



Catalogue of Partial Design Protection

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TABLE OF CONTENTS

INTRODUCTION.....	6
A. HISTORY OF PARTIAL DESIGN PROTECTION	7
A.1 IS PARTIAL DESIGN PROTECTION AVAILABLE? IF YES, EXPLAIN BRIEFLY WHEN THE PROTECTION FOR PARTIAL DESIGNS BECAME AVAILABLE.....	7
A.1.1 EUIPO.....	7
A.1.2 JPO.....	7
A.1.3 KIPO.....	7
A.1.4 CNIPA	7
A.1.5 USPTO.....	8
B. OVERVIEW OF PARTIAL DESIGN PROTECTION	8
B.1 WHAT ARE THE REQUIREMENTS RELATING TO A MINIMUM ASPECT OF AN ARTICLE (PRODUCT) THAT CAN BE PROTECTED AS AN INDUSTRIAL DESIGN?.....	8
B.1.1 EUIPO.....	8
B.1.2 JPO.....	8
B.1.3 KIPO.....	10
B.1.4 CNIPA	10
B.1.5 USPTO.....	10
B.2 IF PARTIAL DESIGNS ARE PERMITTED, DOES THE IDENTIFIED ARTICLE IN THE INDUSTRIAL DESIGN APPLICATION HAVE AN EFFECT ON THE DETERMINATION OF WHETHER A PRODUCT WOULD INFRINGE A DESIGN WHEN THE APPLICANT ATTEMPTS TO ENFORCE THE INDUSTRIAL DESIGN RIGHT?	11
B.2.1 EUIPO.....	11
B.2.2 JPO.....	11
B.2.3 KIPO.....	12
B.2.4 CNIPA	12
B.2.5 USPTO.....	12
B.3 ARE APPLICANTS PERMITTED TO DEPICT SUBJECT MATTER BEYOND THAT WHICH CONSTITUTES THE CLAIMED DESIGN IN THE APPLICATION? IF SO, WHAT CAN APPLICANTS INCLUDE (E.G., BACKGROUND, ENVIRONMENT, ETC.)?.....	13
B.3.1 EUIPO.....	13
B.3.2 JPO.....	13
B.3.3 KIPO.....	15
B.3.4 CNIPA	16
B.3.5 USPTO.....	16
B.4 DOES SUBJECT MATTER WHICH IS NOT CLAIMED AS PART OF THE DESIGN BUT IS PRESENT IN THE REPRODUCTIONS/DRAWINGS HAVE ANY EFFECT ON THE SCOPE OF THE PROTECTION OF THE PART OF THE CLAIMED DESIGN? IF SO, WHAT IS THE EFFECT?	16
B.4.1 EUIPO.....	16
B.4.2 JPO.....	16

B.4.3	KIPO.....	17
B.4.4	CNIPA	17
B.4.5	USPTO.....	17
B.5 ARE APPLICATIONS DIRECTED TO PARTIAL DESIGNS LABELLED OR OTHERWISE DISTINGUISHED FROM DESIGNS DIRECTED TO AN ENTIRE PRODUCT? IF YES, PLEASE EXPLAIN.....		17
B.5.1	EUIPO.....	17
B.5.2	JPO.....	17
B.5.3	KIPO.....	17
B.5.4	CNIPA	18
B.5.5	USPTO.....	18
B.6 MAY MULTIPLE PARTIAL DESIGNS BE REGISTERED IN RELATION TO A SINGLE SPECIFIC PRODUCT (ARTICLE)? FOR EXAMPLE, MAY TWO OR MORE DISTINCT EMBODIMENTS BE CLAIMED IN RELATION TO A SINGLE ARTICLE? CAN THEY BE REGISTERED IN A SINGLE APPLICATION OR MULTIPLE APPLICATIONS?		18
B.6.1	EUIPO.....	18
B.6.2	JPO.....	18
B.6.3	KIPO	20
B.6.4	CNIPA	21
B.6.5	USPTO.....	21
C. REQUIREMENTS FOR CLAIMING PROTECTION FOR A PARTIAL DESIGN.....		21
C.1 HOW CAN APPLICANTS INDICATE THEY ARE CLAIMING A DESIGN THAT COMPRISES OR IS EMBODIED IN LESS THAN THE ENTIRETY OF AN ARTICLE (PRODUCT)? (E.G. BROKEN LINES, SHADING, COLORING, DESCRIPTION, A COMBINATION OF ELEMENTS, OTHERS, ETC.)		21
C.1.1	EUIPO.....	21
C.1.2	JPO.....	21
C.1.3	KIPO.....	23
C.1.4	CNIPA	24
C.1.5	USPTO.....	24
C.2 DO APPLICANTS NEED TO SPECIFICALLY IDENTIFY WHEN ORIGINALLY FILED WHETHER AN APPLICATION IS DIRECTED TO A PARTIAL DESIGN? IF SO, HOW?		25
C.2.1	EUIPO.....	25
C.2.2	JPO.....	25
C.2.3	KIPO.....	26
C.2.4	CNIPA	26
C.2.5	USPTO.....	26
C.3 CAN APPLICANTS AMEND AN APPLICATION DIRECTED TO A PARTIAL DESIGN BEFORE RIGHTS ARE GRANTED TO COVER MORE OR LESS OF THE ARTICLE? FOR EXAMPLE, CAN DOTTED LINES BE CHANGED TO SOLID, AND VICE-VERSA? WHAT TYPES OF AMENDMENTS ARE PERMITTED; WHAT TYPES ARE NOT PERMITTED? WHAT RULE OR STANDARD IS DETERMINATIVE AS TO WHETHER THE AMENDMENTS ARE PERMITTED (E.G., ANY LIMITATION AS TO THE TIMING AND/OR THE NUMBER OF TIMES OF SUCH AMENDMENTS, ETC.)?		26
C.3.1	EUIPO.....	26

C.3.2	JPO.....	27
C.3.3	KIPO.....	27
C.3.4	CNIPA.....	27
C.3.5	USPTO.....	27
C.4 IS A DETERMINATION OF WHETHER AN APPLICANT CAN PROTECT A PARTIAL DESIGN BASED ON THE CLASS OF DESIGN? IF SO, WHAT ARE EXAMPLES OF THESE CLASSES?		27
C.4.1	EUIPO.....	27
C.4.2	JPO.....	28
C.4.3	KIPO.....	28
C.4.4	CNIPA.....	28
C.4.5	USPTO.....	28
C.5 IS THE APPLICANT ALLOWED TO MODIFY THE APPEARANCE OF THE SUBJECT MATTER THAT IS CONSIDERED NOT TO BE PART OF THE CLAIMED DESIGN (I.E., DISCLAIMED)?		28
C.5.1	EUIPO.....	28
C.5.2	JPO.....	28
C.5.3	KIPO.....	28
C.5.4	CNIPA.....	29
C.5.5	USPTO.....	29
C.6 REQUIREMENTS RELATING TO THE UNITY OF PARTIAL DESIGN IN ONE APPLICATION; E.G. CAN PARTIAL DESIGNS BE FILED AS A RELATED DESIGN OR DESIGN FOR A SET OF PRODUCTS? HOW SIMILAR DO MULTIPLE EMBODIMENTS OF A PARTIAL DESIGN FOR AN ARTICLE HAVE TO BE, TO BE IN THE SAME APPLICATION?.....		29
C.6.1	EUIPO.....	29
C.6.2	JPO.....	30
C.6.3	KIPO.....	30
C.6.4	CNIPA.....	32
C.6.5	USPTO.....	32
C.7 REQUIREMENTS RELATING TO THE PRIORITY OF PARTIAL DESIGN; HOW IS IT DETERMINED WHETHER THEY ARE THE SAME SUBJECT OR NOT IN THE PARTIAL DESIGN APPLICATION AND THE CLAIMED PRIORITY APPLICATION? IF THE APPLICANT MODIFIES A LINE IN THE PRIORITY DOCUMENT, HOW IS IT DETERMINED TO BE THE SAME SUBJECT OF THE PARTIAL DESIGN? FOR EXAMPLE HOW WOULD A CHANGE FROM A BROKEN LINE IN THE PRIORITY DOCUMENT TO SOLID LINE IN APPLICANT DOCUMENT, OR A CHANGE FROM A SOLID LINE TO BROKEN LINE, OR A REMOVAL OF PART OF THE BROKEN LINE OR SOLID LINE IMPACT PRIORITY?		32
C.7.1	EUIPO.....	33
C.7.2	JPO.....	33
C.7.3	KIPO.....	34
C.7.4	CNIPA.....	34
C.7.5	USPTO.....	34
D. UTILIZATION OF PARTIAL DESIGN TRENDS		34
D.1 IF AVAILABLE, HOW FREQUENTLY DO APPLICANTS UTILIZE PARTIAL DESIGNS? DO YOU HAVE ANY STATISTICS THAT INDICATE WHAT PERCENTAGE OF THE TOTAL		

DESIGN APPLICATIONS FILED WITH YOUR OFFICE ARE DIRECTED TO PARTIAL DESIGNS (LESS THAN THE ENTIRETY OF A PRODUCT)? IN WHICH CLASSES (E.G., LOCARNO CLASSES) DO APPLICANTS IN YOUR OFFICE MOST FREQUENTLY UTILIZE PARTIAL DESIGNS? LEAST FREQUENTLY? 35

D.1.1	EUIPO.....	35
D.1.2	JPO.....	35
D.1.3	KIPO.....	35
D.1.4	CNIPA	36
D.1.5	USPTO.....	36

D.2 IF AVAILABLE, HOW FREQUENTLY ARE MULTIPLE APPLICATIONS FILED IN RELATION TO THE SAME PRODUCT (ARTICLE) WITH DIFFERENT VIEWS/SCOPE (E.G., MULTIPLE APPLICATIONS CLAIMING DIFFERENT PARTIAL DESIGNS EMBODIED ON/IN A COMMON PRODUCT/ARTICLE)?..... 36

D.2.1	EUIPO.....	36
D.2.2	JPO.....	37
D.2.3	KIPO.....	37
D.2.4	CNIPA	37
D.2.5	USPTO.....	37

E. LEGAL PROVISIONS RELATING TO PARTIAL DESIGNS..... 37

E.1 PLEASE PROVIDE THE TEXT AND CITATION OF THE RELEVANT LEGAL PROVISIONS (E.G., LAWS, RULES, ETC.) THAT GOVERN APPLICATIONS FOR PARTIAL DESIGNS..... 37

E.1.1	EUIPO.....	37
E.1.2	JPO.....	37
E.1.3	KIPO.....	39
E.1.4	CNIPA	40
E.1.5	USPTO.....	40

E.2 PLEASE PROVIDE WEBSITE LINKS AND/OR REFERENCE TO ANY GUIDANCE DOCUMENTATION, INCLUDING EXAMINATION GUIDELINES, CURRENTLY AVAILABLE FOR APPLICANTS RELATING TO APPLICATIONS FOR PARTIAL DESIGNS. 43

E.2.1	EUIPO.....	43
E.2.2	JPO.....	43
E.2.3	KIPO.....	44
E.2.4	CNIPA	44
E.2.5	USPTO.....	44

INTRODUCTION

ID5 is an industrial design forum that studies and develops industrial design systems and industrial design office practices and brings together in a collaborative manner the European Union Intellectual Property Office (EUIPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the National Intellectual Property Administration of the People’s Republic of China (CNIPA), and the United States Patent and Trademark Office (USPTO), (hereinafter referred to as the “Partner Offices”).

Recognizing the importance of ensuring applicants are able to effectively protect their industrial design innovation from misappropriation, the Partner Offices at the Inaugural ID5 meeting in 2015 in Alexandria, VA, identified the importance of the study of the use of so-called “partial design practice”¹, or the claiming of less than the entire commercial product as the design to be protected. It is known that partial design practice is utilized by applicants to convey the metes and bounds of their designs in a manner to ensure imitators cannot easily copy their design and avoid infringement through modification of minor product details on an otherwise identical design right protected product. By way of example, applicants may disclaim through use of broken lines in filed images and disclaimer, aspects of a final product which are commonplace in such products, which may vary in a series of related products, or which may be illustrative or environmental subject matter.

By better understanding current policies and practices relating to partial designs, the Partners will better understand how practices converge and diverge, and how to better assist applicants in providing robust design protection for the new designs. The public will also better understand the requirements of the Partner Offices, and may better understand how to effectively file applications consistent with these practices. Finally, in understanding current practices used at counterpart Partner Offices, each of the Partners can assess whether updated practices may prove to be advantageous for their own practices and for applicants seeking design protection.

Enclosed follows the results of the aforementioned study, a result of input directly from each of the Partner Offices to agreed areas and questions of focus on the topic of “partial designs.” The JPO and USPTO were honored to serve as lead Offices in preparing this study and the attached catalogue of results from the study and thank the ID5 Partner Offices for their efforts and contributions in this project.

¹“Partial Designs” is used in this project and study to broadly refer to any design that forms less than the entirety of the entire article. This could include designs protecting portions or parts of products.

A. HISTORY OF PARTIAL DESIGN PROTECTION

A.1 Is partial design protection available? If yes, explain briefly when the protection for partial designs became available.

A.1.1 EUIPO

Yes. Partial designs are protectable under Article 3(a) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs (“CDR”) which defines a "design" as “the appearance of *the whole or a part* of a product resulting from the features of, in particular, the lines, contours, colors, shape, texture and/or materials of the product itself and/or its ornamentation”.

Article 4(2) CDR also provides that a design can be “applied to or incorporated in a product which constitutes a component part of a complex product”.

A.1.2 JPO

Yes. Japan’s Design Act allows for the protection of designs consisting of “the shapes, patterns or colors, or any combination thereof of a part of an article” (partial designs).

With the partial amendment of the Design Act in 1998, partial design was introduced as the proper subject matter of design registrations. This amendment was made to protect designers from the increasing number of imitations that appropriated part of the original and creative characteristics of the design but were able to avoid infringement of the product design as a whole.

A.1.3 KIPO

Yes. Partial design was introduced as subject of design registration in Korea with the amendment of the Design Act in 2001. Korea’s Design Act allows for the protection of designs consisting of “the shapes, patterns or colors, or any combination thereof of a part of an article” (partial designs).

With the partial amendment of the Design Act in 2001, partial design was introduced as the proper subject matter of design registrations (Design Protection Act Article 2 (Definition of Design)). This amendment was made to better protect designers against increasing instances where imitators appropriated the original and creative characteristics but were still able to avoid the infringement of the design for the product as a whole.

A.1.4 CNIPA

No. Protection for partial designs is not available.

A.1.5 USPTO

Yes. Partial design protection is available in the United States. Under the laws of the United States an ornamental design may be embodied in an entire article or only a portion of an article, or may be ornamentation applied to an article. Partial design protection has been available in the United States since at least 1980, when the court did not construe 35 U.S.C. § 171 as precluding partial design protection. See *In re Zahn*, 617 F.2d 261, 204 USPQ 988 (CCPA 1980).

B. OVERVIEW OF PARTIAL DESIGN PROTECTION

B.1 What are the requirements relating to a minimum aspect of an article (product) that can be protected as an industrial design?

B.1.1 EUIPO

There is no requirement relating to a minimum aspect. According to Article 3(a) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs (“CDR”), "design" means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colors, shape, texture and/or materials of the product itself and/or its ornamentation.

B.1.2 JPO

A partial design that will be for the subject of design protection is a design that is defined in Article 2(1) of the Design Act; i.e., a design that is recognized as “shape, patterns or colors, or any combination thereof, of a part of an article.”

Under the letter of the law, there are no rules stipulating the minimum aspect of the entire article. Specific requirements are provided for in the Examination Guidelines for Design. That is, for a subject matter which is filed for design registration as a partial design to be considered as constituting a "design" defined in Article 2(1) of the Design Act, it needs to fulfill all of the requirements as given below:

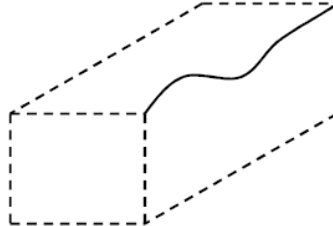
- (1) The subject matter is found to be of an article
- (2) The subject matter is the form of an article itself
- (3) The subject matter appeals to the eye
- (4) The subject matter creates an aesthetic impression through the eye
- (5) The subject matter constitutes a part that occupies a certain scope
- (6) The subject matter constitutes a part that becomes subject to comparison when comparing with another design

See Examination Guidelines for Design 71.4.1.1

With regard to requirement #5, the subject matter constituting a part that occupies a certain scope, the “part for which design registration is requested” must be an element of the full article of the design. That is, the subject matter must be a closed area that is included in the appearance of the design.

Two examples that fail to satisfy this criteria are illustrated below. In a first example, the “part for which a design registration is requested” is only a ridge line which lacks an area, and does not constitute a part that occupies a certain scope. *See Examination Guidelines for Design 71.4.1.1.5*

Case example: “Building concrete block”



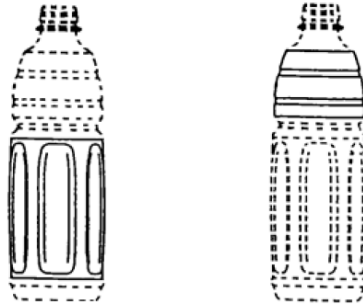
In a second instance, the silhouette of the form of the entire article would also not satisfy the requirements for protection since it is not found to be a closed area that is included in the appearance of the design. For example, a projected silhouette of the side view of a passenger car would not be protectable subject matter.

Requirement #6 requires that the “part for which design registration is requested” not only needs to constitute a part that occupies a certain scope of the form of the entire article, but it also needs to represent a unit of creation of a design that can become subject to comparison when comparing with another design. *See Examination Guidelines for Design 71.4.1.1.6*

The first example of two packaging containers below illustrates instances in which subject matter is found to constitute a part that can become subject to comparison when comparing another design.

[Case example 1]
“Packaging container”

[Case example 2]
“Packaging container”



While the example below demonstrates an example where the “part for which design registration is requested” does not include any unit of creation.

[Case example] “Packaging container”



B.1.3 KIPO

While the Design Examination Guidelines prescribe the requirements for establishment of a partial design as follows, there is no legislative provision for such requirements.

Under the Design Examination Guidelines, Part 4, Chapter 1.2.2., the design shall be determined as the form of part of an article, but shall not be what represents only pattern, color, or combination thereof that does not accompany the shape of an article and shall not be what represents the silhouette of an article shape. The designs, as a part compared to other designs, shall be a part that can be determined as one unit of creation. Also, a design cannot be a partial design for a set of articles.

B.1.4 CNIPA

According to Patent Law Article 2.4, “design” means any new design of the shape, the pattern or their combination, or the combination of the color with shape or pattern, of a product, which creates an aesthetic feeling and is fit for industrial application. It is further stipulated in the Examination Guidelines that any component part of the product which cannot be partitioned or sold and used independently will not be eligible for patent protection for design according to Article 2.4.

B.1.5 USPTO

The design must be embodied in or applied to an article of manufacture (or portion thereof). There is no requirement that the portion itself be a product

capable of separate commercial sale. *See* MPEP § 1502.

B.2 If partial designs are permitted, does the identified article in the industrial design application have an effect on the determination of whether a product would infringe a design when the applicant attempts to enforce the industrial design right?

B.2.1 EUIPO

The identification of the product to which the design will be applied or in which it will be incorporated does in principle not have any effect on the scope of protection.

According to Article 36(2) CDR, “The application shall further contain an indication of the products in which the design is intended to be incorporated or to which it is intended to be applied”.

According to Article 36(6) CDR, “The information contained in the elements mentioned in paragraph 2 and in paragraph 3(a) and (d) shall not affect the scope of protection of the design as such”.

The European Court of Justice confirmed that the ‘disclosure’ (Article 7 CDR) of an earlier design is examined regardless of the nature of the product in which this earlier design is incorporated, even if this product differs by its nature and purpose from the product identified in the later contested Community design (*CJEU, 21/09/2017, C-361/15 P & C-405/15 P, Shower Drains, EU:C:2017:720, § 128-133*).

The European Court of Justice however suggests that the difference in the nature of the product in which the compared designs are incorporated can affect the overall impression that they produce on the informed user of the contested design, for the purpose of examining whether the later contested Community design has individual character (Article 6 CDR) (*CJEU, 21/09/2017, C-361/15 P & C-405/15 P, Shower Drains, EU:C:2017:720, § 122*).

B.2.2 JPO

The identification of article in an application for design registration will have an effect on the determination of whether or not an alleged product will infringe the design right deriving from that application.

Article 23 of the Design Act

A holder of a design right shall have the exclusive right to work the registered design and designs similar thereto as a business...

Article 2(3) of the Design Act

"Work" of a design in this Act shall mean the manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease, the same shall apply hereinafter) of an article to the design.

For the implementation of the Japanese Design Act, it has been interpreted by courts that the article and the form are inseparably integrated in a design. In other words, the fact that the article(s) pertaining to the designs are identical or similar will be the basis for the designs to be identical or similar, i.e. infringement of a design right.

B.2.3 KIPO

The owner of a design right shall have the exclusive right to commercially use the registered design or any similar design.

When determining identity or similarity between designs, articles on which those designs are applied should be identical or similar. Identity or similarity between the articles will be determined based on their purpose or function. The term “identical articles” means articles whose purpose and function are identical while the term “similar articles” means articles whose purposes are identical and functions are different. When designs whose shape, pattern and color or combination thereof are identical or similar, they will be determined to be identical or similar. In this case, the identity or similarity of designs will be determined based on shape and pattern whereas color is not an independent element based upon which the identity or similarity is made. This rule will be applied to determination of similarity of partial designs.

The Design Examination Standards provide that the similarity of designs shall be determined only among identical or similar articles and the similarity of designs is according to the similarity of articles as follows:

Type	Identical articles	Similar articles	Dissimilar articles
Identical shape, pattern, color	Identical designs	Similar designs	Dissimilar designs
Similar shape, pattern, color			
Dissimilar shape, pattern, color			

B.2.4 CNIPA

Not Applicable. Protection for partial designs is not available

B.2.5 USPTO

The test for infringement of design patent is the ordinary observer test and applies to all designs including partial designs. Under the ordinary observer test, “if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same, if the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other, the first one patented is infringed by the other.” *Gorham Manufacturing Co. v. White*, 81 U.S. (14 Wall) 511 at 528 (1871). See Manual of Patent Examining Procedure § 1504.02 (9th ed. 2014) (Rev. 7, October 2015).

The article or product per se (e.g., classification) does not affect the determination of infringement of claimed designs including partial designs.

B.3 Are applicants permitted to depict subject matter beyond that which constitutes the claimed design in the application? If so, what can applicants include (e.g., background, environment, etc.)?

B.3.1 EUIPO

Views can include external and foreign matter in the design provided their inclusion does not cast any doubt on the protection sought and serves only an illustrative purpose. External matter can include aspects of an entire product if the subject-matter of the protection sought is limited to one or more specific part(s) of this entire product.

B.3.2 JPO

When requesting design registration for a part of an article, the part for which design registration is requested must be specified in the drawing in such a way as depicting the part for which design registration is requested with solid lines and any other parts with broken lines, and to state the way of specifying the part for which design registration is requested in the column of "Description of the Design" of the application.

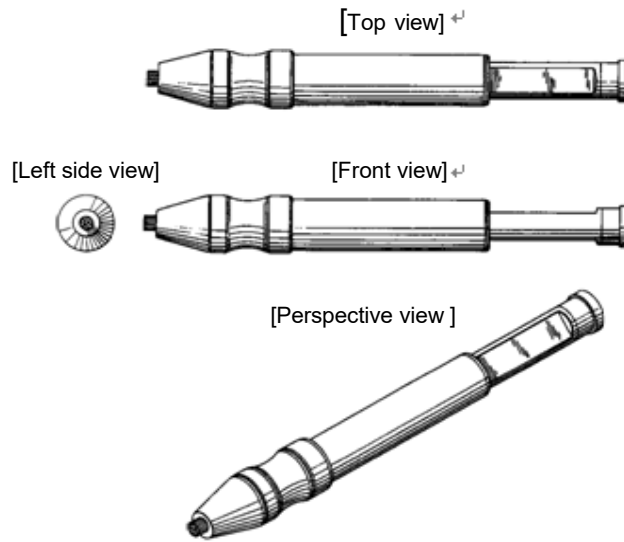
In this case, the broken lines which show the part that is "not" part for which design registration is requested in the entire form of the article is the essential factor to specify the design (partial design) in the application.

Generally, it is not permitted to depict other elements than that which constitutes the design for which design registration is requested. However, in certain instances, lines, dots, surface shading, etc., may be depicted provided that such expressions are used to specify the concrete shape of the design for which design registration is requested. An explanation to that effect must be stated in the description.

Example: Surface shading to specify the shape of the design

[Description of Design]

The parallel straight line surface shading and the radial line surface shading shown on the whole surface in each view are to specify the three-dimensional shape of the design.



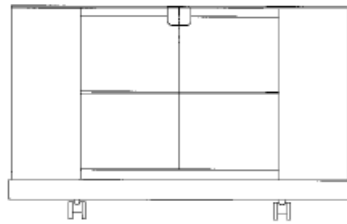
Additionally, when necessary to help in understanding the design for which design registration is requested, a drawing (a view) containing elements other than those that constitute the design can be attached to the application. These drawings must be indicated as reference views as shown in the examples below.

Example: A reference view indicating transparent parts:

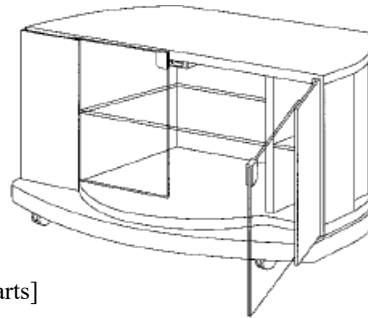
[Article to the Design] Television stand

[Description of the Design] In the reference view indicating transparent parts, the parts colored in gray are transparent.

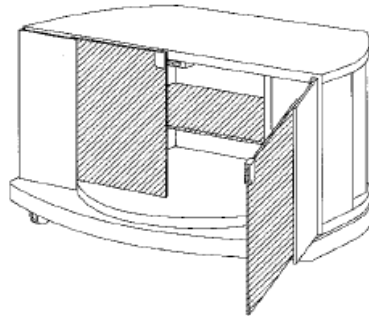
[Front view]



[Perspective view with the door open]



[Reference view indicating the transparent parts]

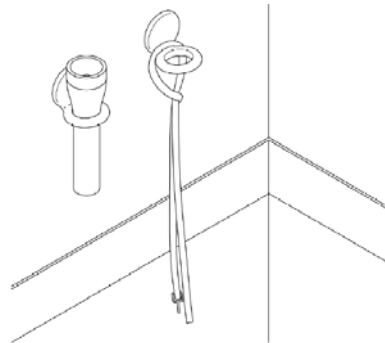


Example: Reference view indicating objects other than the design for which design registration is requested:

Design Registration Number: 1582540

[Article to the Design] Hanger

[Perspective view] [Reference view indicating the state of use]



B.3.3 KIPO

As for the partial design, applicants shall indicate how they depict subject matter beyond that which constitutes the claimed design in the application (e.g. dash line, coloring). Usually, an article itself and the environment and context in which the article is applied are described in order to facilitate understanding of

the utility of the article in reference drawings.

B.3.4 CNIPA

Not Applicable. Protection for partial designs is not available.

B.3.5 USPTO

Structure that is not part of the claimed design, but is considered necessary to show the environment in which the design is used, may be represented in the drawing by broken lines. This includes any portion of an article in which the design is embodied or applied to that is not considered part of the claimed design. When broken lines are used, a statement should be included in the specification indicating the purpose of the broken lines in the drawing, as unclaimed subject matter must be described as forming no part of the claimed design or of a specified embodiment thereof. *See* MPEP § 1503.02, subsection III.

B.4 Does subject matter which is not claimed as part of the design but is present in the reproductions/drawings have any effect on the scope of the protection of the part of the claimed design? If so, what is the effect?

B.4.1 EUIPO

The scope of the protection is exclusively determined by the graphical representation of the design. It is only if the applicant uses “visual disclaimers” that the disclaimed features are deemed not to be part of the subject-matter of the protection.

B.4.2 JPO

The part that is not the part for which design registration is requested would affect the scope of protection of the partial design being claimed. In other words, the decision on the novelty requirement for registration and the scope of effect of the design right will be made according to whether or not the comparable two designs are identical with or similar to each other. In order for the form of the partial designs to be similar, not only the actual form of the part (part being claimed) needs to be identical or similar, but also the “position, size and scope” of the part (part being claimed) within the form of the entire article needs to be identical with each other or commonplace in the art of the design.

Also, the decision on creative difficulty requirement for registration will take into consideration not only whether or not the form of the part (part being claimed) can be easily created, but also whether or not its “position, size and scope” is based on an ordinary technique for a person skilled in the art. It should be noted that position refers to the relative position of the part (part being claimed) in the form of the entire article. The size mainly refers to the absolute size of the part (part being claimed). The scope mainly refers to the relative size

(area ratio) of the part (part being claimed) in the form of the entire article. *See Examination Guidelines for Design 73.3(3), 71.4.2.2.1.*

B.4.3 KIPO

Even if the subject matter is not part of the claimed design, it could affect the scope of the protection since the size, position and area of the claimed part will be examined against the entire design when determining whether or not the partial design is similar to a prior art. Also, the subject matter which is not claimed as part of the design can be used as prior art after publication when a subsequent design is examined.

B.4.4 CNIPA

Not Applicable. Protection for partial designs is not available.

B.4.5 USPTO

The scope of a claimed design before the USPTO is understood to be limited to those surfaces or portions of the article shown in the drawing in full lines in combination with any additional written description in the specification. *See MPEP § 1504.04, subsection I.A.*

B.5 Are applications directed to partial designs labelled or otherwise distinguished from designs directed to an entire product? If yes, please explain.

B.5.1 EUIPO

No. This follows from the definition given at Article 3(a) CDR which does not establish any distinction between designs consisting of the whole or a part of a product.

B.5.2 JPO

When design registration is requested for a part of an article, the indication of “Partial Design” needs to be made in the application. Also, the way of specifying the part for which design registration is requested needs to be stated in the column of “Description of the Design” of the application. *See Ordinance for Enforcement of the Design Act, Form No. 2 [Notes] (8).*

Even where design registration is requested for a part of an article, the indication must be the name of the article as a whole.

B.5.3 KIPO

When an application is filed for the registration of a partial design, “partial design” should be indicated in the application while the name of the whole article to which the partial design is applied is marked.

When an application is filed for the registration of a partial design, you can

describe in the “Description of Design” column how the partial design is specified in a drawing, a photo or a sample, if it is deemed necessary.

B.5.4 CNIPA

Not Applicable. Protection for partial designs is not available.

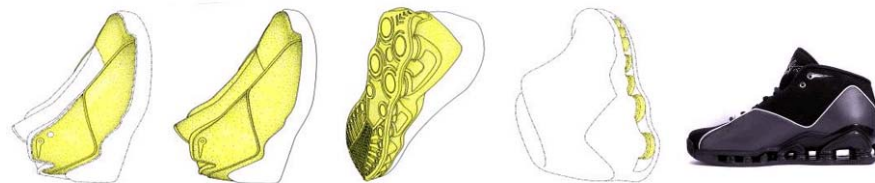
B.5.5 USPTO

The USPTO does not label design patent applications for partial designs differently from applications for a design embodied in an entire article of manufacture. Applicants, however, can identify that the claim is directed to only a portion of an article of manufacture within the application. For example, the title of the design could be used to identify the article in which the design is embodied by the name generally known and used by the public and may identify that only a portion of the article is being claimed. The title may be directed to the entire article embodying the design while the claimed design shown in full lines in the drawings may be directed to only a portion of the article. However, the title may not be directed to less than the claimed design shown in full lines in the drawings. The description of the figures should accurately identify when only a portion of the article is being claimed. *See* MPEP § 1503.01, subsection I and 1504.04, subsection I. A.

B.6 May multiple partial designs be registered in relation to a single specific product (article)? For example, may two or more distinct embodiments be claimed in relation to a single article? Can they be registered in a single application or multiple applications?

B.6.1 EUIPO

One and the same product can be the subject of different design application for different parts of this product as in the below example (each representation corresponds to an individual design registration).



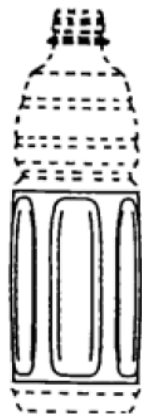
B.6.2 JPO

Multiple partial designs for a single specific article representing two or more different characteristic parts of the article may obtain design registration. Additionally, it is possible to obtain design registrations for two or more variant designs on a specific part of a certain article as "principal design" and "related design(s)" provided that the applications for these designs are filed by the same

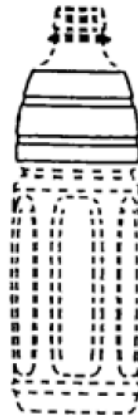
applicant and the related designs (variants) are similar to the principal design.

However, since the Japanese Design Act provides for the principle of "one application per design" (Article 7), two or more designs cannot be included in a single application irrespective of their individual relationship. Therefore, two or more partial designs need to be filed separately. This does not apply to international applications under the Hague Agreement designating Japan.

Example: "Packaging container"

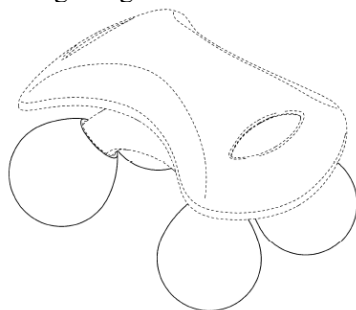


Example: "Packaging container"

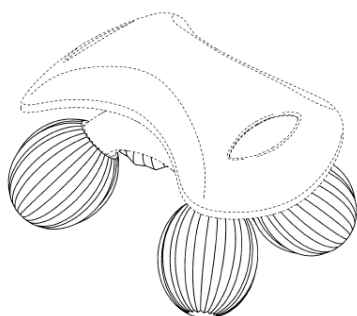


Example of registered partial designs (principal design and related designs).

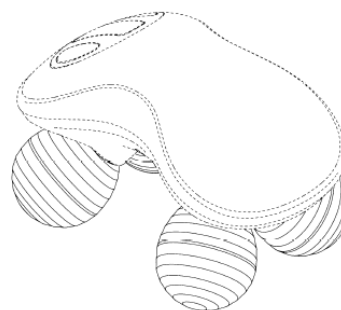
[Article to the Design] Massager
Principal design
Design Registration Number: 1497866



Related design
Design Registration Number: 1498326



Related design
Design Registration Number: 1513461



Related design
Design Registration Number: 1498327



B.6.3 KIPO

In case where multiple partial designs are applied on a single article, it is possible to file either a single application specifying those designs in the application or multiple applications for each of the partial designs. If a single application for multiple partial designs is filed, each of those designs will be considered an independent application. If the partial designs are classified as the same class under the Locarno Classification, the applications will be allowed up to 100. Each of the partial designs should have drawings from different angles to

the extent to which the whole shape is identified. If a single application is filed for multiple partial designs, that will make it easy to manage the application, but it will be the same as multiple applications are filed for each of those partial designs in terms of cost and legal protection.

B.6.4 CNIPA

Not Applicable. Protection for partial designs is not available.

B.6.5 USPTO

Applicants may obtain design patents for different partial designs related to a single article of manufacture by filing a separate application for each partial design. However, that said, more than one embodiment of a design may be presented in a single application if they involve a single inventive concept according to the nonstatutory double patenting practice for designs. *See In re Rubinfeld*, 270 F.2d 391, 123 USPQ 210 (CCPA 1959). Therefore, if multiple embodiments are filed in a single application, the examiner will require restriction under 35 U.S.C. § 121 if the applications is deemed to contain more than one patentably distinct design. *See* MPEP § 1504.05.

For examples of design patents for multiple partial designs related to a single article of manufacture see: U.S. Patent Nos.: D398,748, D397,241, D397,240, and D396,140. *See also* US Patent Nos. D395,741 and D395,738.

C. REQUIREMENTS FOR CLAIMING PROTECTION FOR A PARTIAL DESIGN

C.1 How can applicants indicate they are claiming a design that comprises or is embodied in less than the entirety of an article (product)? (E.g. broken lines, shading, coloring, description, a combination of elements, others, etc.)

C.1.1 EUIPO

An applicant may indicate they are claiming a design that comprises or is embodied or is embodied in less than the entirety of an article (product) by the use of: (a) broken lines; (b) blurring; (c) coloring; (d) shading; (e) boundaries; (f) and a combination of (a)-(e). Use of a verbal description, within the meaning of Article 36(3)(a) CDR, is not appropriate since a description shall not affect the scope of protection of the design as such, according to Article 36(6) CDR. Moreover, only an indication that a description has been filed is published, not the description as such Article 14(2)(d) CDIR.

C.1.2 JPO

Applicant can indicate they are claiming a design that comprises or is embodied in less than the entirety of an article (product) by using a combination of one or

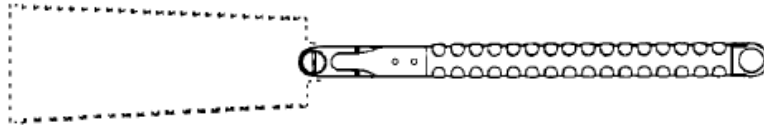
more of the following items: (a) broken lines, (b) shading, or (c) coloring, and (d) description. Specifically, applicant indicates the part for which design registration as partial design is requested by using solid lines and the other part by using broken lines in the drawing. It is also possible to indicate the other part by coloring in thin black ink, etc. As noted in the above, the way of identifying the part for which design registration is requested needs to be stated in the column of “[Description of the Design]” of the application.

Example: Use of broken lines and description

[Article to the Design] Saw

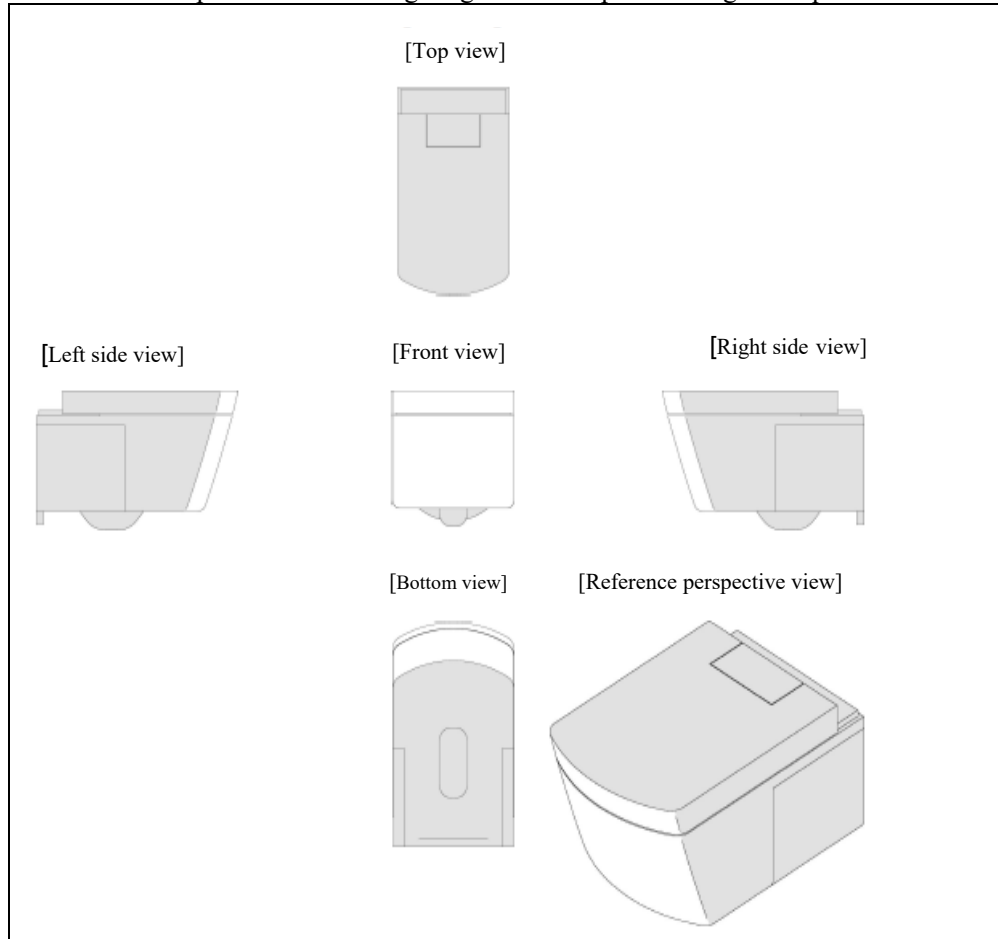
[Description of the Design] The part shown in solid lines is the part for which design registration as partial design is requested.

[Front view]



Example: Use of coloring and description

[Article to the Design] Toilet bowl for installation
[Description of the Design] The part other than the part colored in gray is the part for which design registration as partial design is requested.



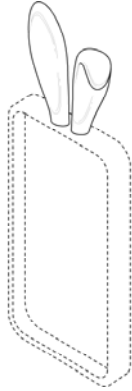
C.1.3 KIPO

Applicants can use a combination of two or more of the following items: (a) broken lines, (b) shading, (c) coloring, and (d) description. As long as they describe how the claimed part is indicated, they can freely use any of items. For example, an applicant can describe that “the colored area indicates the partial design that is claimed to be protected.” See Form Annex 4 to the Enforcement Regulation of the Design Protection Act Drawings of Partial Design.

Example: Broken lines

Where a method to represent a part to be applied for and registered as a partial design of a design for a whole article with a solid line and to represent the other part with a broken line.

“Phone case”



“Chair”

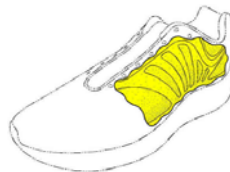


Example: Coloring, boundaries, etc.

“Tractor”



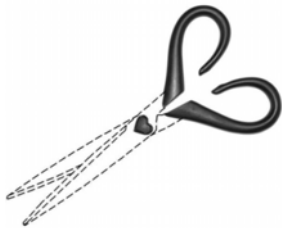
“Sneakers”



“Passenger car”



“Scissors”



“Pot”



C.1.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.1.5 USPTO

Applicants can indicate they are claiming a design that comprises or is embodied in less than the entirety of an article (product) by using broken lines in the

drawing. When broken lines are used, a statement should be included in the specification indicating the purpose of the broken lines in the drawing, as unclaimed subject matter must be described as forming no part of the claimed design or of a specified embodiment thereof. *See* MPEP § 1503.02, subsection III.

It is also permissible to include in the specification a description disclaiming portions of the article not shown in the drawing as forming no part of the claimed design. *See* § MPEP 1503.01, subsection II.

Note: Consistent with the Administrative Instructions for the Application of the Hague Agreement, in international design applications designating the United States, matter which is shown in a reproduction but for which protection is not sought may be indicated as set forth in the Hague Administrative Instructions. *See* MPEP § 2909.02 and Hague Administrative Instructions, Part Four, Section 403.

C.2 Do applicants need to specifically identify when originally filed whether an application is directed to a partial design? If so, how?

C.2.1 EUIPO

Since Article 3(a) CDR does not establish any distinction between designs consisting of the whole or a part of a product, applicants are not required to indicate in the application if the application is directed to a partial design. Whether an application is directed to a partial design must be apparent from the representation of the design itself. Use of the above referred to visual disclaimers is optional.

An application may consist of the representation of a part of a product without the entire product being represented. The effect is only that the subject-matter of the protection is less clear.

C.2.2 JPO

Yes. When filing an application for design registration of a partial design, the applicant is required to show and state the following three points without any omission to specifically indicate that the application is directed to a partial design:

1. Establish a column of “[Partial Design]” in the application.
2. Identify the part for which design registration as partial design is requested in the drawing by using such expression as solid lines and broken lines for differentiation.
3. State an explanation on the way of identifying the part for which design registration is requested in the column of “[Description of the Design]” in the application (*e.g.*, “The part shown in solid lines is the part for which design registration as partial design is requested.”)

C.2.3 KIPO

Yes. Applicants are required to indicate “partial design” in an application. If they fail to do so, they will be requested to correct the application.

1. Establish a column of “[Partial Design]” in the application.
2. Identify the part for which design registration as partial design is requested in the drawing by using such expression as solid lines and broken lines for differentiation.
3. State an explanation on the way of identifying the part for which design registration is requested in the column of “[Description of the Design]” in the application (e.g. “The part shown in solid lines is the part for which design registration as partial design is requested.”)

C.2.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.2.5 USPTO

There is no requirement for Applicant to specifically indicate or label that the application is for a partial design. Applicants can indicate they are claiming a design that comprises or is embodied in less than the entirety of an article (product) by using broken lines in the drawing. When broken lines are used, a statement should be included in the specification indicating the purpose of the broken lines in the drawing, as unclaimed subject matter must be described as forming no part of the claimed design or of a specified embodiment thereof. See MPEP § 1503.02, subsection III. It is also permissible to include in the specification a description disclaiming portions of the article not shown in the drawing as forming no part of the claimed design. See § MPEP 1503.01, subsection II

C.3 Can applicants amend an application directed to a partial design before rights are granted to cover more or less of the article? For example, can dotted lines be changed to solid, and vice-versa? What types of amendments are permitted; what types are not permitted? What rule or standard is determinative as to whether the amendments are permitted (e.g., any limitation as to the timing and/or the number of times of such amendments, etc.)?

C.3.1 EUIPO

No amendments are allowed. As a matter of principle, the representation of the design(s) cannot be altered after the application has been filed. Only the name and address of the applicant or the representative, errors of wording or of copying, or obvious mistakes may be corrected, at the request of the applicant. Article 12(2) CDIR.

C.3.2 JPO

Changing the dotted lines to solid, and vice-versa in the drawing of a partial design will be considered as an amendment that changes the gist of the design, and thus such an amendment is not allowed. Any amendment that changes the position, size or scope of the “part for which design registration is requested” in the entire form of the article will be deemed as the amendment which changes the gist of the originally filed design, provided that the change exceeds the scope of identity that can be inevitably derived based on the ordinary skill in the art of the design.

An amendment correcting or supplementing the required statements (*e.g.*, indication of “[Partial Design]” and explanation in the column of “[Description of the Design]”) may be allowed provided that such an amendment can be inevitably derived from the original contents of the application and drawing based on the ordinary skill in the art of the design. (Examination Guidelines for Design 71.10.4(2) (3)).

C.3.3 KIPO

Applicants cannot amend an application to cover more or less of the articles during examination before rights are granted since such amendments are considered materialistic change. Applicants must file another application to do so. *See* Design Examination Standards Part 3, Chapter 1, 4, 1.

C.3.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.3.5 USPTO

Yes. The USPTO will consider amendments that change the scope of a design by either converting originally-disclosed solid line structure to broken lines or converting originally-disclosed broken line structure to solid line. Such amendments must be evaluated for compliance with the written description requirement of 35 U.S.C. § 112 to ensure that the applicant had possession of the amended claimed design at the time of filing and that no new matter was added. In evaluating written description, “the test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351, 94 USPQ2d 1161, 1172 (Fed. Cir. 2010). *See* MPEP § 1504.04, subsection I(C).

C.4 Is a determination of whether an applicant can protect a partial design based on the class of design? If so, what are examples of these classes?

C.4.1 EUIPO

Partial designs can be applied for irrespective of the class of product.

C.4.2 JPO

No, there is no limitation of the class of design.

C.4.3 KIPO

Partial designs can be protected in all classes.

C.4.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.4.5 USPTO

No, partial designs can be applied for irrespective of class.

C.5 Is the applicant allowed to modify the appearance of the subject matter that is considered not to be part of the claimed design (i.e., disclaimed)?

C.5.1 EUIPO

The representation cannot be modified after a filing date has been granted (Article 12(2) of Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2001 on Community designs, as amended by Commission Regulation (EC) No 876/2007 on 24 July 2007 amending Regulation (EC) No 2245/2002). This general principle also applies to parts of the representation which represent disclaimed features.

C.5.2 JPO

An amendment that modifies the appearance of the other part than the "part for which design registration is requested" may be allowed provided that such an amendment does not change the position, size or scope of the "part for which design registration is requested" in the entire form of the article. Such an amendment must be made within the scope of identity that can be inevitably derived from the original contents of the application and drawing based on the ordinary skill in the art of the design.

In contrast, even where the amendment is directed to the other part than the "part for which design registration is requested" (*e.g.*, modification of the contour depicted in broken lines), if the amendment leads to the change of the position, size or scope of the "part for which design registration is requested" in the entire form of the article to the extent of exceeding the scope of identity judged based on the ordinary skill in the art of the design will be deemed as an amendment that changes the gist of the design, and thus such an amendment is not allowed. *See Examination Guidelines for Design 71.10.4(3).*

C.5.3 KIPO

Only minor modifications such as rectifying a discrepancy between drawings are

allowed. Any modification should not have any effect on the position, size and scope of the part of the claimed design. *See* Design Examination Guidelines, Part 3, Chapter 1, 4.1

C.5.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.5.5 USPTO

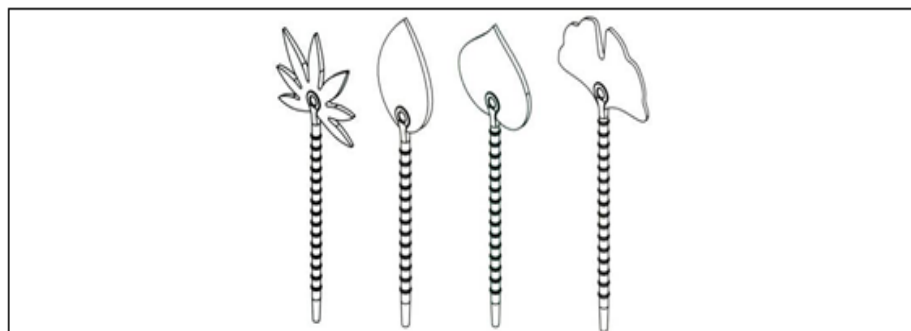
An amendment to the disclosure not affecting the claim (such as environment in the title or in broken lines in the drawings), which has no support in the application as originally filed, will be objected to under 35 U.S.C. § 132 as lacking support in the application as originally filed and a requirement will be made to cancel the new matter. *See* MPEP § 1504.04, subsection I.

C.6 Requirements relating to the unity of Partial Design in one application; e.g. can Partial Designs be filed as a related design or design for a set of products? How similar do multiple embodiments of a partial design for an article have to be, to be in the same application?

C.6.1 EUIPO

As a matter of principle, a design application must be limited to the representation of the appearance of a unitary product (as a whole or only part of this single product). A set of articles can be a ‘product’ in itself within the meaning of Article 3 CDR. It can be represented in a single design application if the articles making up this set are linked by **aesthetic and functional complementarity** and are, in normal circumstances, sold altogether as one single product, like a chess board and its pieces or sets of knives, forks and spoons (*General Court, 13/06/2017, T-9/15, Cans, EU:T:2017:386, § 61-62*).

In contrast to designs for a set of products (the set being considered a unitary on its own), related designs concern different unitary products. Since each embodiment is a design on its own, as in the example below, the four below related embodiments cannot be applied for in the same design application. This prohibition also applies to partial designs in respect of parts of the same product, assuming the partial designs were, for instance, limited to the upper part of the device below.



Related design can however be filed in multiple applications, as in the example shown in B.6.1 above. Each of the designs contained in a multiple application or registration is examined and dealt with separately. In particular, each design may, separately, be enforced, be licensed, be the subject of a right in rem, a levy of execution or insolvency proceedings, be surrendered, renewed or assigned, be the subject of deferred publication or be declared invalid (Article 37(4) CDR).

C.6.2 JPO

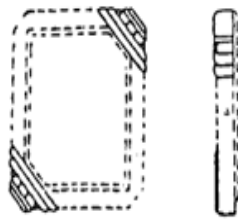
Two or more designs cannot be included in a single application, as one application per design is the principle of the Design Act of Japan (Article 7). Therefore, these designs need to be filed separately. This does not apply as such to the Hague international applications designating Japan.

In cases where two or more physically separated “parts for which design registration is requested” are included in a single article, they can be considered as a single design if they fulfill any of the following requirements:

(1) Where unity in form is found

[Case example 1] “Casing for a wrist watch”

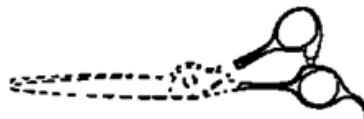
Case example 2] “T-shirt”



(2) Where unity in function is found

[Case example 1] “Barber scissors”

[Case example 2] “Mobile phone”



Examination Guidelines for Design 71.7.1.2

Partial designs may not be claimed as to a design for a set of articles (bracket clause of Article 2(1) referring to Article 8).

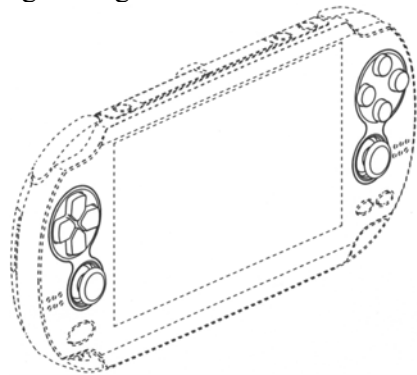
If two or more similar partial designs are contained in separate applications filed by the same applicant within the prescribed period, they can be registered as a principal design and related design(s).

C.6.3 KIPO

A partial design cannot be filed for a set of products as prescribed in the Definitions of Article 2(1) of the Design Protection Act.

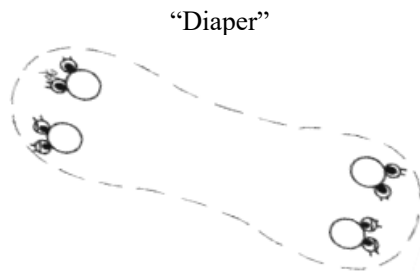
If partial designs have some features in common, they can be filed as a related design to a principal design. The principal design should be a partial design, not an entire design. *See* Design Examination Standards Part 2. Chapter 3.1.6 (One Registration Application for One Design).

A partial design for physically separated areas of an article can be protected under a single design right. For example, physically-separated buttons are protected as a single design as follows.



Design Registration No. 673478 (portable information terminal, Sony Interactive Entertainment Inc.)

Additionally, where the integrity of a form is recognized by physically separated parts having relevance such as symmetry, pairing, etc. For example, physically-separated tabs are protected as a single design as follows.



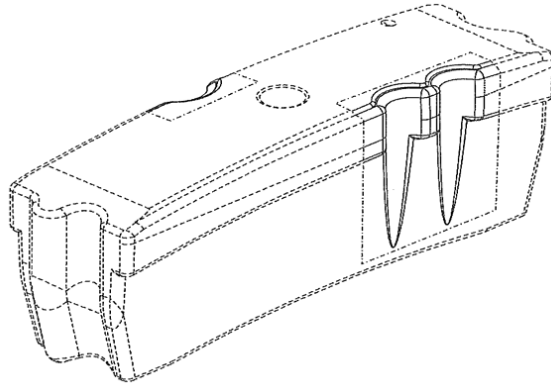
A partial design for physically separated areas of an article can also be protected when the physically separated parts have relevance such as causing recognition of one object.

(Example) “Cellular phone case” (Supreme Court Decision 2012Hu3343)



A partial design for physically separated areas of an article can also be protected when the physically separated parts have the integral relevance by performing one function as a whole.

(Example) “Ink stick for an inkjet printer”



[Description of the design] “Two grooves at the front and one groove at the back perform, as a whole, function to cause a cartridge to be installed in a printer at an exact location”.

C.6.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.6.5 USPTO

Yes, applicants may obtain design patents for different partial designs related to a single specific product (article) by filing applications directed to each different partial design. However, if separately filed applications claim designs that are not patentably distinct, the separately filed applications may be subject to a double patenting rejection. *See* MPEP 1504.06.

C.7 Requirements relating to the priority of Partial design; how is it determined whether they are the same subject or not in the partial

design application and the claimed priority application? If the applicant modifies a line in the priority document, how is it determined to be the same subject of the partial design? For example how would a change from a broken line in the priority document to solid line in applicant document, or a change from a solid line to broken line, or a removal of part of the broken line or solid line impact priority?

C.7.1 EUIPO

The EUIPO practice is to consider that the subject matter of the previous application must be identical to that of the corresponding Community design, without the addition or suppression of any features.

A priority claim is however valid if the Community design and the previous application for a design right or a utility model differ only in immaterial details within the meaning of Article 5 CDR.

If the subsequent application is a design for an entire product which has additional features compared to the first application which concerns a partial design, EUIPO considers that the subsequent application is not for the “same design” as the first application.

Likewise, if the subsequent application is a partial design which has fewer features compared to the first application which concerns an entire product, EUIPO considers that the subsequent application is not for the “same design” as the first application.

Changes of broken lines to solid lines or the reverse scenario, or removal of parts of the design the priority of which is claimed (or addition of feature to such design) will therefore render the priority claim invalid, unless the changes are deemed insignificant or immaterial.

Examples of EUIPO’s practice will be found in the questionnaire concerning “Study of Practices of Priority Rights for Industrial Designs by ID5 Offices”.

C.7.2 JPO

The designs in the previous application and the subsequent application must be substantially identical.

For example, in the following cases, the effects of the priority claim will not be approved since the designs cannot be acknowledged as being identical:

1. If the previous application is a partial design (solid line shows the claimed part, and dotted line shows the part which is not claimed to be protected,) while the subsequent application is an entire design which have amended the dotted line into a solid line;
2. If the previous application is a partial design, while the subsequent application is a design of a spare part which was indicated by a solid line in the previous application;

3. If the previous application is a partial design, while the subsequent application is also a partial design, but the position, size and proportion of the partial design is not the same as in the previous application; or
4. If the previous application is a design of an entire product, while the subsequent application is a partial design of the product.

C.7.3 KIPO

The priority claim for a partial design will be accepted in Korea if the partial design was first filed in a country that recognizes partial designs. The US, Japan and the EU recognize partial designs so it is relatively easy to make a determination of similarity to the priority design. But, for countries such as China which do not have partial design system, it is unlikely to find similarity between the partial design and the priority design.

The similarity of partial designs shall be determined in light of each subparagraph stated below based on ordinary skill in the art to which the relevant design pertains.

1. Articles in relation to which the design is to be used
2. Function and purpose of a part to have the design registered as a partial design
3. Size, position, and scope in which a part to have the design registered as a partial design account in the relevant article
4. Shape, pattern, color, or combination thereof of a part to have the design registered as a partial design

C.7.4 CNIPA

Not Applicable. Protection for partial designs is not available.

C.7.5 USPTO

In order to claim the benefit of a prior-filed U.S. application under 35 U.S.C. § 120, the invention claimed in the later-filed application must be supported by the prior-filed application in the manner provided by the 35 U.S.C. § 112(a), *i.e.*, the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.

Likewise, in order to claim priority under 35 U.S.C. § 119, the corresponding foreign application must support the claim of the subsequent application in the manner required by 35 U.S.C. § 112(a), *i.e.*, the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date.

See MPEP § 2163.03, subsections II and III, MPEP § 1504.10, MPEP § 1504.20 and MPEP § 1504.04, subsection I.

D. UTILIZATION OF PARTIAL DESIGN TRENDS

D.1 If available, how frequently do applicants utilize partial designs? Do you have any statistics that indicate what percentage of the total design applications filed with your Office are directed to partial designs (less than the entirety of a product)? In which classes (e.g., Locarno classes) do applicants in your Office most frequently utilize partial designs? Least frequently?

D.1.1 EUIPO

There are no statistics available for the reason that Article 3(a) CDR does not establish any distinction between designs consisting of the whole or a part of a product.

D.1.2 JPO

Since 2014, design applications directed to partial designs constituted around 40% of the total applications and have remained largely unchanged at that level.

Total Percentage of Partial Design Applications in three most frequent and least frequent Classes (except filings through the Hague System)	
Classification	Percentage of Total Number of Partial Designs
Class 14	11.30%
Class 09	9.60%
Class 08	8.80%
Class 30	0.20%
Class 29	0.10%
Class 01 (Except class 32)	0.10%

D.1.3 KIPO

The following tables provide a comparison of partial design filings to the total number of design application filings.

Percentage of Partial Design Applications Filed (except filings through the Hague System)

Year	Number of Partial Design Applications	Number of Total Design Applications	Percentage of Partial Design Applications to Total Design Applications
2014	7,155	64,137	11.1%
2015	7,569	7,569	11.3%
2016	6,871	6,871	9.4%

Total Percentage of Partial Design Applications in the Most Frequent and Least Frequent Classes (except filings through the Hague System)	
Class 14	27.5%
Class 02	7.5%
Class 15	5.5%
Class 07	4.5%
Class 01	0.2%
Class 18	0.1%
Class 17 (Except class 32)	0.1%

D.1.4 CNIPA

Not Applicable. Protection for partial designs are not available.

D.1.5 USPTO

There are no such statistics available.

D.2 If available, how frequently are multiple applications filed in relation to the same product (article) with different views/scope (e.g., multiple applications claiming different partial designs embodied on/in a common product/article)?

D.2.1 EUIPO

No statistics available for the reason that Article 3(a) CDR does not establish any distinction between designs consisting of the whole or a part of a product.. It is however common that partial designs are often filed in multiple applications which include the entire product as well as specific parts thereof.

D.2.2 JPO

There are no such statistics available.

D.2.3 KIPO

There are no such statistics available.

D.2.4 CNIPA

Not Applicable. Protection for partial designs is not available.

D.2.5 USPTO

There are no such statistics available.

E. LEGAL PROVISIONS RELATING TO PARTIAL DESIGNS

E.1 Please provide the text and citation of the relevant legal provisions (e.g., laws, rules, etc.) that govern applications for partial designs.

E.1.1 EUIPO

Partial designs are protectable under Article 3(a) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs ("CDR") which defines a "design" as "the appearance of *the whole or a part* of a product resulting from the features of, in particular, the lines, contours, colors, shape, texture and/or materials of the product itself and/or its ornamentation".

Article 4(2) CDR also provides that a design can be "applied to or incorporated in a product which constitutes a component part of a complex product".

Neither the CDR nor its implementing regulation provides rules for the possibility of including in the application a statement that the applicant disclaims any exclusive right to one or more features disclosed in the views. This is one of the reasons why EUIPO and its European partners at national level felt that a Convergence Programme was important with the aim of aligning practices in Europe in an area in which there is no statutory restrictions or requirements.

E.1.2 JPO

Design Act
(Definition, etc.)

Article 2

(1) "Design" in this Act shall mean the shape, patterns or colors, or any combination thereof, of an article (including a part of an article, the same shall apply hereinafter except in Article 8), which creates an aesthetic

impression through the eye.

(2) The shape, patterns or colors, or any combination thereof, of a part of an article as used in the preceding paragraph shall include those in a graphic image on a screen that is provided for use in the operation of the article (limited to the operations carried out in order to enable the article to perform its functions) and is displayed on the article itself or another article that is used with the article in an integrated manner.

(Paragraphs (3) and (4) omitted).

(Design for a set of articles)

Article 8

Where two or more articles are used together and are specifically designated by Ordinance of the Ministry of Economy, Trade and Industry (hereinafter referred to as a "Set of Articles"), if the Set of Articles is coordinated as a whole, an application for design registration may be filed as for one design, and the applicant may obtain a design registration, for designs for the articles that constitute the Set of Articles.

Ordinance for Enforcement of the Design Act

Article 2

Application (except application prescribed in (2) through (5)) shall be made in accordance with Form No. 2.

Article 3

Drawing to be attached to the application shall be made in accordance with Form No. 6.

Form No. 2 [Notes]

(8) Where requesting a design registration for a part of an article, the column of "[Partial Design]" shall be established above the column of "[Article to the Design]."

Form No. 6 [Notes]

(7) A figure (excluding a figure in the reference view) must not contain a centerline, baseline, horizontal line, fine line or shading to express shadows, indication line, code or character to explain the contents, nor any other line, code or character which does not constitute the design; provided, however, that it may contain a line, dot or any other mark for specifying the shape of the design for which design registration is requested. In this case, a statement to that effect and a statement as to which mark specifies the shape shall be included in the column of "[Description of the Design]" of the application.

(8) Drawing showing a three-dimensional shape shall be presented as a set, consisting of the front view, rear view, left side view, right side view, top view and bottom view prepared at the same scale by the orthographic projection method....

(10) Drawing representing a flat and thin article will be a set, consisting of the surface view and back side view prepared at the

same scale, and a set of views will be indicated on a single sheet of paper, in principle; provided, however, that where the surface view and the back side view are identical or mirror images or without any patterns, the back side view may be omitted. In this case, a statement to that effect shall be included in the column of “[Description of the Design]” of the application.

(11) Where requesting a design registration for a part of an article, in the graphic image view (meaning the view representing the graphic image displayed on an article that is used with the article in an integrated manner as provided in Article 2(2) of the Design Act; the same shall apply hereinafter) prescribed in (8) through (10) and (14), the part of the article to the design for which design registration is requested shall be specified by drawing the part for which design registration is requested with solid lines and any other parts with broken lines, etc., and the way of specifying the part for which design registration is requested shall be stated in the column of “[Description of the Design]” of the application.

(14) Where the drawings in (8) through (10) alone cannot sufficiently represent the design, a development view, sectional view, end elevation view of the cut part, enlarged view, perspective view, graphic image view, or any other necessary views will be added, and where it is necessary to help in understanding the design, a view showing the state of use or any other reference views will be added.

E.1.3 KIPO

Design Act

Article 2 (Definitions)

The terms used in this Act shall be defined as follows:

1. The term "design" means a shape, pattern, or color of an article [including parts of an article and fonts; the same shall apply hereinafter], which invokes a sense of beauty through visual perception.

Article 92 (Effects of Design Rights)

The owner of a design right shall have the exclusive right to commercially use the registered design or any similar design.

Form Annex 4 to the Enforcement Regulation of the Design Protection Act

Drawings of Partial Design

1. When drawing a partial design, the part seeking the registration of the design as the partial design of the whole design may be represented by a solid line or the corresponding method, and other part(s) may be expressed by a dotted line or the corresponding method. That is, the part which you intend to be registered as partial design should be clearly specified from whole design.
2. If a partial design is applied by sample, the remaining part of the whole design that you seeking the registration as partial design may be applied in achromatic color such as black in order to specify clearly the

- part you intend to be registered as a partial design.
3. If a partial design is filed by a photograph, the part seeking the registration as a partial design should be clearly specified from the whole design by applying an achromatic color such as black to the remaining part of the part you intend to be registered as a partial design. However, if the whole design is in only achromatic colors such as black and it is difficult to clearly identify the part to be registered as partial design, it is available to use chromatic colors.
 4. When a design application for partial design is filed, if it is deemed necessary to explain the method of specifying the part in drawings, photographs, or samples, you may describe it in the "Description of Design" column.

Chapter 2 of Part 5 of the Design Examination Standards

1. The Subject matter to determine similarity of designs:
 - 1) The similarity of designs shall be determined only among identical or similar articles (see, Supreme Court Decision 98Hu492).
 - 2) The similarity of designs according to the similarity of articles shall be as follows:

Type	Identical articles	Similar articles	Dissimilar articles
Identical shape, pattern, color	Identical designs	Similar designs	Dissimilar designs
Similar shape, pattern, color			
Dissimilar shape, pattern, color			

2. Methods to determine the similarity of partial designs:

The similarity of partial designs shall be determined in light of each subparagraph stated below based on ordinary skill in the art to which the relevant design pertains.

- (1) Articles in relation to which the design is to be used
- (2) Function and purpose of a part to have the design registered as a partial design
- (3) Size, position, and scope in which a part to have the design registered as a partial design account in the relevant article
- (4) Shape, pattern, color, or combination thereof of a part to have the design registered as a partial design

E.1.4 CNIPA

Not Applicable. Protection for partial designs is not available.

E.1.5 USPTO

35 U.S.C. § 112 Specification.

(a) IN GENERAL.—The specification shall contain a written description of the

invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

35 U.S.C. § 119 Benefit of earlier filing date; right of priority.

(a) An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within 12 months from the earliest date on which such foreign application was filed. The Director may prescribe regulations, including the requirement for payment of the fee specified in section 41(a)(7), pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional.

(b)(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.

(2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed claim under this section.

(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

(d) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner

and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.

35 U.S.C. § 120 Benefit of earlier filing date in the United States.

An application for patent for an invention disclosed in the manner provided by section 112(a) (other than the requirement to disclose the best mode) in an application previously filed in the United States, or as provided by section 363 or 385 which names an inventor or joint inventor in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the requirement for payment of the fee specified in section 41(a)(7), to accept an unintentionally delayed submission of an amendment under this section.

35 U.S.C. § 171 Patents for designs.

(a) IN GENERAL.—Whoever invents any new, original, and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

(b) APPLICABILITY OF THIS TITLE.—The provisions of this title relating to patents for inventions shall apply to patents for designs, except as otherwise provided.

(c) FILING DATE.—The filing date of an application for patent for design shall be the date on which the specification as prescribed by section 112 and any required drawings are filed.

35 U.S.C. § 172 Right of priority.

The right of priority provided for by subsections (a) through (d) of section 119 shall be six months in the case of designs. The right of priority provided for by section 119(e) shall not apply to designs.

37 CFR § 1.152 Design drawings.

The design must be represented by a drawing that complies with the requirements of § 1.84 and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the design. Appropriate and adequate surface shading should be used to show the character or contour of the surfaces represented. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Broken lines may be used to show visible environmental structure, but may not be used to

show hidden planes and surfaces that cannot be seen through opaque materials. Alternate positions of a design component, illustrated by full and broken lines in the same view are not permitted in a design drawing. Photographs and ink drawings are not permitted to be combined as formal drawings in one application. Photographs submitted in lieu of ink drawings in design patent applications must not disclose environmental structure but must be limited to the design claimed for the article.

37 CFR § 1.153 Title, description and claim, oath or declaration.

(a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

(b) The inventor's oath or declaration must comply with the requirements of 37 CFR § 1.63, or comply with the requirements of 37 CFR § 1.64 for a substitute statement.

E.2 Please provide website links and/or reference to any guidance documentation, including examination guidelines, currently available for applicants relating to applications for partial designs.

E.2.1 EUIPO

Common Communication of the participating IP Offices, dated 15 April 2016:
<https://www.tmdn.org/network/documents/10181/20e96f9f-2e5b-431f-9ba5-e429abe7dac8>

Guidelines for Examination of Registered Community Designs (latest version dated 15 April 2016, see Section 5.3): https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/law_and_practice/designs_practice_manual/WP_LR_2016/MRC/examination_of_applications_for_registered_community_designs_tc_en.pdf

E.2.2 JPO

Design Act (English)

<http://www.japaneselawtranslation.go.jp/law/detail/?id=2846&vm=04&re=01&new=1>

Ordinance for Enforcement of the Design Act (Japanese)

<http://law.e-gov.go.jp/htmldata/S35/S35F03801000012.html>

Appended Table of the Ordinance for Enforcement of the Design Act (Japanese)

https://www.jpo.go.jp/torikumi/kaisei/kaisei2/pdf/isyoyou_17.pdf

Appended Table 1 and 2 of the Ordinance for Enforcement of the Design Act (English)

https://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/appended-table1_2.htm

Examination Guidelines for Design (English)

https://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/design_es.htm

Handbook for the Writing in the Application and Drawings for Design Registration (Japanese)

http://www.jpo.go.jp/shiryou/kijun/kijun2/h23_zumen_guideline.htm

E.2.3 KIPO

Design Act (English)

http://elaw.klri.re.kr/kor_service/lawView.do?hseq=38408&lang=ENG

Enforcement Decree of Design Protection Act (English)

http://elaw.klri.re.kr/kor_service/lawView.do?hseq=39952&lang=ENG

Enforcement Rule of Design Protection Act(Korean)

<http://www.law.go.kr/법령/디자인보호법시행규칙>

Examination Guidelines for Design (Korean)

http://www.kipo.go.kr/kpo/user.tdf;jsessionid=9863ca6b30d51a82eb1aeb6c4fc4a521f1ba182c0c19.e34RahyTbxmRb40LaxyPahaRahqLe0?a=user.html.HtmlApp&c=30732&catmenu=m04_01_07

Design Map (Korean)

<https://www.designmap.or.kr:10443/dr/DrinfoFrM.jsp>

Kipris (English/Korean)

<http://eng.kipris.or.kr/enghome/main.jsp>

Enforcement Rule of the Design Protection Act, attached sheet 4 form (Korean)

<http://www.law.go.kr/lsBylInfoR.do?bylSeq=7085270&lsiSeq=197722&efYd=20170922>

E.2.4 CNIPA

Not Applicable. Protection for partial designs is not available.

E.2.5 USPTO

“Consolidated Patent Laws” available at
https://www.uspto.gov/web/offices/pac/mpep/consolidated_laws.pdf

“Consolidated Patent Rules” available at
https://www.uspto.gov/web/offices/pac/mpep/consolidated_rules.pdf

Manual of Patent Examining Procedure (9th ed.) (Rev. 8, 2017, January 2018) available at <https://www.uspto.gov/web/offices/pac/mpep/index.html>