル
- **重量**：5730g / 825g / 11170g
- **耐重量**：150kg
- **耐熱温度**：120℃
- **耐寒温度**：-30℃
- **備考**：持ち手とフタは両色になります

○ **COLOUR VARIATION**



○ **SIZE (mm)**



http://www.hachimen-kasei.co.jp/product/ace/kuwamocul/omocul.html

19-0424184  
2017.07.13

Go

1 2 3  
2  
1/11 2017

○ ACE


○ ACE

○ ACE

○ ACE

○ ACE

○ SIZE (mm)




omocul 3Lタイプ  
W232×D212×H228


omocul 5Lタイプ  
W232×D257×H238

omocul 8Lタイプ  
W275×D254×H233


○ EXAMPLE



キッチン・ルームのゴミ入れとして、  
清潔にゴミを捨てることができます。



魚の飼料として



洗濯・お掃除の道具入れとして、  
お掃除の道具一式を収納することができます。  
互換性のある商品があります。

商品詳細に関するお問い合わせはこちら  
お問い合わせ先は、株式会社ハチメンケイ 総務部 0575-67-1175

0575-67-1175

hachimen

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Internet Archive Wayback Machine

<http://www.hachimankasei.co.jp/product/sceltevie/omniout/>
BROWSE HISTORY

<http://www.hachimankasei.co.jp/product/sceltevie/omnioutif/omnioutif.html>  
 Saved **19 times** between 1月 2, 2011 and 7月 3, 2015.

PLEASE DONATE TODAY. Your generosity preserves knowledge for future generations. Thank you.

Year	Number of Saves
2011	19
2012	10
2013	11
2014	14
2015	10

Calendar view showing dates from 2011 to 2015. The year 2011 is highlighted in yellow. The calendar shows the following dates with save counts:

- 2011: Jan 2 (1), Jan 3 (1), Jan 4 (1), Jan 5 (1), Jan 6 (1), Jan 7 (1), Jan 8 (1), Jan 9 (1), Jan 10 (1), Jan 11 (1), Jan 12 (1), Jan 13 (1), Jan 14 (1), Jan 15 (1), Jan 16 (1), Jan 17 (1), Jan 18 (1), Jan 19 (1), Jan 20 (1), Jan 21 (1), Jan 22 (1), Jan 23 (1), Jan 24 (1), Jan 25 (1), Jan 26 (1), Jan 27 (1), Jan 28 (1), Jan 29 (1), Jan 30 (1), Jan 31 (1)
- 2011: Feb 1 (1), Feb 2 (1), Feb 3 (1), Feb 4 (1), Feb 5 (1), Feb 6 (1), Feb 7 (1), Feb 8 (1), Feb 9 (1), Feb 10 (1), Feb 11 (1), Feb 12 (1), Feb 13 (1), Feb 14 (1), Feb 15 (1), Feb 16 (1), Feb 17 (1), Feb 18 (1), Feb 19 (1), Feb 20 (1), Feb 21 (1), Feb 22 (1), Feb 23 (1), Feb 24 (1), Feb 25 (1), Feb 26 (1), Feb 27 (1), Feb 28 (1), Feb 29 (1)
- 2011: Mar 1 (1), Mar 2 (1), Mar 3 (1), Mar 4 (1), Mar 5 (1), Mar 6 (1), Mar 7 (1), Mar 8 (1), Mar 9 (1), Mar 10 (1), Mar 11 (1), Mar 12 (1), Mar 13 (1), Mar 14 (1), Mar 15 (1), Mar 16 (1), Mar 17 (1), Mar 18 (1), Mar 19 (1), Mar 20 (1), Mar 21 (1), Mar 22 (1), Mar 23 (1), Mar 24 (1), Mar 25 (1), Mar 26 (1), Mar 27 (1), Mar 28 (1), Mar 29 (1), Mar 30 (1), Mar 31 (1)
- 2011: Apr 1 (1), Apr 2 (1), Apr 3 (1), Apr 4 (1), Apr 5 (1), Apr 6 (1), Apr 7 (1), Apr 8 (1), Apr 9 (1), Apr 10 (1), Apr 11 (1), Apr 12 (1), Apr 13 (1), Apr 14 (1), Apr 15 (1), Apr 16 (1), Apr 17 (1), Apr 18 (1), Apr 19 (1), Apr 20 (1), Apr 21 (1), Apr 22 (1), Apr 23 (1), Apr 24 (1), Apr 25 (1), Apr 26 (1), Apr 27 (1), Apr 28 (1), Apr 29 (1), Apr 30 (1)
- 2011: May 1 (1), May 2 (1), May 3 (1), May 4 (1), May 5 (1), May 6 (1), May 7 (1), May 8 (1), May 9 (1), May 10 (1), May 11 (1), May 12 (1), May 13 (1), May 14 (1), May 15 (1), May 16 (1), May 17 (1), May 18 (1), May 19 (1), May 20 (1), May 21 (1), May 22 (1), May 23 (1), May 24 (1), May 25 (1), May 26 (1), May 27 (1), May 28 (1), May 29 (1), May 30 (1), May 31 (1)
- 2011: Jun 1 (1), Jun 2 (1), Jun 3 (1), Jun 4 (1), Jun 5 (1), Jun 6 (1), Jun 7 (1), Jun 8 (1), Jun 9 (1), Jun 10 (1), Jun 11 (1), Jun 12 (1), Jun 13 (1), Jun 14 (1), Jun 15 (1), Jun 16 (1), Jun 17 (1), Jun 18 (1), Jun 19 (1), Jun 20 (1), Jun 21 (1), Jun 22 (1), Jun 23 (1), Jun 24 (1), Jun 25 (1), Jun 26 (1), Jun 27 (1), Jun 28 (1), Jun 29 (1), Jun 30 (1)
- 2011: Jul 1 (1), Jul 2 (1), Jul 3 (1), Jul 4 (1), Jul 5 (1), Jul 6 (1), Jul 7 (1), Jul 8 (1), Jul 9 (1), Jul 10 (1), Jul 11 (1), Jul 12 (1), Jul 13 (1), Jul 14 (1), Jul 15 (1), Jul 16 (1), Jul 17 (1), Jul 18 (1), Jul 19 (1), Jul 20 (1), Jul 21 (1), Jul 22 (1), Jul 23 (1), Jul 24 (1), Jul 25 (1), Jul 26 (1), Jul 27 (1), Jul 28 (1), Jul 29 (1), Jul 30 (1), Jul 31 (1)
- 2011: Aug 1 (1), Aug 2 (1), Aug 3 (1), Aug 4 (1), Aug 5 (1), Aug 6 (1), Aug 7 (1), Aug 8 (1), Aug 9 (1), Aug 10 (1), Aug 11 (1), Aug 12 (1), Aug 13 (1), Aug 14 (1), Aug 15 (1), Aug 16 (1), Aug 17 (1), Aug 18 (1), Aug 19 (1), Aug 20 (1), Aug 21 (1), Aug 22 (1), Aug 23 (1), Aug 24 (1), Aug 25 (1), Aug 26 (1), Aug 27 (1), Aug 28 (1), Aug 29 (1), Aug 30 (1), Aug 31 (1)
- 2011: Sep 1 (1), Sep 2 (1), Sep 3 (1), Sep 4 (1), Sep 5 (1), Sep 6 (1), Sep 7 (1), Sep 8 (1), Sep 9 (1), Sep 10 (1), Sep 11 (1), Sep 12 (1), Sep 13 (1), Sep 14 (1), Sep 15 (1), Sep 16 (1), Sep 17 (1), Sep 18 (1), Sep 19 (1), Sep 20 (1), Sep 21 (1), Sep 22 (1), Sep 23 (1), Sep 24 (1), Sep 25 (1), Sep 26 (1), Sep 27 (1), Sep 28 (1), Sep 29 (1), Sep 30 (1)
- 2011: Oct 1 (1), Oct 2 (1), Oct 3 (1), Oct 4 (1), Oct 5 (1), Oct 6 (1), Oct 7 (1), Oct 8 (1), Oct 9 (1), Oct 10 (1), Oct 11 (1), Oct 12 (1), Oct 13 (1), Oct 14 (1), Oct 15 (1), Oct 16 (1), Oct 17 (1), Oct 18 (1), Oct 19 (1), Oct 20 (1), Oct 21 (1), Oct 22 (1), Oct 23 (1), Oct 24 (1), Oct 25 (1), Oct 26 (1), Oct 27 (1), Oct 28 (1), Oct 29 (1), Oct 30 (1), Oct 31 (1)
- 2011: Nov 1 (1), Nov 2 (1), Nov 3 (1), Nov 4 (1), Nov 5 (1), Nov 6 (1), Nov 7 (1), Nov 8 (1), Nov 9 (1), Nov 10 (1), Nov 11 (1), Nov 12 (1), Nov 13 (1), Nov 14 (1), Nov 15 (1), Nov 16 (1), Nov 17 (1), Nov 18 (1), Nov 19 (1), Nov 20 (1), Nov 21 (1), Nov 22 (1), Nov 23 (1), Nov 24 (1), Nov 25 (1), Nov 26 (1), Nov 27 (1), Nov 28 (1), Nov 29 (1), Nov 30 (1)
- 2011: Dec 1 (1), Dec 2 (1), Dec 3 (1), Dec 4 (1), Dec 5 (1), Dec 6 (1), Dec 7 (1), Dec 8 (1), Dec 9 (1), Dec 10 (1), Dec 11 (1), Dec 12 (1), Dec 13 (1), Dec 14 (1), Dec 15 (1), Dec 16 (1), Dec 17 (1), Dec 18 (1), Dec 19 (1), Dec 20 (1), Dec 21 (1), Dec 22 (1), Dec 23 (1), Dec 24 (1), Dec 25 (1), Dec 26 (1), Dec 27 (1), Dec 28 (1), Dec 29 (1), Dec 30 (1), Dec 31 (1)

Appendix 5 Reference Design 2

JAPAN PATENT OFFICE

Design Bulletin (S) issued on January 29, 1991 (Heisei 3)

C3-351

805878 Japanese Design Application No. S61-41307

Filing October 17, 1986 (Showa 61)

Registration October 15, 1990 (Heisei 2)

Creator YOSHIKAWA Toshimichi 646-2, Kamori, Taimacho, Kitakatsuragi-gun,  
Nara

Design right holder Yoshikawakuni Plastics Co., Ltd. 646-2, Kamori, Taimacho,  
Kitakatsuragi-gun, Nara

Agent Patent Attorney FUKUSHIMA Mitsuo

Examiner NABETA Kazunobu

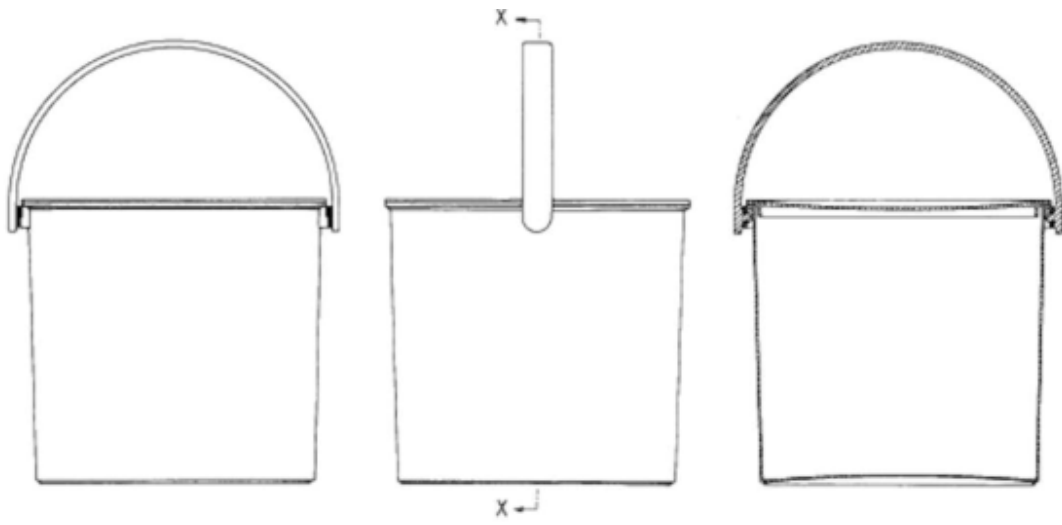
Article to the design bucket

Description This article is made of plastic and is formed by integrally molding a body, a lid, and a handle, and combining them. Rear View is the same as Front View, and Left Side view is the same as Right Side View.

Front View  
View

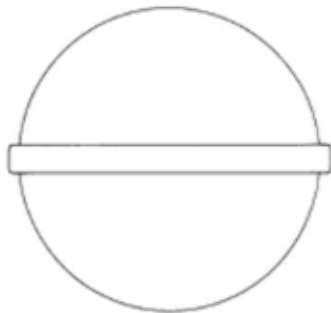
Right Side view

X-X Sectional



Top View

Bottom View



- 11 -