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Examination Guidelines for Similar Goods and Services (International Classifications 11-2020)

類似商品・役務審査基準(国際分類第11-2020版)について

A Law Partially Revising the Trademark Law Enforcement Regulations (Ministry of Economy, Trade and Industry bill no. 42 dated November 21, 2019) was recently carried out. As a result, examination guidelines for similar goods and services have been amended. The amended guidelines were published on the Japan Patent Office website the same day.

The new guidelines will apply to applications made from January 1, 2020 onwards.

The revisions are numerous and subtle, and include changes to English reference translations, the addition and deletion of goods and services, and the transfer of classes etc. Thus, it is thought that errors regarding the writing of goods and services or the selection of classifications will be more likely to occur. Close attention will need to be paid when selecting designated goods and services.

Below are some examples of the changes (detailed information of other changes is available on the JPO

website).

Example 1

[Before change] Class 30 - Confectionary

[After change] Class 29 - Fruit-based, vegetable-based, bean-based or nut-based snack

Class 30 - Sweets, desserts and snacks other than fruit-based, vegetable-based, bean-based or nut-based

Reason for the change: since it has been clarified that fruit-based, vegetable-based, bean-based or nut-based foods belong to Class 29, this change clearly separates "confectionary" into Class 29 or Class 30 depending on its principal ingredients.

Example 2

[Before change] Class 42 - Designing, other than for advertising purposes

[After change] Class 42 - Design service

Reason for the change: this change clarifies that services creating and drawing designs belong to Class 42, even if those designs are related to advertising.

今般、商標法施行規則等の一部を改正する省令（令和元年11月21日経済産業省令第42号）が行われ、この改正内容に対応した「類似商品・役務審査基準」の改訂が行われた。なお、特許庁HPにて同日に公表されている。本類似基準は令和2年1月1日以降の出願に適用される。

今回の改訂では、英語の参考訳の変更、商品・役務の追加と削除、類の移行など細かい内容も多い。それ故、商品・役務の誤記や区分の間違いが生じやすいと思われる。指定商品・役務の選定の際は細心の注意が必要だ。

以下、変更点の一部を例示する。（その他の詳細は特許庁HPにて公表されている）

・例1

[変更前] 第30類 菓子（参考訳：confectionery）

[変更後] 第29類 菓子（果物・野菜・豆類 又はナッツを主原料とするものに限る。）

（参考訳：fruit-based, vegetable-based, bean-based or nut-based snacks）

第30類 菓子（果物・野菜・豆類 又はナッツを主原料とするものを除く。）

(参考訳: sweets, desserts and snacks other than fruit-based, vegetable-based, bean-based or nut-based)

※変更理由: 果物、野菜、豆類又はナッツを主原料とする食品が第29類に帰属することが明らかになったことを受け、「菓子」についても、主原料に応じて第29類または第30類に分類されることを明確にするため。

・例2

[変更前] 第42類 デザインの考案 (広告に関するものを除く。) (参考訳: designing, other than for advertising purposes)

[変更後] 第42類 デザインの考案 (参考訳: design service)

※変更理由: 広告に関するものであっても、図案を設計し、描く役務は、第42類に帰属することが明らかとなったため。

Enforcement Date for Revised Design Law 改正意匠法の施行日

In previous newsletters, we included information on the wide-ranging changes that will be carried out to the Design Law. The enforcement date for the revised Design Law has now been announced. Details of the date and information on changes that will be made to related designs are below.

1. Enforcement date

April 1, 2020

2. Revision details

(1) Broadening of items subject to protection: newly protected items

- Images for operation and display images (displaying results of performing functions) no longer need to be recorded or displayed on articles

- Exteriors and interiors of buildings

(2) Broadening of related design system

(3) Change to period of duration for design rights (before change: 20 years from the date of registration; after change: 25 years from the date of application)

(4) Raising standards for creative difficulty

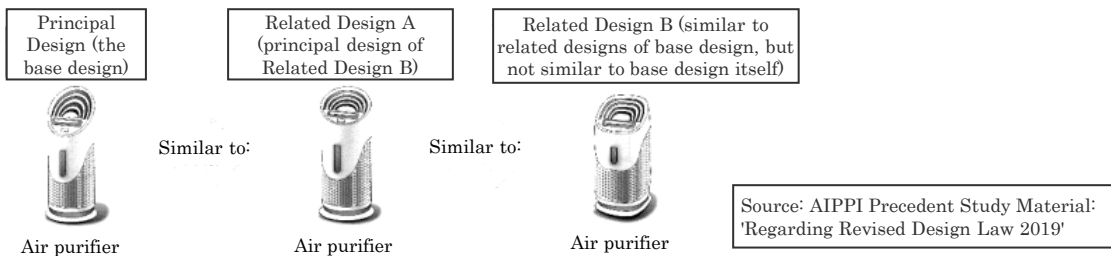
(5) Introduction of designs for component parts

(6) Expansion of cases in which indirect infringement applies

3. Broadening of Related Design System

(1) Period in which it is possible to apply for a related design (Related Design B) similar only to another related design (Related Design A): until ten years from the filing of the application of the first principal design (the base design).

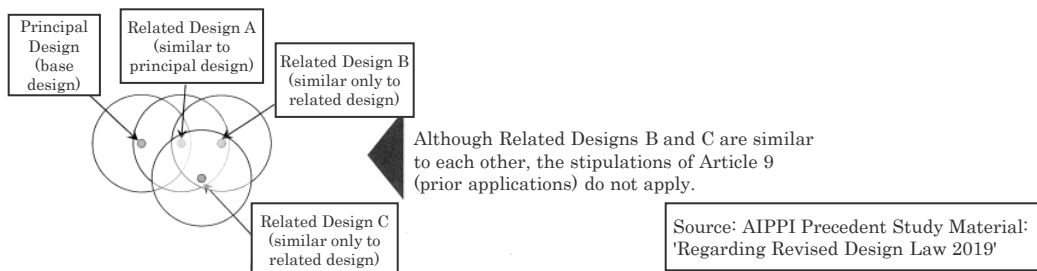
(2) If the principal design of Related Design B (Related Design A) is in force, it is still possible to register Related Design B even if the principal design of Related Design A (the base design) expires.



(3) Measure to prevent related designs being refused due to own designs

(i) Prior applications

Requirements for prior applications do not apply to multiple related designs that share a common first principal design (base design).



(ii) Novelty/creative difficulty etc.

The publications of a base design and related designs that share that same base design, as well as one's own worked products similar to said designs, etc. will not be cited as reasons for refusal due to lack of novelty or creative difficulty.

過去のニュースレターにおいて、意匠法の大幅な改正について何度か取り上げてきたが、改正意匠法の施行日が発表されたので、施行日をお知らせするとともに、関連意匠の改正内容の詳細について記載する。

1. 施行日

2020年4月1日

2. 改正の内容

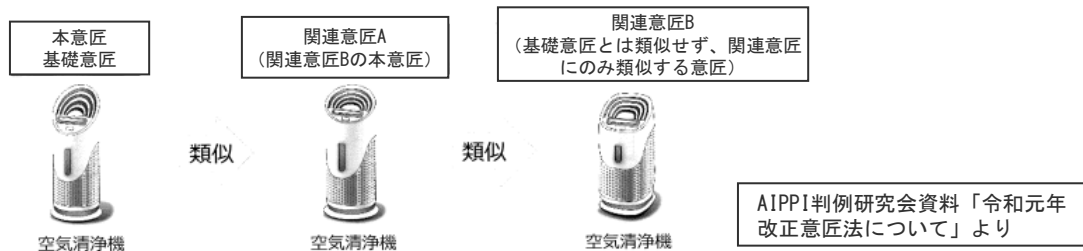
- ①保護対象の拡充：新たに保護されるもの
 - ・操作用画像、表示画像（機能発揮の結果表示されるもの）：物品に記録・表示されなくても可。
 - ・建築物の外観・内装
- ②関連意匠制度の拡充
- ③意匠権の存続期間の変更：登録日から20年→出願日から25年
- ④創作非容易性の水準の引き上げ
- ⑤組物の部分意匠の導入
- ⑥間接侵害の対象拡大

3. 関連意匠制度の拡充

(1) 関連意匠にのみ類似する意匠（関連意匠B）の出願可能時期

最初の本意匠（基礎意匠）の出願から10年を経過する日前まで出願可。

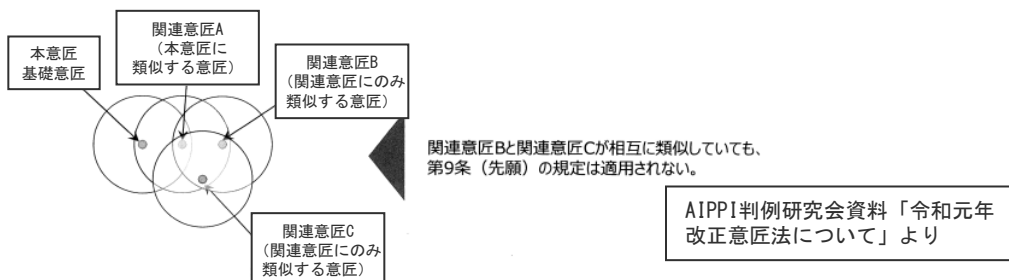
(2) 関連意匠Bは、関連意匠Bの本意匠（関連意匠A）が存続していれば、関連意匠Aの本意匠（基礎意匠）が消滅していても登録可。



(3) 関連意匠が自己の意匠によって拒絶されないための措置

①先願

最初の本意匠（基礎意匠）が共通する複数の関連意匠出願について、先願の要件は適用されない。



②新規性・創作容易性等

基礎意匠および基礎意匠が同一の関連意匠の意匠公報や、これらの意匠に類似する自己の実施品等は、新規性や創作容易性等の拒絶理由の引例とならない。



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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Our Legal Strategy Departments based in Osaka and Tokyo provide information on trademark applications, design applications, combating counterfeit goods etc. via Facebook. Please view our Facebook page for more details.

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[More information](#) [詳細はこちらへ](#)

HARAKENZO WORLD PATENT & TRADEMARK
特許業務法人HARAKENZO WORLD PATENT & TRADEMARK

Our Hiroshima Office on Facebook
広島事務所Facebook

Our Hiroshima Office's Facebook page provides useful services for Hiroshima prefecture and the rest of the Chugoku and Shikoku regions, with constant IP information updates. Please find us on Facebook.

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Below are links to further IP information.

BIO IP Information バイオ知財情報	IT IP Information IT知財情報	IoT × AI Support Station IoT×AI支援室
Food & Medical Business Support Station 食品×医療支援室	Major & Emerging Economic Powers 諸外国知財情報	TPP I.P. Chapter TPP知財情報

TOKYO HEAD OFFICE

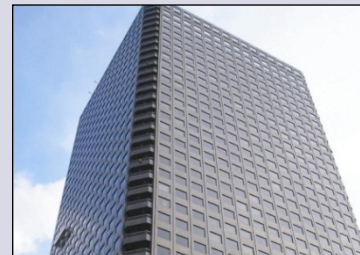
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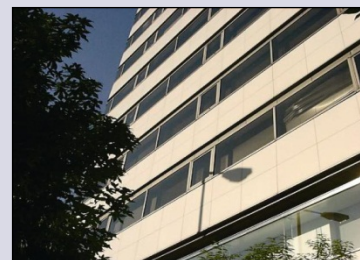
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