

Appendix

Summary Table <ID5 Study Report on Partial Designs>					
A. History of Partial Design Protection					
Question	EUIPO	JPO	KIPO	CNIPA	USPTO
A.1 Is partial design protection available?	Yes, since at least 2001.	Yes, since 1998.	Yes, since at least 2001.	No.	Yes, since at least 1980.
If so, since when?					
B. Overview of Partial Design Protection					
B.1 What are the minimum aspect requirements for industrial design protection?	No minimum aspect requirements.	<p>No legal minimum aspect requirement for an entire article.</p> <p>For partial designs, the subject matter must be of an article, the form or an article, appealing to the eye, creates an aesthetic impression through the eye, constitutes a part that occupies a certain scope, constitutes a part that becomes subject to comparison when comparing another design.</p> <p><i>Examination Guidelines for Design (71.4.1.1) provide specific minimum requirements for partial designs to be considered a “design” as defined in Article 2(1) of the Design</i></p>	<p>No legal minimum aspect requirement for an entire article.</p> <p>The article shall be an ordinary article, the design shall be determined as the form of part of an article, shall be part that can be determined as one unit of the creation, shall not be a partial design for a set of articles.</p> <p><i>Design Examination Standards (Part 4 Chapter 1.2.2) prescribe the minimum requirements for the establishment of partial designs.</i></p>	<p>Patent Law Article 2.4 requires that a component part be portioned or sold and can be used independently.</p> <p>Therefore protection for partial designs is not available.</p>	<p>Patents for designs require an article of manufacture. 35 U.S.C. § 171</p> <p>Therefore, the design must be embodied in or applied to an article of manufacture.</p>

		<i>Act.</i>			
B.2 What effect does an article in an industrial design have on determination of infringement?	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.	<p>The article and the form are inseparably integrated in a design.</p> <p>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.</p>	Same as that for the entire design.	Not Applicable.	Same as that for designs applied to an entire article. The test for infringement is 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 patented is infringed by the other.
B.3 Is the inclusion of unclaimed subject matter permitted? If so, what?	<p>Yes.</p> <p>May include external and foreign matter if the inclusion does not cast doubt on the protection sought.</p>	<p>Yes.</p> <p>When requesting design registration for a part of an article, both the claimed part and the unclaimed part must be specified in the drawing and the application. Unclaimed subject matter may also be included when necessary to show specific feature of the design.</p>	<p>Yes.</p> <p>Applicant must show how they depict unclaimed subject matter (e.g. dash lines, colorizing, etc.)</p>	Not Applicable.	<p>Yes.</p> <p>Structure that is not part of the claimed design, but is necessary to show the environment in which the design is used, may be represented in the drawing by broken lines. When broken lines are used, a statement should be included in the specification indicating the purpose of the</p>

					broken lines in the drawing.
B.4 Does the unclaimed subject matter have an effect on the scope of partial design protection? If so, what?	No. The scope of protection is exclusively determined by graphical representation of the design. The applicant may use “visual disclaimers” to disclaim features are deemed not to be part of the subject matter of the protection.	Yes. Unclaimed subject matter may affect the scope of protection which is based on whether the comparable two designs are identical with or similar to each other. The actual form of the part needs to be identical or similar, and also the position, size and scope needs to be identical or commonplace in the art of the design.	Yes. Unclaimed subject matter may affect scope of protection since the size, position and area of the claimed part will be examined against the entire design.	Not Applicable.	No. The scope of a claimed design, 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.
B.5 Are partial design applications labelled or distinguished from designs directed to an entire product?	No.	Yes. “Partial Design” must be indicated on the application and specificity of the design is required in the Description of the Design section of the application.	Yes However, even if there is a label for a partial design, the name of the article to which the partial design is applied should be indicated in the application.	Not Applicable.	No. However, partial design applications may be identifiable given the title used and the description of the figures.
B.6 Can multiple partial designs be registered in relation to a single product (article)?	Yes. One and the same product can be the subject of different design application for different parts of this product.	Yes. It is possible to file applications on two or more different characteristic parts. It is also possible to obtain design	Yes. Multiple partial designs should be registered in relation to a single product.	Not Applicable.	Yes. Applicants may obtain design patents for different partial designs related to a single article of manufacture by filing

		<p>registration for two or more variant designs on a specific part of a certain article as "principal design" and "related design(s)". However, only "one application per design" is permissible. Thus, two or more designs cannot be included in a single application. Therefore, two or more partial designs need to be filed separately.</p>			<p>an application for each partial design.</p> <p>However, 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.</p>
C. Requirements for Claiming Protection for an Industrial Design Comprising Less than the Entirety of an Article					
C.1 Indications for claiming partial design.	<p>May use: (a) broken lines; (b) blurring; (c) coloring; (d) shading; (e) boundaries; (f) and a combination of (a)-(e). Use of a verbal description is not appropriate.</p>	<p>May use one or more of: (a) broken lines; (b) shading; or (c) coloring; and (d) description.</p>	<p>May use a combination of two or more of: (a) broken lines; (b) shading; (c) coloring; and (d) description as long as describe how to indicate the disclaimed part.</p>	<p>Not Applicable.</p>	<p>May use: (a) broken lines in the drawings. When broken lines are used, a statement should be included in the specification indicating the purpose of the broken lines in the drawing. Applicant may also use (d) description in the specification disclaiming portions not shown.</p> <p>In international design applications designating the U.S., matter which is</p>

					shown in a reproduction but for which protection is not sought may be indicated as set forth in the Hague Administrative Instructions.
C.2 Do applicants need to indicate whether an application is directed to a partial design at filing?	Not required. Whether an application is directed to a partial design must be apparent from the representation of the design.	Required. Applicant must show and state the following: 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.	Required. Applicant must show and state the following: 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.	Not Applicable.	Not required
C.3 Are amendments to include more or less of an article	Not allowed.	In principle, not allowed. Allowed only	Allowed only for minor modification	Not Applicable.	Allowed if there is sufficient written

permitted?		if the change is deemed not to exceed the scope of identity that can be inevitably derived based on the ordinary skill in the art of the design.	such rectifying a discrepancy between drawings.		description under 35 U.S.C. § 112.
C.4 Is the protection of partial designs based on the class of the design?	No.	No.	No.	Not Applicable.	No.
C.5 Are modifications to the appearance of subject matter that is considered not to be part of the claimed design (i.e., disclaimed) permitted?	Not allowed.	Allowed if the change is deemed not to exceed the scope of identity of the claimed part in terms of position, size or scope within the entire article that can be inevitably derived based on the ordinary skill in the art of the design.	Allowed only for minor modification such rectifying a discrepancy between drawings.	Not Applicable.	Allowed if there is support for the amendment in the application as originally filed.
C.6 Requirements for Unity of Partial Design in a Single Application.	One registration application per product. (However, multiple registration applications may be filed in a single application with the Office.) A set of articles can be a 'product' in itself within the meaning of	One application per design. Two or more designs cannot be included in a single application. In cases where two or more physically separated "parts for which design registration is requested" are included in a single	One application per design. A partial design cannot be filed for a set of products as described in art. 2(1) of the Design Protection Act. Partial designs having common features can be filed as a related design to a principal design.	Not Applicable.	One application per design. However, more than one embodiment of a design may be presented in a single application if they involve a single inventive concept. Therefore, the examiner will require restriction under 35 U.S.C. § 121 in each

	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.	article, they can be considered as a single design if there is unity in form, or function.			design application which contains more than one patentably distinct design.
C.7 Priority requirements.	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. However, a priority claim may be valid if the designs differ only in immaterial details; or if changes in the drawings area insignificant or immaterial.	The designs must be substantially identical.	Priority claim for partial designs will be accepted in Korea when the priority claim is to an application in a jurisdiction that recognizes partial designs.	Not Applicable.	To claim benefit of a prior-filed application, the invention claimed in the later-filed application must be supported by the prior-filed application – 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.
D. Applicant Trends in Utilization of Partial Designs					
D.1 Frequency of partial design use	Statistics are not available.	Partial design applications represent 40% of the total applications since 2004. Locarno Class 14 had the most partial	11.1% of design applications were directed to partial designs in 2014; 11.3% of design applications were directed to partial designs in 2015; and	Not Applicable.	Statistics are not available.

		design applications and Locarno Class 01 had the least in 2016.	9.4% of design applications were directed to partial designs in 2016. Partial designs are most frequently filed in Classes 14, 2, 15, and 7. Partial designs are least frequently filed in Class 17 (excluding class 32).		
D.2 Frequency of multiple filings on same product (article) claiming different partial designs.	Statistics are not available.	Statistics are not available.	Statistics are not available.	Not Applicable.	Statistics are not available.
E. Legal Provisions Relating to Partial Designs (i.e., Claims to Designs for Less than the Entire Article/Product)					
E.1 Relevant legal provisions governing partial designs.	Partial designs are protectable under Article 3(a) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Designs (“CDR”)	<u>Design Act: arts. 2 (1) and (2).</u> <u>Ordinance for Enforcement of the Design Act: art. 2, art. 3, Form No. 2 [Note (8)]; and Form No. 6 [Notes: (7), (8), (10), (11), (14)].</u>	<u>Design Act: arts. 2 (1).</u> <u>Form Annex 4 to the Enforcement Regulation of the Design Protection Act: (1)-(4).</u>	Not Applicable.	35 U.S.C. § 112(a) and (b); 35 U.S.C. § 119 (a)-(d); 35 U.S.C. § 120; 35 U.S.C. § 171 (a)-(c); 35 U.S.C. § 172; 37 CFR § 1.152; and 37 CFR § 1.153 (a)-(b).
E.2 Reference links	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	Design Act (English) http://www.japaneseelawtranslation.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/htmlldata/S3	Design Act (English) http://elaw.klri.re.kr/ko_service/lawView.do?hseq=38408&lang=ENG Enforcement Decree of Design Protection Act (English) http://elaw.klri.re.kr/ko_service/lawView.do?hseq=39952&lang	Not Applicable.	“Consolidated Patent Laws” available at https://www.uspto.gov/web/offices/pac/mp/ep/consolidated_laws.pdf “Consolidated Patent Rules” available at https://www.uspto.gov/web/offices/pac/mp/ep/consolidated_rule

	<p>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_toc_en.pdf</p>	<p>5/S35F0380100001.html</p> <p>Appended Table of the Ordinance for Enforcement of the Design Act (Japanese) https://www.jpo.go.jp/torikumi/kaisei/kaisei2/pdf/isyoyou_17.pdf</p> <p>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</p> <p>Examination Guidelines for Design (English) https://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/design_es.htm</p> <p>Handbook for the Writing in the Application and Drawings for Design Registration (Japanese) http://www.jpo.go.jp/s hiryou/kijun/kijun2/h23_zumen_guideline.htm</p>	<p>=ENG</p> <p>Enforcement Rule of Design Protection Act(Korean) http://www.law.go.kr/ 법령/디자인보호법시행규칙</p> <p>Examination Guidelines for Design (Korean) http://www.kipo.go.kr/kpo/user.tdf;jsessionid=9863ca6b30d51a82eb1aeb6c4fc4a521f1ba182c0c19.e34RahyTbxmRb40LaxyPa haRahqLe0?a=user.html.HtmlApp&c=30732&catmenu=m04_01_07</p> <p>Design Map (Korean) https://www.designmap.or.kr:10443/dr/DrinfoFrM.jsp</p> <p>Kipris (English/Korean) http://eng.kipris.or.kr/enghome/main.jsp</p> <p>Enforcement Rule of the Design Protection Act, attached sheet 4 form (Korean) http://www.law.go.kr/</p>		<p>s.pdf</p> <p>Manual of Patent Examining Procedure (9th ed.) (Rev. 08.2017, January 2018) available at https://www.uspto.gov/web/offices/pac/mp/ep/index.html</p>
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