

## Appeal decision

Appeal No. 2018-1411

Tokyo, Japan  
Appellant

FURUKAWA ELECTRIC CO., LTD.

Osaka, Japan  
Patent Attorney

NAGATA, Motoaki

Shiga, Japan  
Appellant

FURUKAWA AUTOMOTIVE SYSTEMS INC.

Osaka, Japan  
Patent Attorney

NAGATA, Motoaki

Aichi, Japan  
Appellant

Toyota Motor Corporation

Osaka, Japan  
Patent Attorney

NAGATA, Motoaki

The case of appeal against the examiner's decision of refusal of Japanese Design Application No. 2016-28072, entitled "ELECTRIC CONNECTION TERMINAL" 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 History of the procedures

The present application is an application for design registration filed on December 26, 2016, and a written statement was submitted on August 9, 2017 in response to the notice of reasons for refusal dated June 28, 2017. However, an

examiner's decision of refusal was issued on October 27, 2017. In response to this, a demand for appeal against the examiner's decision of refusal was made on February 1, 2018.

## No. 2 The Design in the Application

The design in the application was filed to request a design registration of a part of an article. According to the description of the application of this application, the article to the design of the design in this application (hereinafter, it is referred to as "the design in the application") is "ELECTRIC CONNECTION TERMINAL," and the shape, patterns or colors, or any combination thereof (hereinafter, the shape, patterns or colors, or any combination thereof are referred to as "the form") is as described in the application and the drawings attached to the application. The application describes in "Description of the Design" that "A part represented by a solid line (Note by the body: hereinafter, referred to as 'the part in the application') is the part for which the design registration is requested as a partial design.... A dash-dotted line is a line expressing only a boundary between the part for which the design registration is requested as a partial design and the other parts" (see Appendix 1).

## No. 3 Reasons for refusal stated in the examiner's decision and the cited design

The reasons for refusal in the examiner's decision are 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).

The design cited in the reasons for refusal in the examiner's decision is a design (hereinafter, referred to as the design (hereinafter referred to as "the Cited Design") of Similar Design No. 1 (the article to the design, Connection Terminal) of Design Registration No. 279940 described in the design bulletin issued by the Japan Patent Office (the issue date of the design bulletin: September 16, 1970), and its form is as described in the design bulletin. In the Cited Design, the part which is compared with the part in the application and is judged, is a part corresponding to the part in the application (hereinafter, referred to as "the part in the Cited Design") (see Appendix 2)

#### No. 4 Comparison

##### 1 Comparison of the article to the design

Although the article to the design of the design in the application is "ELECTRIC CONNECTION TERMINAL" and the article to the design in the Cited Design is "CONNECTION TERMINAL," since the articles are attached to a terminal of an electric wire and have a function of conducting electricity of an electric wire conductor, the articles to the design in the application and the Cited Design (hereinafter, referred to as "the two designs") are common in usage and function.

##### 2 Comparison of usage and function of the part in the application and the part in the Cited Design

The part in the application has usage and function of crimping an insulation coating of a coated electric wire, whereas it is assumed that the part in the Cited Design has usage and function of crimping the electric wire conductor, so that the usage and the

function of the part in the application and the part in the Cited Design (hereinafter, referred to as "the two parts") are different.

### 3 Comparison of the position, size, and scope of the two designs

The position of the part in the application, of the design in the application consisting of a terminal connection part, a wire barrel part, and an insulation barrel part from the right side in a front view, is positions of the inside and outside of the insulation barrel part, and the size and scope occupying in the design in the application of the part in the application is about 1/10. Against this, the position of the part in the Cited Design, of the Cited Design consisting of a terminal connection part and a wire barrel part, is positions of the inside and outside of the wire barrel part, and the size and scope occupying the design in the application of the part in the application is about 1/3. Therefore, the position, size, and scope of the two designs are different.

### 4 Comparison of the form of the two parts

#### (1) Common features in the form of the two parts

The common features in the form of the two parts are as follows. Also, the part in the Cited Design is recognized according to the orientation of the part in the application. That is, a figure obtained by reversing right and left sides of a front view of the Cited Design expressing the part in the Cited Design is recognized as a front view, and thus a right side view is recognized as a left side view and the other figures are recognized as following this.

#### (A) Constitution as a whole

When viewed from a left side, a lower side is shaped in an arc, and right and left

sides are parts on the inner side and the outer side of a platy body expanding upward in a generally inversed V-shape. At the part on the inner side, two projecting bands (hereinafter, referred to as "the inner projecting bands") are provided in parallel in a circumferential direction, and at the part on the outer side, two recessed grooves (hereinafter, referred to as "the outer recessed grooves") of the same shape at corresponding positions on the back side of the inner projecting bands are formed.

(B) Aspect of the outer recessed groove

Both end portions (a front upper end portion and a back upper end portion) of the outer recessed groove are formed in an arc-shape. Also, the inside of the outer recessed groove is formed in an arc-shaped surface, and its lower end in a front view is recessed in an arc-shape.

(2) Different features in the form of the two parts

The different features of the two parts are as follows.

(a) The two inner projecting band have the same shape and size. Each inner projecting band axially bulges in an arc-shape, and the degree of the bulging, according to "an enlarged sectional view taken along line A-A" and "an enlarged perspective view showing the front, left side and top at C-C part," gradually shrinks smoothly at both end portions. Against this, it is unclear whether or not the two inner projecting bands of the part in the Cited Design have the same shape and size, and both end portions of the inner side projecting band shown in "the left side view" of the Cited Design are formed in a stepped shape and are angular.

(b) According to "the enlarged sectional view taken along line A-A" of the design in the application, the inclination of both end portions of the outer recessed groove is formed in a gentle arc-shape. Against this, in the part in the Cited Design, a specific shape of

the inclination of both end portions of the outer recessed groove is unclear.

(c) Although at the part in the application, an interval of the two inner projecting bands is about 1.5 times the width of the inner projecting band, an interval thereof at the part in the Cited Design is about 2 times the width of the inner projecting band.

(d) Although the lengths of the two outer recessed grooves are the same, at the part in the Cited Design, the outer recessed groove on the right side in a front view is slightly longer than the outer recessed groove on the left side.

## No. 5 Judgment

### 1 Determination of similarity of article to the design

The articles to the design of the two designs are common in usage and function, and thus are similar.

### 2 Determination of similarity of usage and function of the two parts

The usage and function of the two parts are different as recognized in No. 4-2 above, and thus are not similar.

### 3 Evaluation of the position, size, and scope of the two parts

The position, size, and scope of the two parts are different as recognized in No. 4-3, and thus are not similar.

### 4 Evaluation of the common features and the different features in the form of the two parts

#### (1) Common features in the form of the two parts

Concerning the point that the two parts are parts on the inner side and the outer side of a platy body in which when viewed from the left side view, a lower side is shaped in an arc and right and left sides are expanding upward in a generally inversed V-shape, which is indicated in the common feature (A), in the design in the field of articles of "ELECTRIC CONNECTION TERMINAL," the aspect in which an insulation barrel portion or a wire barrel portion is made to be a platy body in which when viewed from the left side view, a lower side is shaped in an arc and right and left sides are expanding upward in a generally inversed V-shape, is common without showing an example, so that the point has an extremely small impact on the aesthetic impression of the parts as a whole. On the other hand, the aspect in which the two inner projecting bands are provided in parallel in a circumferential direction, and the two outer recessed grooves are formed on the back side of the inner projecting bands, is a common feature that is noticeable at a first glance, so that an impact on the aesthetic impression of the two parts is recognized to a certain degree.

Also, concerning the aspect of the common feature (B); namely, the aspect in which both end portions of the outer recessed groove are formed in an arc-shape, the inside of the outer recessed groove is formed in an arc-shaped surface, and its lower end in a front view is recessed in an arc-shape, it should be said as ordinary techniques to form the inside of the recessed groove in an arc-shaped surface, and since the lower end in a front view of the outer recessed groove is shown as being recessed in an arc-shape as a result of being formed in the arc-shaped surface and the shape of both end portions of the outer recessed groove are shown in an arc shape, the common feature (B) has a small impact on the aesthetic impression of the two parts.

Then, although the common feature in the form of the two parts is evaluated to a

certain degree in the point that the two inner projecting bands and the two outer recessed grooves are provided, it can be said that an impact on the aesthetic impression of the two parts is comprehensively small.

(2) Different features in the form of the two parts

Against this, it can be said that Different feature (a) and Different feature (b) in the form of the two parts have a large impact on the aesthetic impression of the two parts.

First, since the difference between whether the two inner projecting band have the same shape and size (the part in the application) or it is unclear (the part in the Cited Design), which is indicated in Different feature (a), is a difference with respect to the inner projecting bands which are major constituent elements in the two parts, it should be said that the difference attracts the attention of consumers. Also, since the shape of the part in the application in which the degree of bulging of each inner projecting band gradually shrinks smoothly at both end portions is obviously different as compared with the part in the Cited Design in which both end portions of the inner projecting band are formed in a stepped shape and are angular, and it should be said that consumers who are interested in the shape of the portion in the application having the usage and function of crimping damageable coated electrical wire especially pay attention to the shape of the part in the application, it has to be said that Different feature (a) has a large impact on the aesthetic impression of the two parts.

Next, Different feature (b) is the difference between whether the inclination of both end portions of the outer recessed groove is formed in a gentle arc-shape (the part in the application) or it is unclear (the part in the Cited Design), and for consumers who observe the shape of the two parts in a minute manner, it can be said that this difference



causes a change in a visual impression of the two parts, so that it can be said that Different feature (b) has a large impact on the aesthetic impression of the two parts.

On the other hand, the difference between whether the interval of the two inner projecting bands is about 1.5 times the width of the inner projecting band (the part in the application) or it is about 2 times (the part in the Cited Design), and the difference that the outer recessed groove on the right side in a front view of the part in the Cited Design is slightly longer than the outer recessed groove on the left side, whereas the lengths of the two outer recessed groove of the part in the application are the same, which are indicated in Different feature (c) and Different feature (d), are differences in a degree regarding length and it is hard to say that it is enough to make a visual impression of the two parts largely different, so that Different feature (c) and Different feature (d) have a small impact on the aesthetic impression of the two parts.

Then, although Different feature (c) and Different feature (d) in the form of the two parts have the small impact on the aesthetic impression of the two parts, as described above, Different feature (a) and Different feature (b) have a large impact on the aesthetic impression of the two parts. Accordingly, summarizing the different features of the two parts, it has to be said that that the impact on the aesthetic impression of the two parts is large.

## 5 Determination of similarity between the two designs

Thus, while the different features in the form of the two parts have generally a large impact on the aesthetic impression of the two parts, the common features in the form of the two parts have generally a small impact on the authentic impression of the two parts. When comprehensively observing the design as a whole, based on the

evaluation of the common features and the different features in the form of the two parts, it can be said that the different features are larger than the common features and give a different aesthetic impression to the customers. Then, although the common feature in the form in which the two inner projecting band and the two outer recessed grooves are provided is evaluated to a certain degree, these forms, as recognized in No. 4-3 above, are shown at the position of the insulation barrel portion in the part in the application and shown at the position of the wire barrel portion in the part in the Cited Design; namely, the forms shown at the different positions, and thus the common feature in the form cannot be especially evaluated.

Therefore, in the two designs, while the articles to the design are similar, the usage and function, position, size, and scope of the two parts are not similar, and also in the form thereof, the different features are larger than the common features and give a different aesthetic impression to the customers. Hence, the two designs are not similar to each other.

#### No. 6 Closing

As described above, the design in the application is not similar to the Cited Design, and does not fall under the design of Article 3(1)(iii) of the Design Act. Therefore, the application cannot be rejected due to the reasons of the examiner's decision.

In addition, no other reason for rejecting the present application can be found.

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

May 22, 2018

Chief administrative judge: KIMOTO, Naomi

Administrative judge: KOBAYASHI, Hirokazu

Administrative judge: MIYATA, Souhei

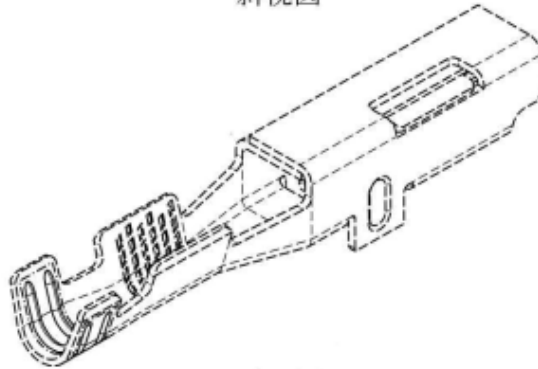
Appendix No. 1 The design in the application (Japanese Design Application No. 2016-028072)

[Article to the design] Electric Connection Terminal

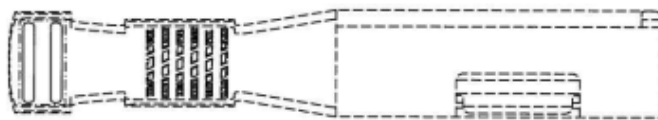
[Description of the article to the design] The present article is an electric connection terminal which respectively crimps an insulation coating and a conductor of a coated electric wire to a barrel portion on the left side in a front view to connect them, and is installed to a connector.

[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. The part for which the design registration is requested as a partial design is specified including an enlarged sectional view, an enlarged perspective view, and an enlarged development view. A thin line and a short-dashed line in each perspective view are lines representing only the three-dimensional shape. A dash-dotted line is a line expressing only a boundary between the part for which the design registration is requested as a partial design and the other parts.

斜視圖



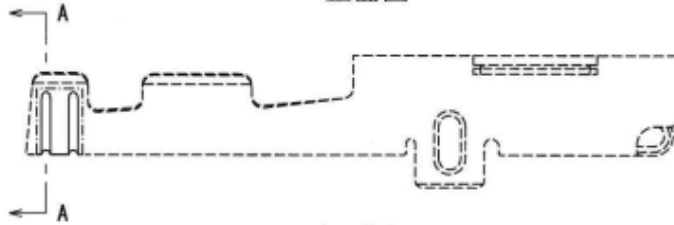
平面圖



左側面圖



正面圖



右側面圖



底面圖



背面圖



斜視圖

Perspective View

平面圖

Top View

左側面圖

Left Side View

正面圖

Front view

右側面圖

Right Side View

底面圖

Bottom View

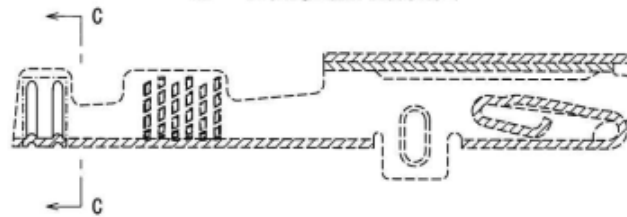
背面圖

Rear View

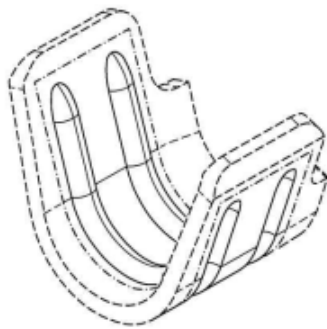
A-A 矢視拡大断面図



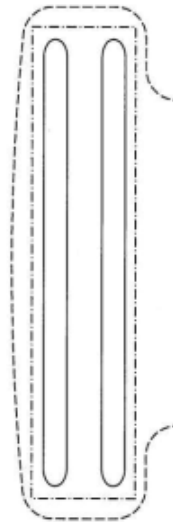
B-B 矢視拡大断面図



C-C 部分における正面、左側面および平面を示す拡大斜視図



C-C 部分の拡大展開図



- |                               |   |    |
|-------------------------------|---|----|
| A-A 矢視拡大断面図                   | An enlarged sectional view taken along line A-A                               |    |
| B-B 矢視拡大断面図                   | An enlarged sectional view taken along line B-B                               |    |
| C-C 部分における正面、左側面および平面を示す拡大斜視図 | An enlarged perspective view showing the front, left side and top at part C-C | An |
| C-C 部分の拡大展開図                  | An enlarged development view of part C-C                                      |    |

別紙第2 引用意匠

特許庁が昭和45年(1970年) 9月16日に発行した意匠公報記載  
意匠登録第279940号の類似第1号  
(意匠に係る物品、接続端子)の意匠において、  
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における、2条のプレス加工部を含んだ範囲の部分の意匠

日本国特許庁

昭和45.9.16発行

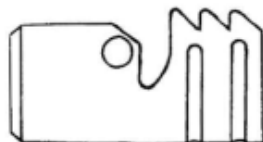
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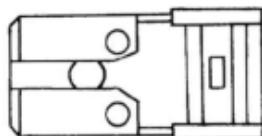
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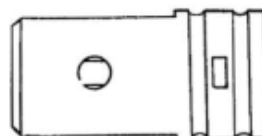
正面図



平面図



底面図



左側面図



右側面図

