



# SUMMARY OF REVISION OF JAPAN'S DESIGN LAW

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patent attorney

**TAKENORI HIROE**

**Hiroe and Associates**

631-7 Masaki-Kurifune Gifu-city 502-0857 Japan

Tel +81-58-294-1139 / Fax +81-58-294-0350

E-mail [info@hiroe.co.jp](mailto:info@hiroe.co.jp)

URL <http://www.patent-jp.com/hiroe>

# **SUMMARY OF REVISION OF JAPAN'S DESIGN LAW**

- (A) Expansion of Protection
- (B) Abolition of the Similar Design System and Introduction of the Related Design System
- (C) Simplification and Diversification of Applications
- (D) Criteria for Registration Made More Difficult
- (E) International Harmonization

## **(A) EXPANSION OF PROTECTION**

(1) Protection of Design-In-Part

(2) Expanded Protection for System Designs

## **(A) (1) PROTECTION OF Design-In-Part**

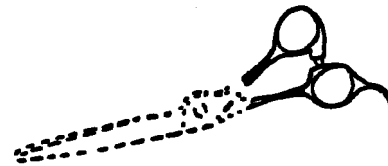
1. The application must be designated specifically as a Design-In-Part application
2. The article to be protected must be indicated in the body of the application by the common name of the whole article. The design should not be identified by the name of the part to be protected
3. The portion of the design to be protected must be clearly identified relative to the entire article. For example, in the drawing, the subject should be represented by solid lines, while the non-protected portions of the product should be represented in broken lines
4. Patterns can also be protected by clearly specifying their positions, dimensions and orientation relative to the entire article
5. A priority claim for a Design-In-Part application cannot be based on a foreign application for a design-in-full

# EXAMPLES OF DRAWINGS FOR Design-In-Part APPLICATION

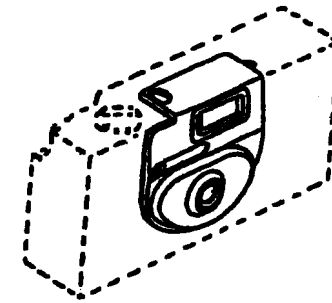
1. Doorknob



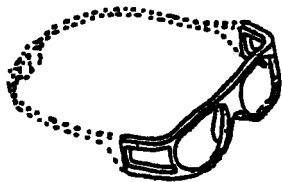
2. Scissors



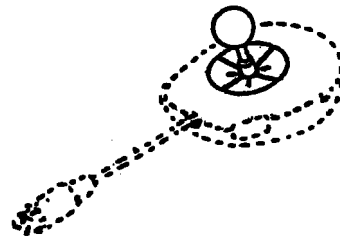
3. Camera



4. Goggles

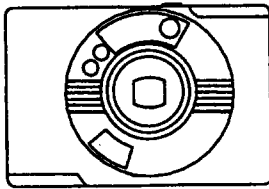


5. TV game controller



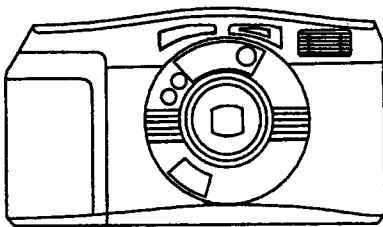
Old Law

**Design Right**



Comparison in whole

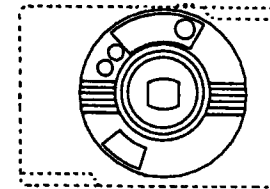
Not Protected



**Not Infringing**

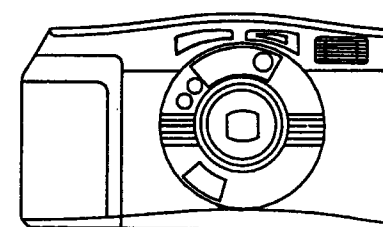
New Law

**Design Right for Design-in-Part**



Comparison in part

Protected



**Infringing**

## **(A) (2) EXTENDED PROTECTION FOR SYSTEM DESIGNS**

1. The number of systemized articles to be protected is extended to fifty-six, from thirteen. The number of systemized articles may be further extended as appropriate
2. Registration requirements are not imposed on each article in the system, but on the design of the system as a whole
3. Design rights are enforceable only as a whole

## **(A) (2) 1. CATEGORIES AND ARTICLES OF SYSTEM DESIGNS**

### **1. Accessories, Daily Necessities and Household Articles :**

underwear , cuff buttons, accessories ,  
cosmetics , wash items , smoking kits ,  
electric toothbrushes , toilet cleaners

### **2. Tableware :**

coffee sets , tea sets , green tea sets ,  
liquor glass sets , spice shakers , dinner sets ,  
dishes & glasses , camping pans ,  
knives / forks / spoons

### **3. Furniture :**

chairs , guest furniture , closets , desks ,  
tables , ceiling lamps , toilet accessories ,  
air-conditioning equipment ,  
kitchen utensils , entrance closets ,  
washstand utensils , outdoor chairs & tables

### **4. Toys :**

coffee sets , tea sets , spice shakers , dinner sets ,  
knives / forks / spoons

### **5. Office Supplies :**

office supplies ,  
writing utensils

### **6. Car Accessories / Attachments :**

air spoilers , seat covers , floor mats ,  
pedals , cowls for motorcycles , motorcycle fenders ,  
navigation equipment

### **7. Electric Appliances :**

washing machines , audio apparatus ,  
car audio sets , speaker boxes , TV equipment ,  
optical-disk players , computer equipment ,  
vending machines

### **8. Others :**

doll sets , golf clubs , drums sets ,  
medical X-ray scanner equipment ,  
gate pillars / doors & fence equipment

## **(B) ABOLITION OF THE SIMILAR DESIGN SYSTEM AND INTRODUCTION OF THE RELATED DESIGN SYSTEM**

A related design system is introduced replacing the old similar design system. This should more effectively protect design variations.

1. Related designs must be similar to their principal design
2. All related design applications must be filed by the same applicant on the same day, designating one as a principal design application. To receive the benefit of priority status, the priority applications must all be (first) filed in a foreign country on the same day
3. Each registered related design can enjoy the same protection as a regular registered design
4. Related design rights terminate at the expiration of the principal design registration
5. Nullification or abandonment of a principal design registration does not lead to termination of its related design registrations
6. Transfer or grant of an exclusive license of a related design registration must be executed together with its principal design registration

## **(C) SIMPLIFICATION AND DIVERSIFICATION OF APPLICATION**

(1) Simplified Application Formalities and Diversified Drawing Forms

(2) Acceptance of Description of Design Features

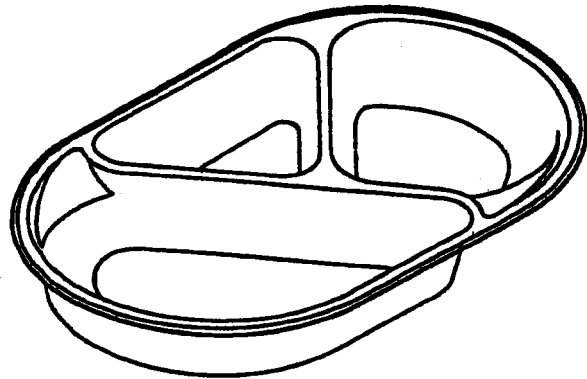
## **(C) (1) SIMPLIFIED APPLICATION FORMALITIES AND DIVERSIFIED DRAWING FORMS**

1. Isometric projection views, cabinet projection views, and cavalier projection views will be accepted
2. Shading by lines or dots and gradation to indicate 3-D surface configurations will be accepted
3. Combined sectional views will be accepted

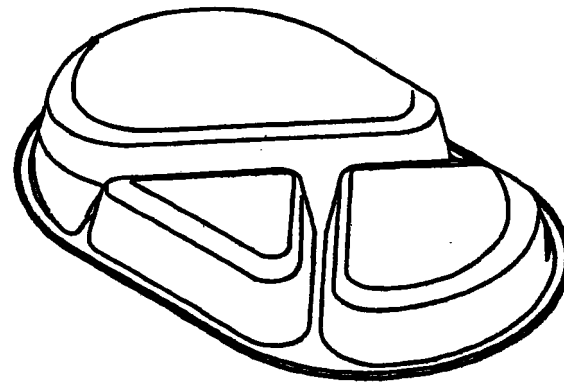
# EXAMPLE OF AN APPLICATION'S TWO-FIGURE DRAWING

[Table Dish]

Perspective View 1



Perspective View 2



## **(C) (2) INTRODUCTION OF DESCRIPTION OF DESIGN FEATURES**

1. A means to describe the relevant features of a design will be implemented. These descriptions will be published in the design gazette to emphasize the design intentions of the applicant
2. Providing a description of design features is optional
3. Description of design features can be entered or modified any time during the pendency of applications ;
4. Timely filed descriptions will be considered by examiners, possibly eliminating irrelevant rejections
5. Descriptions of design features will not be subject to examination. Descriptions will not limit the scope of the rights of the design

## **(D) CRITERIA FOR REGISTRATION MADE MORE DIFFICULT**

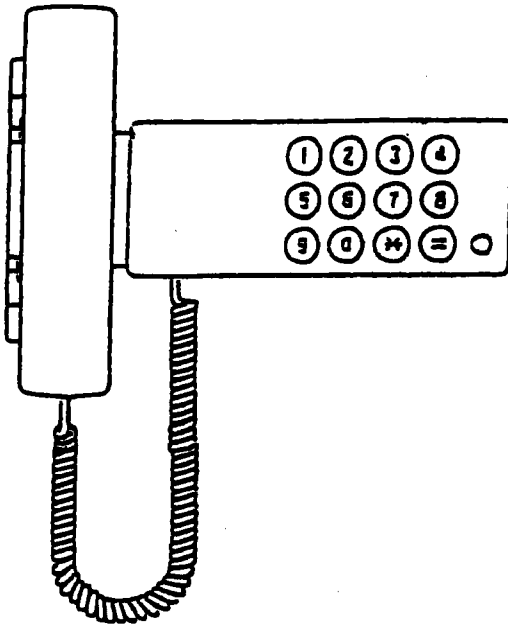
The level of creativity will be raised from "well-known in Japan" to "internationally known". The following designs will be refused registration under the new standard.

- (1) A design of an article derived from a publicly known design whose specific element is merely replaced with a publicly known element by conventional means
- (2) A design which is merely composed of publicly known sub-designs combined by conventional means
- (3) A design derived from a publicly known design whose elements are merely interchanged by conventional means
- (4) A design derived from a publicly known design whose constitutional proportion is merely modified entirely or partially by conventional means
- (5) A design derived from a publicly known design the number of the repetitive units of which is merely modified by conventional means
- (6) A design of an article whose configuration is a mere conversion of a publicly known motif
- (7) Designs which are mere applications of prior designs on unrelated products when the application of that design to the unrelated product is common practice in the industry (for example: applying the design of an automobile to the design of a toy automobile)

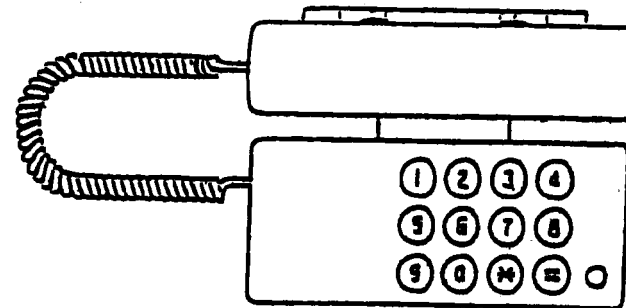
# EXAMPLE OF NON-CREATIVITY

The Re-Positioning of the Telephone Receiver in a Conventional Design Practice.

**[Application]**  
[Telephone]



**[Known Design]**  
[Telephone]



## **(E) INTERNATIONAL HARMONIZATION**

(1) Designs Comprising only Functional Features will be Excluded from Protection

(2) A Rejected Application is not Given the Status of Priority over a Later Filed Application

**(E) (1) DESIGNS COMPRISING ONLY  
FUNCTIONAL FEATURES WILL  
BE EXCLUDED FROM PROTECTION**

1. The provision "a design composed of only functional features which are essential to the functions of an article shall be denied registration" is introduced under Design Law Sec . 5(3)
2. This rejection may be overcome by arguing that the designed features are replaceable

**(E) (2) A REJECTED APPLICATION IS NOT GIVEN THE STATUS OF PRIORITY OVER A LATER FILED APPLICATION**

1. The practice under the old law where finally refused applications were given priority status was abolished. The following design applications have no priority status
  - 1) Abandoned Applications
  - 2) Withdrawn Applications
  - 3) Dismissed Applications
  - 4) Refused Applications
  - 5) Derived Applications
2. Two applications filed on the same day by different applicants will result in only one registration. The application which registers is determined through negotiation and consent of the two parties. If the parties cannot agree, both applicants will be rejected. However, both applications will be published and will prevent subsequent applications for the same or similar designs from registering. The published applications cannot be used to stop use of the design by other manufactures
3. A design that has been refused registration for lack of novelty will be allowed its nonexclusive use on condition that it is in actual use or under preparation to use on the registration date of a later filed similar design