

Appeal decision

Appeal No. 2017-13365

Osaka, Japan
Appellant

SHARP CORPORATION

Osaka, Japan
Patent Attorney

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The case of appeal against the examiner's decision of refusal of Japanese Design Application No. 2016-7746, entitled "TELEVISION RECEIVER" has resulted in the following appeal decision.

Conclusion

The examiner's decision is revoked.

The design in the application shall be registered.

Reason

No. 1 The design in the application

The application for design registration was filed on April 7, 2016 to request a design registration of a part of an article, and concerning the design (hereinafter, referred to as "the design in the application"), the article to the design is "TELEVISION RECEIVER", and its shape, patterns, or colors, or any combination thereof (hereinafter, also referred to as "form") is as described in the application and the drawings attached to the application. The application describes in "Description of Design" as follows (see Appendix 1).

"A part represented by a solid line is the part for which the design registration is

requested as a partial design. A dash-dotted line is a line expressing only the boundary between the part for which the design registration is requested as a partial design and the other parts."

No. 2 Reasons for refusal stated in the examiner's decision

The reasons for refusal stated in the examiner's decision are that it is acknowledged that the design in the application is similar to a design that were described in a distributed publication, or a design that were made publicly available through an electric telecommunication line in Japan or a foreign country, prior to the filing of the application, and thus, it falls under the design of Article 3(1)(iii) of the Design Act (a design that cannot be granted design registration because of its similarity to a prior, publicly known design). Concretely, the reasons for refusal are as follows.

"Comparing the part for which the design registration is requested as a partial design of the design registration application and the part of the following design, corresponding to the part for which the design registration is requested as a partial design of the application, both designs are common in the point that four vertically long rectangular frame bodies are arranged side by side, at a generally center region in a screen, and different colors are added to inside of respective frames, and the commonality is very prominent.

On the other hand, regarding colors around the rectangular frames, although the difference is acknowledged in that it is black in the design in the application, whereas it is of pale colors in Cited Design, it is common in the field of the article to set the background of graphic image on a screen to color tones with low brightness such as black, so that the difference is acknowledged to be a weak difference buried in the

common feature, and to have a small effect on the determination of similarity.

Therefore, it is acknowledged that the two designs are similar to each other.

Korea Design Trademark Gazette No. 06-46 on September 19, 2006 accepted by
Patent Information Division in Japan Patent Office on November 30, 2006

Of a television receiver (Registration No. 30-0423975) in which a screen design
is displayed, the design of four vertically long rectangular portions and peripheral
portions thereof

(Publicly Known Information in Design Division of Japan Patent Office No.
HH18466555)

"

No. 3 The appellant's allegation

The appellant submitted a written request for appeal on September 8, 2017, and
alleged reasons why the design in the application should be registered, generally as
follows.

1 Reasons why the design in the application should be registered

(1) Comparison of the two designs

A Common features of the two designs

Articles to which both designs are respectively applied correspond to television
receivers, and the part for which the design registration is requested in the design in the
application and the part corresponding to that in Cited Design have the following
common feature.

(a) In a generally center region in a screen, four vertically long rectangular portions are arranged side by side.

B Different features of the two designs

On the other hand, the two designs have the following difference features in display contents or a form thereof.

(A) The design in the application, as the description of the article to the design, is a display image for selecting contents such as a terrestrial broadcast program or on-demand distribution and making transition to a viewing screen, whereas, it is presumed that Cited Design is a display image (so-called home shopping) for selecting a rectangle portion on which the product the viewer wishes to purchase is displayed and making transition to a purchase screen, since images of cosmetics, a washing machine, clothes, a sofa, etc. are displayed from the left side in the inside of the four vertically long rectangular portions.

(B) Regarding a form of the inside of the four vertically long rectangular portions arranged side by side, in the design in the application, colors of blue, red, green, and yellow are successively arranged from the left side, whereas, in Cited Design, colors of orange, pink, blue, and light black are successively arranged from the left side.

(C) Regarding forms of edge parts of the vertically long rectangular portions, in the design in the application, a frame line for bordering a periphery is not formed in any of the rectangular portions, whereas, in Cited Design, frame lines for bordering peripheries with colors of grey, grey, yellow, and grey successively from the left side are formed. And, concerning the yellow frame line of Cited Design, a lower side is formed to be about 5 times wider than right, left, and upper sides, and two triangular portions facing

in a right and left direction and one circular portion are formed inside thereof.

(D) Regarding forms of peripheries of the vertically long rectangular portions, in the design in the application, it is black, and in Cited Design, it is a light orange or grey.

(2) Determination of similarity between the design in the application and Cited Design

A Evaluation of the common feature

Regarding a constitution common in the two designs that "(a) in a generally center region in a screen, four vertically long rectangular portions are arranged side by side," since a structure in which a plurality of large vertically long rectangular portions are aligned and one of them is selected, is a constitution which has been conventionally seen, for example, in a display screen of a game machine and the like, it is weak as an element of the determination of their similarity, and it is thought that the similarity between the designs should be determined based on the comparison of a further specific constitution including colors.

B Evaluation of the different features

(A) Regarding the different feature (A)

The design in the application is a view selection screen for making transition to a content screen desired to be viewed such as a terrestrial broadcast program, whereas, it is presumed that Cited Design is an image of home shopping, and a purchase selection screen for making transition to a screen for purchasing products. Accordingly, the two designs are common in the articles to the design, but are different in usage and functions of the screens.

(B) Regarding the different feature (B)

It can be said as a big feature of the design in the application that concerning the

colors and arrangement of four rectangular portions, assuming that a user operates with a remote controller corresponding to the operational guidelines for digital terrestrial television broadcasting, the colors of the rectangular portions are made to be blue, red, green, and yellow successively from the left side and to correspond to the colors of buttons of the remote controller (in a remote controller corresponding to the above operational guidelines, operation buttons of blue, red, green, and yellow are arranged side by side successively from the left side). Therefore, in addition to operation by cursor keys which have been conventionally seen, when selecting the rectangular portions displaying the contents, it enables a user to directly select (one touch operation) with the color buttons of the remote controller by pressing the remote controller buttons of the same arrangement and the same color. On the other hand, in Cited Design, concerning the colors and arrangement of the vertically long rectangular portions, no particular ingenuity is found considering at least one-touch operation with the remote controller corresponding to the operational guidelines for digital terrestrial television broadcasting, and it can be said that Cited Design has a remarkable difference from the design in the application.

Also, although in the examiner's decision, it is recognized that "the two designs are given common colors such as blue, red, and yellow of the same degree of brightness, and it rather strengthens the common impression of both designs," there is an obvious difference between the design in the application considering the arrangement of the colors while adopting blue, red, green, and yellow comparatively close to the primary colors so as to correspond to the buttons of the remote controller, and Cited Design adopting pale colors and also having different arrangement of the colors, so that it is considered that the recognition of the examiner is not appropriate.

(C) Regarding the different feature (C)

The design in the application is made to be a simple design as far as possible (for example, in an product of the design in the application, a structure which displays the selected rectangular portion larger than other rectangular portions is adopted) without forming a frame line bordering the peripheries on the vertically long rectangular portions, whereas, Cited Design is a design which changes the colors of the frame lines and the width of lower sides of the frame lines in the selected rectangular portion and the rectangular portions which are not selected, thereby enhancing the selected rectangular portion, so that it can be said that there is a difference between the two designs.

(D) Regarding the different feature (D)

Regarding forms of the peripheries of the vertically long rectangular portions, those in the design in the application are forms which have been conventionally known, and it cannot be said that they strongly attract the attention of consumers, so that it is considered that it can be safely said that an effect on the determination of similarity is relatively small.

(E) Summary

As described above, the design in the application and Cited Design are different in usage and functions of the screens in the first place. Furthermore, the two designs have a difference in the colors and arrangement of the four vertically long rectangular portions arranged side by side, and a difference in the presence/absence of the frame lines bordering the peripheries. Since on this type of a content selection screen of a television receiver, a consumer often operates with a remote controller and the like, it is considered that the form combined with the said different features relating to the

operability thereof should be regarded as important in the determination of similarity.

2 Closing

As described above, the examiner's decision that the design in the application falls under Article 3(1)(iii) of the Design Act and thus cannot be granted design registration lacks validity.

No. 4 Judgment by the body

1 The design in the application

In the body, the design in the application is recognized as follows (see Appendix 1).

(1) Article to the design

The article to the design of the design in the application (hereinafter, referred to as "the article in the application") is a "TELEVISION RECEIVER", and in "Description of Design" of the application, it is described as follows.

"A image shown in a front view is an operation image of a television receiver, on which a user selects contents (for example, a terrestrial broadcast program, a teletext, on-demand distribution, etc.) by operating an attached remote controller and makes a transition to a viewing screen. By operating cursor keys of the remote controller, one of vertically long rectangles of four colors is selected, and by pressing an enter key, contents assigned to respective rectangles can be viewed. Also, the colors and arrangement of the rectangles coincide with the colors and arrangement of four-color buttons provided on the remote controller, according to the operational guidelines for digital terrestrial television broadcasting, and one-touch operation with the four-color

buttons is enabled."

According to the description of the application, the article in the application is a television receiver in which operation images are shown, and has usage and functions for selecting broadcast related contents such as a terrestrial broadcast program, a teletext, and on-demand distribution.

(2) Images shown in "a front view"

According to the descriptions of the application and the drawings attached to the application, the design in the application is provided with a leg under a body having a thin rectangular solid shape, and on a screen (a tangible display) provided generally the entire surface of a front surface of the body, an graphic image (hereinafter, referred to as "the image in the application") of a horizontally long rectangle (an aspect ratio is about 9:16) is displayed. A part for which the design registration is requested as a partial design (hereinafter, referred to as "the image part in the application") is the part partitioned by dashed-dotted lines in the image in the application.

(3) Usage and function of the image part in the application

The usage of the image part in the application is for viewing the broadcast related contents, and it is presumed that the image is transited by selecting one of the four-color vertically long rectangles. The function of the design in the application for viewing the broadcast related contents (a terrestrial broadcast program, text broadcast, a teletext, on-demand distribution, etc.) in relation to the selected one vertically long rectangle can be performed.

(4) Position, size, and scope of the image part in the application

The position of the image part in the application is slightly below the center of the image in the application, and for the size and scope of the image part in the

application in the image in the application, a ratio of the height of a margin portion: the height of the image part in the application: the height of the margin portion in a vertical direction is about 3:6:2, and a ratio of the width thereof in a horizontal direction is about 1:8:1.

Also, in the four vertically long rectangles configuring the image part in the application, a plurality of regions are excluded from the part for which the design registration is requested, and the part for which the design registration is requested in the vertically long rectangle consists of "parts close to outer edges" and "parts between a plurality of regions to be excluded." (According to "Reference View Showing The Explanation Of Each Display Region", the plurality of regions to be excluded is "a function icon display region," "a title and the like display region," "a contents and the like display region," and "a detailed information display region" successively from the upper side.)

(5) Form of the image part in the application

A Whole Constitution

The entire outline of the image part in the application is a rectangle (an aspect ratio is about 5:13), and in the inside thereof, four vertically long rectangles of the same shape and the same size are aligned in a horizontal direction at equal intervals. Parts around the four vertically long rectangles and parts between the vertically long rectangles become peripheral portions. Except for the parts around the rectangles, an aspect ratio connecting the outer peripheries of the four vertically long rectangles is about 1:2.8.

B Constitutions of the vertically long rectangles

The vertically long rectangles have an aspect ratio of about 3:2, and corner

portions are represented in small arc-shaped.

The shapes of the regions (the plurality of regions of (4) above) excluded from the part for which the design registration is requested in the vertically long rectangles are small rectangles, horizontally long rectangles, squares, and horizontally long rectangles successively from the upper side.

C Color

The colors of each vertically long rectangle are blue, red, green, and yellow successively from the left side, and the color of the peripheral portions is black.

2 Cited Design

In the body, Cited Design is recognized as follows (see Appendix 2).

(1) Article to the design

The article to the design of Cited Design (hereinafter, referred to as "the Cited Article") is a "TELEVISION RECEIVER DISPLAYING A SCREEN DESIGN", in which a screen (a physical screen) provided while leaving a margin portion on a periphery thereof is provided on a front surface of a television receiver having a generally horizontally long rectangular solid shape with a depth, and an graphic image on the screen (hereinafter, referred to as "Cited Image") of a horizontally long rectangular shape (an aspect ratio is about 2:3) is displayed. In the reasons for refusal stated in the examiner's decision, the parts corresponding to the image part in the application are parts of the four vertically long rectangles in Cited Image, and peripheral portions of the vertically long rectangles (hereinafter, referred to as "Cited Part").

(2) Usage and function of Cited Part

In the four vertically long rectangles (hereinafter, referred to as "the first

rectangle," "the second rectangle," "the third rectangle," and "the fourth rectangle" successively from the left side), images of various products are represented. Cosmetics are shown in the first rectangle, a washing machine in the second rectangle, an article of clothing in the third rectangle, and a sofa in the fourth rectangle. Then, each vertically long rectangle shows cosmetic supplies, home appliances, clothing supplies, or furniture, and for example; if a user selects the first rectangle, it is presumed that transition to an image relating to cosmetic supplies will be made. Therefore, the usage of Cited Part is for selecting products such as cosmetic supplies, home appliances, clothing supplies, and furniture, and by selecting one of the vertically long rectangles, transition to the image relating to cosmetic supplies, home appliances, clothing supplies, or furniture will be made.

(3) The position, size, and scope of Cited Part

The position of Cited Part is slightly below the center of Cited Image, and for the size and scope of Cited Part in Cited Image, a ratio of the height of a margin portion: the height of Cited Part: the height of the margin portion in a vertical direction is about 3:5:2.5, and a ratio of the width thereof in a horizontal direction is about 1:8:1.

Also, the part corresponding to the image part in the application within the four vertically long rectangles configuring Cited Part is the part excluding the region corresponding to "the plurality of regions of 1(4) above in the image part in the application", that is "parts close to outer edges" and "parts between the plurality of regions corresponding to 'the plurality of regions of 1(4) above in the image part in the application'" in the vertically long rectangles.

(4) Form of Cited Part

A Whole Constitution

In Cited Part, the vertically long rectangles have the same shape and the same size, and are aligned in a horizontal direction at equal intervals. The peripheral portions are Parts around the four vertically long rectangles and parts between the vertically long rectangles. Except for the parts around the rectangles, an aspect ratio connecting the outer peripheries of the four vertically long rectangles is about 1:2.6.

B Constitutions of the vertically long rectangles

The vertically long rectangles have an aspect ratio of about 5:3, and corner portions are represented in round shape (large arc-shape).

(A) Frame

Each vertically long rectangle is formed with a frame with thin width on the outer periphery, and in the third rectangle, the height of the frame on the low side becomes large (about 1/6.5 of the height of the vertically long rectangle).

(B) Pattern

In respective vertically long rectangles, different patterns are shown. In the first rectangle, a portrait of a woman is represented slightly below the right half portion, and several cosmetics are represented in the lower left part. Also, in the second rectangle, an image of a washing machine is represented in a generally lower half portion, and in the third rectangle, an image of an article of clothing (it is presumed as a jacket.) is represented in a lower part slightly close to right, and in the fourth rectangle, the image of the room where the two-seat sofa is placed is represented in a lower part from the center.

Those patterns are also represented in the part corresponding to the image part in the application within the vertically long rectangles, that is the "parts close to outer edges" and the "parts between the plurality of regions corresponding to 'the plurality of

regions of 1(4) above in the image part in the application." (For example, in the fourth rectangle, the image of a room is also represented in the part corresponding to the "parts close to outer edges in the image part in the application.")

C Color

The colors of each vertically long rectangle excluding the parts of the frame and the patterns mentioned above, are orange, pink, blue, and grey successively from the left side, and the colors of the peripheral portions are ivory (mainly an upper left side and a left side), light blue (a lower side and a lower right side), and dark ivory (an upper right side).

The colors of the frames are ocher in the third rectangle and light gray in other rectangles.

For the colors of the patterns, hair of the woman in the first rectangle and the article of clothing in the third rectangle are represented in black, a cabinet of the washing machine in the second rectangle is represented in pink, and a wall and a painting in the room in the fourth rectangle are represented in grey.

3 Comparison between the design in the application and Cited Design

(1) Article to the design

The article to the design of the design in the application is a "TELEVISION RECEIVER" displaying an operation screen, and the article to the design of Cited Design is also a "TELEVISION RECEIVER DISPLAYING A SCREEN DESIGN". Therefore, the articles to the design of the design in the application and Cited Design (hereinafter, referred to as "the two designs") are identical.

(2) Usage and functions of the image part in the application and Cited Part

The usage of the image part in the application is for viewing the broadcast related contents, and the usage of the Cited Part is for selecting the product such as cosmetic supplies. Therefore, the usage of the image part in the application and Cited Part (hereinafter, referred to as "the two parts") are different.

Also, by selecting the image part in the application, the function of the article in the application for viewing the broadcast related contents (a terrestrial broadcast program, a teletext, on-demand distribution, etc.) can be performed, whereas by selecting Cited Part, it does not transit to the image for viewing the broadcast related contents. Therefore, the functions of the two parts are also different in this point.

(3) The positions, size, and scopes of the two parts

The positions of the two parts are identical in the point that they are slightly below the center of the entire images.

Also, both parts have about 1:8:1 ratio of the width of the margin portion: the width of the part: the width of the margin part in the horizontal direction, and thus they are identical. The ratio thereof in the vertical direction is about 3:6:2 in the image part in the application, and is about 3:5:2.5 in Cited Part, and thus they are generally similar. Therefore, the positions, sizes, and scopes of both parts are common.

(4) Forms of the two parts

In comparison of forms of the two parts, mainly the following common features and different features are admitted.

A Common features of the forms

(A) Whole Constitution

The four vertically long rectangles of the same shape and the same size are aligned in a horizontal direction at equal intervals, and the parts around the four

vertically long rectangles and the parts between the vertically long rectangles become the peripheral portions. Except for the parts around the rectangles, the aspect ratio connecting the outer peripheries of the four vertically long rectangles is about 1:2.8 (the image part in the application) or about 1:2.6 (Cited Part), and both are about 1:2.7.

Also, the entire outline of the image part in the application composing the four vertically long rectangles and the peripheral portions is a rectangular shape with an aspect ratio of 5:13, and also in Cited Part, a range with an aspect ratio of 5:13 can be assumed for the entire outline adding the peripheral portions to the four vertically long rectangles.

B Different features of the forms

(a) Constitutions of the vertically long rectangles

(a-1) Aspect ratio and shape of the corner portions

The vertically long rectangle of the image part in the application has an aspect ratio of about 3:2, and the corner portions is represented in a small arc-shape, whereas the vertically long rectangle of Cited Part has an aspect ratio of about 5:3, and the corner portions is represented in the round shape.

(a-2) The presence/absence of frames and patterns

In Cited Part, the frame with thin width is formed on the outer periphery of each vertically long rectangle, and in the third rectangle, the height of the frame on the low side becomes large. In respective vertically long rectangles, different patterns are shown at the parts corresponding to the image parts in the application in the vertically long rectangles, whereas, there is no such frame and pattern in the image part in the application.

(b) Color

The colors of each vertically long rectangle at the image part in the application are blue, red, green, and yellow successively from the left side, and the color of the peripheral portions is black.

In contrast, the colors of each vertically long rectangle at Cited Part are orange, pink, blue, and grey successively from the left side, and the colors of the peripheral portions are ivory (mainly an upper left side and a left side), light blue (a lower side and a lower right side) and dark ivory (an upper right side).

4 Determination of similarity between the two designs

(1) Article to the design

As recognized above, the articles to the design of the two designs are identical.

(2) Usage and functions of the two part

As recognized above, the usage of the two parts are different in the point that they are for viewing the broadcast related contents (the image part in the application), and for selecting the product such as cosmetic supplies (Cited Part), and it can be said that the different feature has a certain effect on the determination of similarity between the two designs.

Also, the functions of the two parts are different in the point that they can exert the function of the article viewing the broadcast related contents (the image part in the application) or do not transit to the image viewing the broadcast related contents (Cited Part), and it has to be said that the different feature affects the determination of similarity between the two designs to some extent.

(3) The position, size, and scope of the two parts

As recognized above, the position, size, and scope of the two parts are common.

On the fact that the positions of the two parts are identical, in the design in the field of the article using graphic images on a screen such as a television receiver, it was ordinary before the filing of the present application that a partitioning portion surrounding elements in an image is arranged slightly below the center of the entire image, so that the effect of the common feature in the position on the determination of similarity between the two designs is small.

On the other hand, where a relationship with the margin portions generated by the layout of the partitioning portions; namely, a layout structure of the images, may create an aesthetic impression through the eye of consumers, concerning the point that the ratio of the width of the margin portion: the width of the part: the width of the margin portion in the horizontal direction is about 1:8:1 in both parts, and the ratio thereof in the vertical direction is generally similar in the two parts, it should be said that the point gives a certain visual impression on the consumers. Therefore, it can be said that the fact that the size and scope of the two parts are identical has a certain effect on the determination of similarity between the two designs.

(4) Forms of the two parts

A Evaluation of the common feature (A)

Because the constitution in which the four vertically long rectangles of the same shape and the same size are aligned in a horizontal direction at equal intervals, and the parts around the four vertically long rectangles and the parts between the vertically long rectangles become the peripheral portions, is ordinary constitution widely known in the design of in the field of the article using graphic images on a screen including the television receiver, it cannot be said that the constitution attracts attention of consumers in particular. Also, concerning the common feature that an aspect ratio connecting the

outer peripheries of the four vertically long rectangles is about 1:2.7, it is common that the element group in the images has an aspect ratio of about 1:3, so that it is hard to say that the common feature attracts attention of consumers in particular.

Then, it is hard to say that consumers pay particular attention to the form of the image part in the application in which the entire outline composing the four vertically long rectangles and the peripheral portions is a rectangular shape with an aspect ratio of 5:13, because various aspect ratios of the partitioning portion surrounding the elements in the images can be seen, and a range with an aspect ratio of 5:13 can be actually assumed in Cited Part.

Therefore, it cannot be said that the common feature (A) has a large effect on the determination of similarity between the two parts.

B Evaluation of the different features

On the contrary, the different features in the forms of the two parts are evaluated as follows, and summarizing the different features, it has to be said that those have a large effect on the determination of similarity between the two parts.

First, the different feature (a-2) about the presence/absence of the frames and patterns, is a difference which the consumers perceive at a glance. Especially, it can be presumed that the form in which the height of the frame on the low side becomes large in the third rectangle of Cited Design indicates that the consumers select the third rectangle at the present time, so that it should be said that it is a subject to which the consumers particularly pay attention. Also, in respective vertically long rectangles of Cited Part, different patterns are represented, and it should be said that the consumers pay attention to the patterns themselves, so that as compared with the image part in the application having no frame and no pattern, Cited Part gives a different aesthetic

impression to the consumers. Consequently, the effect of the different feature (a-2) on determination of similarity between the two designs is large.

Next, concerning the different feature in the color pointed out in (b), the colors of each vertically long rectangle at the image part in the application are blue, red, green, and yellow successively from the left side, and the colors and the order of the layout coincide with the four-color buttons of the remote controller decided according to "OPERATIONAL GUIDELINES FOR DIGITAL TERRESTRIAL TELEVISION BROADCASTING," and it can be said that they has a role for prompting (or leading) the one-touch operation of the four-color buttons of the remote controller to the consumers, so that it should be said that they naturally pay attention to the color and order of each vertically long rectangle. Against this, since the colors of the vertically long rectangle given to Cited Part are orange, pink, blue, and grey, they do not prompt the operation of the remote controller, and as recognized in 2(4)C above, since the cabinet of the washing machine in the second rectangle is pink, and the wall or the painting in the room in the fourth rectangle is grey, the colors of these patterns enhance the color (pink) of the second rectangle and the color (grey) of the fourth rectangle, and it can be said that the colors of each vertically long rectangle of Cited Part are combined with the existence of the patterns to give visual impressions different from that of the colors of the image part in the application to the consumers. Therefore, it has to be said that the effect of the different feature (b) on determination of similarity between the two designs is large.

On the other hand, concerning the aspect ratio of the vertically long rectangles pointed out in the different feature (a-1), it is hard to say that the vertically long rectangles of the image part in the application with an aspect ratio of about 3:2 are

greatly different as compared with the vertically long rectangles of Cited Part with an aspect ratio of about 5:3, and it should be said that the difference in the aspect ratio is the different feature that is subsumed under the common feature that both are vertically long. Also, the difference whether the corner portions of the vertically long rectangles are formed in the small arc shape (the image part in the application) or the round shape (Cited Part) is only a difference in degree, and both should be said to have a common feature in that they have rounded corners. Therefore, the effect of the different feature (a-1) on determination of similarity between the two designs is small.

C Comprehensive Evaluation

As described above, the effect of the common feature (A) in the forms of the two parts on the determination of similarity between the two parts is small, whereas, the effect of the different feature (a-2) and the different feature (b) in the forms of the two parts on the determination of similarity between the two parts are large. Even if the effect of the different feature (a-1) on the determination of similarity between the two parts is small, it has to be said that the different features in the forms collectively overwhelm the common feature in the forms, and have large effect on the determination of similarity between the two parts.

(5) Summary

Consequently, although the articles to the design of the two designs are identical, the position, size and scope of the two parts are common, and common features in size and scope of the two parts have a certain effect on the determination of similarity between the two designs, the different features in the usage and functions of the two parts have a certain effect on the determination of similarity between the two designs, and concerning the forms of the two parts, the difference feature in the forms

collectively overwhelm the common feature in the forms, and have large effect on the determination of similarity between the two parts. Therefore, it cannot be said that the design in the application is similar to Cited Design.

No. 5 Closing

As described above, since it cannot be said that the design in the application falls under the category of Article 3(1)(iii) of the Design Act based on the similarity to Cited Design in the examiner's decision, it cannot be judged that the design in the application should be rejected under the provision of Article 3(1)(iii) of the Design Act.

Moreover, as the result of the further body's examination, no other reason for rejecting the present application can be found.

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

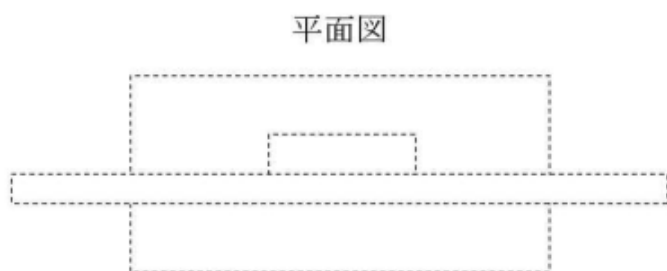
February 19, 2018

Chief administrative judge: NAITO, Hiroki
Administrative judge: KOBAYASHI, Hirokazu
Administrative judge: WATANABE, Kumi

[Article to the design] TELEVISION RECEIVER

[Description of the article to the design] A image shown in a front view is an operation image of a television receiver, on which a user selects contents (for example, a terrestrial broadcast program, a teletext, on-demand distribution, etc.) by operating an attached remote controller and makes a transition to a viewing screen. By operating cursor keys of the remote controller, one of vertically long rectangles of four colors is selected, and by pressing an enter key, contents assigned to respective rectangles can be viewed. Also, the colors and arrangement of the rectangles coincide with the colors and arrangement of four-color buttons provided on the remote controller, according to the operational guidelines for digital terrestrial television broadcasting, and one-touch operation with the four-color buttons is enabled.

[Description of the Design] A part represented by a solid line is the part for which the design registration is requested as a partial design. A dash-dotted line is a line expressing only the boundary between the part for which the design registration is requested as a partial design and the other parts.

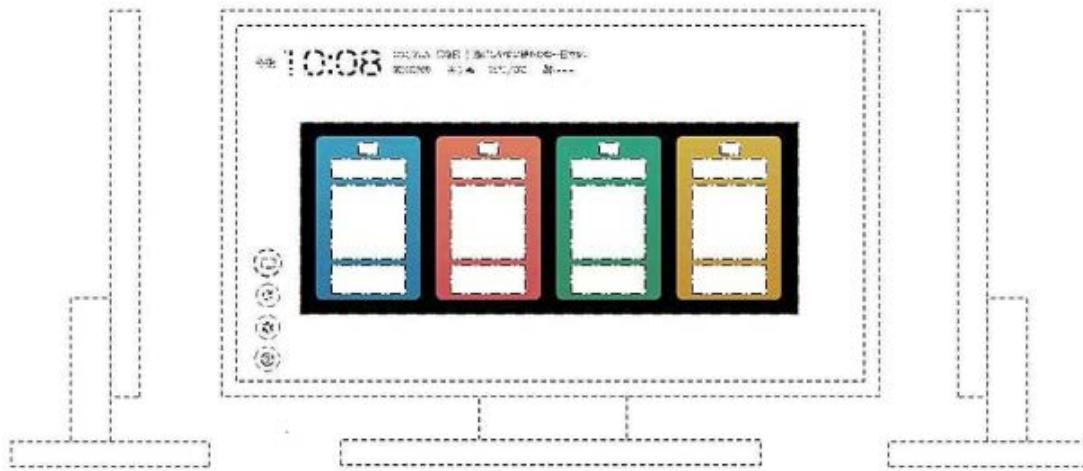


平面図 Top View

左側面図

正面図

右側面図



左側面図

Left Side View

正面図

Front View

右側面図

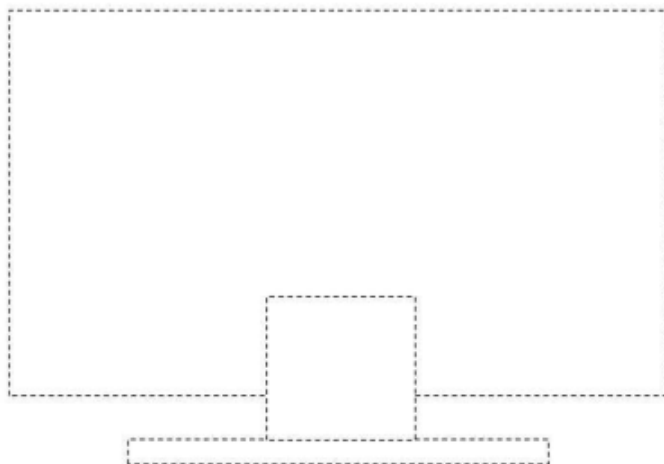
Right Side View

底面図



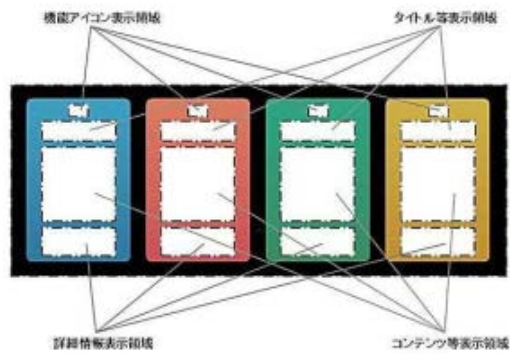
底面図 Bottom View

背面図



背面図 Rear View

各表示領域の説明を示した参考図



各表示領域の説明を示した参考図 Reference View Showing The Explanation Of Each Display Region

- | | |
|------------|--------------------------------------|
| 機能アイコン表示領域 | Function icon display region |
| タイトル等表示領域 | Title and the like display region |
| 詳細情報表示領域 | Detailed information display region |
| コンテンツ等表示領域 | Contents and the like display region |

実施態様を示した参考図



実施態様を示した参考図 Reference View Showing A Specific Embodiment

Appendix 2 The cited design

Design Trademark Gazette accepted by Patent Information Division in Japan Patent Office on November 30, 2006

No. 06-46 on September 19, 2006

The design of "TELEVISION RECEIVER DISPLAYING A SCREEN DESIGN" shown in (Registration No. 30-0423975)

(Publicly Known Information in Design Division of Japan Patent Office No. HH18466555)

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(21) 출원번호 30-2005-0037257

(22) 출원일자 2005년11월04일

(54) 화상디자인이 표시된 TV수상기

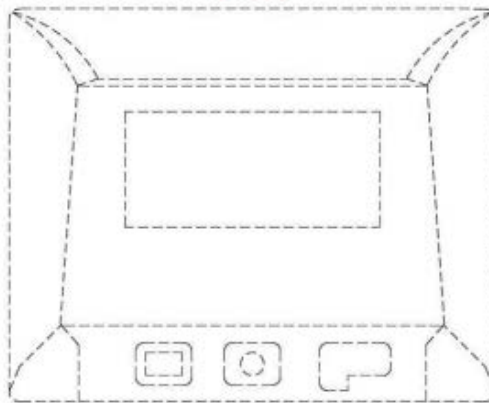
【좌시도】



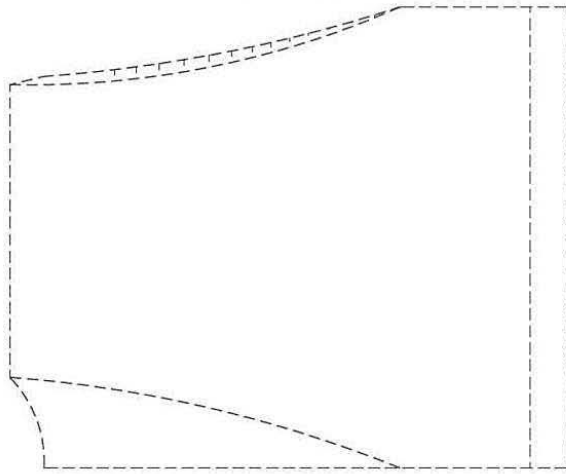
【정면도】



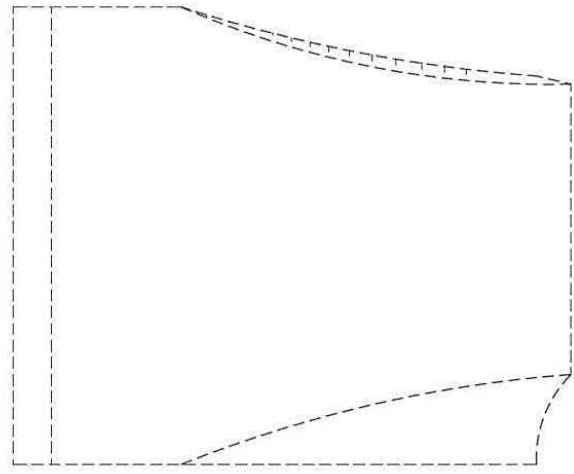
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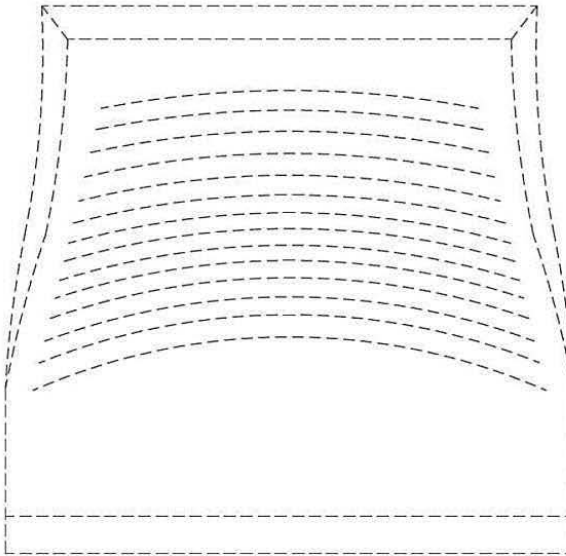
【 좌측면도 】



【 우측면도 】



【 정면도 】



【 측면도 】

