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INTELLECTUAL PROPERTY LAW
TOKYO WTC HARAKENZO
45th Anniversary in 2021
特許業務法人
HARAKENZO
WORLD PATENT & TRADEMARK
INTELLECTUAL PROPERTY LAW FIRM
Newsletter
DESIGN & TRADEMARK
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JAPAN

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New Version of J-PlatPat with Added Functions Released
特許情報プラットフォーム(J-PlatPat)の新機能がリリースされた

A new version of J-PlatPat featuring new functions was released at 9:00 a.m. on May 7, 2019. The major new functions are as follows.

1. Shortened Time Lag and Expanded Referenceable Documents

Although it used to take around three weeks from the date of submission to the JPO for information concerning the course of an examination/appeal to be made available, with the new functions it now takes a day in principle. Moreover, referenceable documents have been expanded to include not only those regarding patents and utility models but also designs and trademarks. However, in the case of design and trademark documents, only those documents dated from January 2019 (and only registered designs) are referenceable.

2. Expanded Database

It is now possible to search for trademark applications which were rejected by the JPO's examination, and trademarks whose rights have lapsed. In addition, it is now possible to search in Japanese for Chinese patent documents, which have been rapidly increasing in number in recent years.

3. Improved Quality of Machine Translation

The latest machine translation algorithm uses AI to provide better quality Japanese-English translations.

4. Improved Screen Layout for Ease-of-use

The menu and the start screen have been reorganized to make it easier even for new users to use J-PlatPat smoothly.

The introduction of the new functions enables users to grasp quickly and accurately the results of examinations/appeals in their own cases and in the cases of others. Moreover, as the prior art search is more accurate and efficient, it enables users to avoid duplicate applications and to formulate more suitable strategies for overseas applications.

2019年5月7日午前9時に新機能がリリースされた。主な新機能は以下の通りである。

1、タイムラグを短縮、参照可能な書類が拡充される

特許庁が書類を発出してから審査・審判経過情報が参照可能になるまでの期間が、約3週間から原則1日に短縮される。また、参照可能な書類は特許・実用新案に加え、意匠・商標にまで拡充される。ただし、意匠・商標の書類は、平成31年1月以降の書類（意匠は、登録になったもののみ）が照会対象になる。

2、データベースを拡充する

特許庁の審査で拒絶された商標出願や、権利が抹消された商標登録が新たに検索可能になる。また近年急増中の中国の特許文献を日本語検索できるようになる。

3、機械翻訳の質の改善

AIを活用した最新の機械翻訳アルゴリズムにより、質の向上した日英翻訳が提供される。

4、画面表示が見やすくなる

初めての方でもスムーズに利用できるように、メニューや初期画面が整理される。

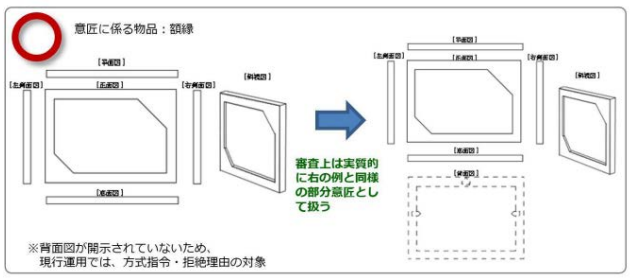
新機能の登場により、自社・他社の審査・審判結果を早く正確に把握できるようになる。また、より正確で効率的な先行技術調査が可能となることで、重複出願の防止や、より適切な海外出願戦略の策定に活用できる。

Outline of Revisions to Design Examination Guidelines
意匠審査基準改訂の概要

The revised design examination guidelines are being applied to examinations for design applications filed on or after May 1, 2019. The JPO homepage contains information on the content of the revisions to the guidelines. With the aim of improving operating performance and international cooperation under the Hague Agreement, the revised design examination guidelines ease the requirements for applications and drawings. Moreover, this revision includes other major amendments, such as changes to how prior applications are judged regarding partial designs and whole designs, etc. (see the excerpts from the JPO homepage below)

1. Abolishment of the Requirement of 'a Set of Drawings'

Prior to the revision, the JPO required applicants to submit drawings of a design from six directions in orthographic projection (a set of drawings). However, it was indicated to the JPO that this system is not preferable from the perspective of international cooperation, as it places additional strain on applicants when preparing drawings, and in some cases designs are issued with invitations to amend because the drawings do not satisfy formal requirements in Japan, even though the same drawings can be registered without any problems in other countries. Thus, the JPO no longer requires a specific number of drawings to be submitted as long as the drawings are sufficient to clearly show the design.



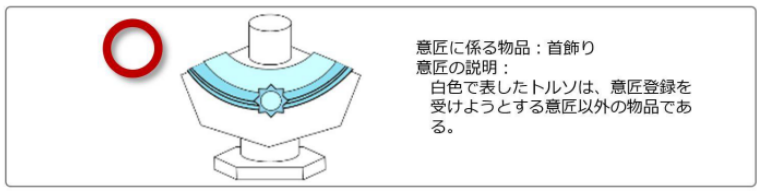
However, applicants should be aware that their application will be in violation of Article 3, Section 1 main paragraph of the Design Law if comprehensive judgement of the application document and drawings etc. concludes that it is impossible to derive a specific design from the application since a set of drawings was not submitted.

2. Abolishment of the Section [Partial Design] in Application Documents

Prior to the revision, when filing a design application for a component of a product it was necessary to include the section "[partial design]" in the application document. Following the revision, this section is no longer required.

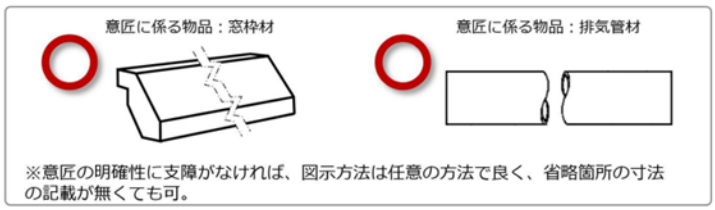
3. Acceptance of the Inclusion of Descriptions of Articles other than those for which a Design Registration is sought

The revised guidelines permit applicants to show articles in the drawings other than those for which a design registration is sought, provided that the articles are clearly distinguished in the drawings or in descriptions.



4. Relaxation of Methods for Indicating Partial Omissions

Providing that the clarity of the design does not suffer, the revised guidelines allow applicants to use various methods to indicate omissions. They also remove the requirement to indicate in the application document the measurements of parts that are omitted.



5. Judgement on Prior Applications in cases of Partial Designs and Whole Designs

When judging whether or not the regulations of Article 9 Sections 1 and/or 2 of the Design Law apply, not only will applications for whole designs be compared to other applications for whole designs and applications for partial designs compared to other applications for partial designs, but whole designs and partial designs will be compared to one another. For example, when a partial design is filed first, and a whole design regarding the same or similar articles is filed some days later, the prior application will be registered while the subsequent application for the whole design will be rejected if it is similar to the prior partial design, according to the regulations of Article 9 Section 1 of the Design Law (Examination Guideline 61.1.1)

The examination guidelines describe the method of judging the similarity of whole designs and partial designs. (Examination Guideline 71.9.2)

6. Related Designs in cases of Partial Designs and Whole Designs

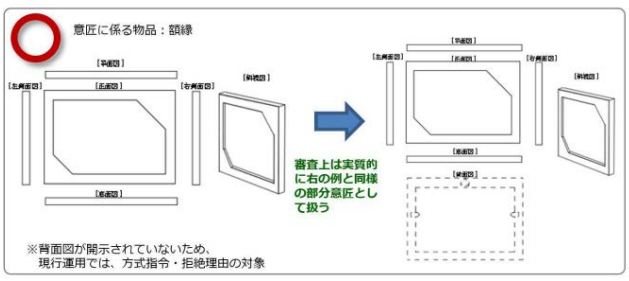
It is judged whether or not the regulations of Article 9 (prior applications) and Article 10 (related designs) of the Design Law apply, both in cases comparing partial design applications with other partial design applications and cases comparing whole design applications with partial design applications. (Examination Guideline 71.9.1)

Regarding the judgement of similarity of whole designs and partial designs in the case of related designs, please refer to the above-mentioned Examination Guideline 71.9.2.

出願日が2019年5月1日以降の意匠出願の審査に、改訂された意匠審査基準が適用される。特許庁のHPに今回の改訂の内容について記載されている。ハーグ協定の運用実績や国際協調の観点から願書及び図面の記載要件が緩和されている。さらに、部分意匠と全体意匠について先後願が判断される等大きな改正も含まれている。（以下、特許庁HPより抜粋）

1.「一組の図面」の要件廃止

改訂前の運用では、正投影図法による六面図（一組の図面）の提出が求められていた。しかし、図面作成負担が大きいことや、他国では問題なく登録される意匠図面が、日本では方式要件を満たさないとして補正指令を受けるなど、国際協調の観点から好ましくないとの指摘があった。そこで、意匠を明確に表す十分な数の図の提出があれば、提出する図の数は不問となった。



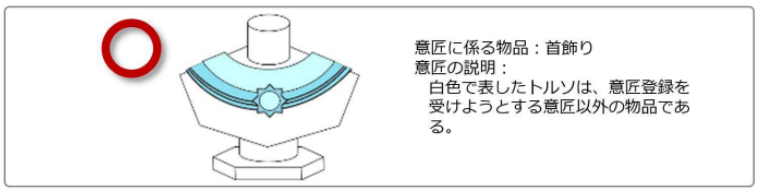
ただし、一組の図面の提出が無いために、願書や図面の記載等から総合的に判断して、具体的な意匠の内容を導き出せない場合には、3条1項柱書違反となることに注意が必要である。

2. 願書の【部分意匠】の欄の廃止

改訂前の運用では、物品の部分について意匠登録を受けようとする場合、願書に【部分意匠】の欄を設けることが必要だったが、改訂後は、当該記載が不要となった。

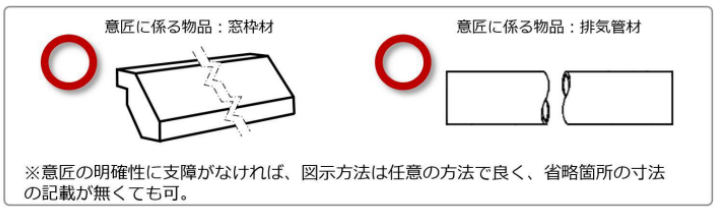
3. 意匠登録を受けようとする物品以外のものの記載を容認

明確な図面の描き分けがなされているか、説明が記載されている場合は、意匠登録を受けようとする物品以外のものを図面の中に表すことができるようになった。



4. 中間省略の記載方法の緩和

意匠の明確性に支障がないことを条件に、様々な省略のための表現方法を許容するとともに、願書における中間省略の寸法の記載も不要となった。



5. 部分意匠と全体意匠について先後願の判断

意匠法第9条第1項又は第2項の規定は、全体意匠の意匠登録出願同士又は部分意匠の意匠登録出願同士に加え、全体意匠と部分意匠についても、その適用について判断する。例えば、先に部分意匠の出願がされ、後日に全体意匠の出願が同一又は類似の物品についてされた場合、先願が登録され、後願の全体意匠が先願の部分意匠に類似しているときには、後願の全体意匠は意匠法第9条第1項の規定により拒絶される。（審査基準61.1.1）

審査基準には、全体意匠と部分意匠との類否判断の手法について記載されている。（同71.9.2）

6. 部分意匠と全体意匠についての関連意匠

意匠法第9条（先願）及び第10条（関連意匠）の規定は、部分意匠の意匠登録出願同士及び全体意匠と部分意匠の意匠登録出願の間でも、その適用について判断する。（同71.9.1）

関連意匠の場合の全体意匠と部分意匠との類否判断についても、上記審査基準71.9.2の記載が参照される。

Please contact us if you have any comments or require any information.

Please acknowledge that the purpose of our column is to provide general information on the field of intellectual property, and that the description here does not represent our legal opinion on a specific theme.

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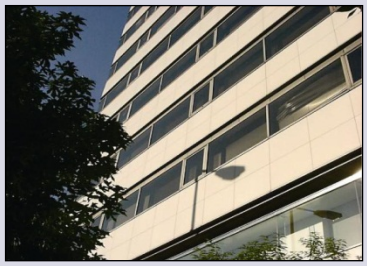

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