

Inspection Manual

For the application for Design Patents

Manual inspection development working group

Patent for product design

Department of Intellectual Property

January 2011

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Inspection Manual
Application for Design Patent
Part 1

General

Patent means a document issued to grant protection for an invention or a design under the provisions in the Patent Act B.E. 2522, as Amended by the Patent Act (No.2) B.E 2535 And the Patent Act (No.3) B.E. 2542

“*design*” means any form or composition of lines or colors which gives a special appearance to a product and can serve as a pattern for a product of industry or handicraft;

Design Patent mean the protection for a design’s “form” or composition of lines or colors of the product as appears to the eye, and is of importance to the design. Designs which can be granted registered must be products of special characteristics.

According to Section 36, which means that the design must be new and can serve as a pattern for a product of industry or handicraft.

As such, designs being applied for registration will be inspected for whether it is a new product or not, whereby the important parts of the design will be determined for similarities to designs which have already been registered.

Designs The following designs are not new:

(1) a design which was widely known or used by others ***in*** this country before the filing of the application for a patent;

(2) a design which was disclosed or described in a document or a printed publication ***in this or a foreign country*** before the filing of the application for a patent;

(3) a design which was published under Section 65 and Section 28 before the filing of the application for a patent;

(4) any design so nearly resembling any of the designs prescribed in (1), (2) or (3) as to be an imitation.

Rights of patents for designs

Patent owners have the sole rights to use the form of the product with products indicated in the patent, or for the sale of, or be in possession for the sale of, or to propose a sale of, or to import into the Kingdom products which are of the said form, except for products to be used for educational purposes.

Period of protection

According to Section 62, patents for designs have a term of ten years from the date of the filing of the application in the country.

In the event that there is litigation under Section 65 together with Section 16 or Section 74, the period of the case is not to be counted as part of the period of protection of such patents.

Application for protection under patents for designs

The Applicant must submit an application and pay fees at

- Reception of applications for patents for designs, Department of Intellectual Property or
- Provincial Commerce Operation Center or
- Send the application and a money order paid to the Commerce Ministry Branch in the name of

the Director of the Patent Office, addressed to:

Director of the Patent Office

Department of Intellectual Property

44/100 Nonthaburi 1 Road, Bang Krasor Subdistrict

Muang District, Nonthaburi Province 11000

In the event that important documents of the patent is damaged or lost, the patent owner must submit the evidence of a police report from a police station to request for a document to be used in place of the patent.

By submitting the สป/สพ/อสป/209-ก forms (see examples on pages 10 – 11)

Applications for designs should include

- (1) Patent application form สป/สพ/อสป/001-ก
- (2) A clear and concise claim
- (3) A Drawing or Photographs of the product
- (4) A Feature description of the product (if available)
- (5) Other documents such as
 - a certificate of the right on forms สป/สพ/อสป/001-ก(พ) or notice of rights transfer or employment contract
 - power of attorney

Fees per 1 application paid at each step of the process as follows:


- application for a patent for a design	250 baht
<i>Applications for patents for the same design, applied by up to 10 applications at a time</i>	
	2,250 baht
- request for additional modification	50 baht
- request for advertisement	250 baht
- request for the issuance of a patent	500 baht
- filing an appeal to an order or verdict of the Director General	500 baht per copy
- request to search for application for a patent	50 baht per request
- copying documents	3 baht per copy
- acknowledge copy documents	
documents of at least 10 pages	50 baht per document
documents with less than 10 pages	3 baht per document
- other requests (as follows)	50 baht per document

- request to make the date of filing a request in a foreign country be counted as the date of filing a request in Thailand
- Application to register a patent representative 50 baht per document
- request for a document in place of a patent, a certificate allowing the exercise the rights under the patent
- request for an important document to indicate the registration of a patent agent

Payment of the annual fee		Total amount including fines (payments are to be made within 120 days from the last day of the 4 th year)
5 th year	500 baht	650 baht
6 th year	650 baht	845 baht
7 th year	950 baht	1,235 baht
8 th year	1,400 baht	1,820 baht
9 th year	2,000 baht	2,600 baht
10 th year	2,750 baht	3,575 baht
or pay all at once	7,500 baht	

(1) Printed application for patents สป/สพ/อสป/001-ก

แบบ สป/สพ/อสป/001-ก
หน้า 1 ของจำนวน 3 หน้า

 คำขอรับสิทธิบัตร / อนุสิทธิบัตร <input type="checkbox"/> การประดิษฐ์ <input type="checkbox"/> การออกแบบผลิตภัณฑ์ <input type="checkbox"/> อนุสิทธิบัตร ข้าพเจ้าผู้ลงลายมือชื่อในคำขอรับสิทธิบัตร/อนุสิทธิบัตรนี้ ขอรับสิทธิบัตร/อนุสิทธิบัตร ตามพระราชบัญญัติสิทธิบัตร พ.ศ.2522 แก้ไขเพิ่มเติมโดยพระราชบัญญัติสิทธิบัตร (ฉบับที่ 2) พ.ศ. 2535 และ พระราชบัญญัติสิทธิบัตร (ฉบับที่ 3) พ.ศ. 2542	สำหรับเจ้าหน้าที่	
	วันรับคำขอ	เลขที่คำขอ
	วันยื่นคำขอ	
	สัญลักษณ์จำแนกการประดิษฐ์ระหว่างประเทศ	
	ใช้กับแบบผลิตภัณฑ์ ประเภทผลิตภัณฑ์	
	วันประกาศโฆษณา	วันประกาศโฆษณา
วันออกสิทธิบัตร/อนุสิทธิบัตร	เลขที่สิทธิบัตร/อนุสิทธิบัตร	
ลายมือชื่อเจ้าหน้าที่		
1. ชื่อที่แสดงถึงการประดิษฐ์/การออกแบบผลิตภัณฑ์		
2. คำขอรับสิทธิบัตร/อนุสิทธิบัตร ออกแบบผลิตภัณฑ์นี้เป็นคำขอสำหรับผลิตภัณฑ์อย่างใดอย่างหนึ่งหรือลำดับที่ ในจำนวน คำขอ ที่ยื่นในคราวเดียวกัน		
3. ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตร และที่อยู่ (เลขที่ ถนน ประเทศ)		3.1 สัญชาติ
		3.2 โทรศัพท์
		3.3 โทรสาร
		3.4 อีเมล
4. สิทธิในการขอรับสิทธิบัตร/อนุสิทธิบัตร		
<input type="checkbox"/> ผู้ประดิษฐ์/ผู้ออกแบบ		<input type="checkbox"/> ผู้ขอรับสิทธิโดยเหตุอื่น
5. ตัวแทน (ถ้ามี) ที่อยู่ (เลขที่ ถนน จังหวัด ประเทศ)		5.1 ตัวแทนเลขที่
		5.2 โทรศัพท์
		5.3 โทรสาร
		5.4 อีเมล
6. ผู้ประดิษฐ์/ผู้ออกแบบผลิตภัณฑ์ และที่อยู่ (เลขที่ ถนน ประเทศ)		
7. คำขอรับสิทธิบัตร/อนุสิทธิบัตรนี้แยกจากหรือเกี่ยวข้องกับคำขอเดิม		
ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตร ขอให้อำนาจให้คำขอรับสิทธิบัตร/อนุสิทธิบัตรนี้ ในวันเดียวกับคำขอรับสิทธิบัตร		
เลขที่ วันยื่น เพราะคำขอรับสิทธิบัตร/อนุสิทธิบัตรนี้แยกจากหรือเกี่ยวข้องกับคำขอเดิมเพราะ		
<input type="checkbox"/> คำขอเดิมมีการประดิษฐ์หลายอย่าง <input type="checkbox"/> ถูกคัดค้านเนื่องจากผู้ขอไม่มีสิทธิ <input type="checkbox"/> ขอเปลี่ยนแปลงประเภทของสิทธิ		

หมายเหตุ ในกรณีที่ไม่อาจระบุรายละเอียดครบถ้วน ให้จัดทำเป็นเอกสารแนบท้ายแบบพิมพ์นี้โดยระบุหมายเลขกำกับชื่อและหัวข้อที่แสดงรายละเอียดเพิ่มเติมดังกล่าวด้วย

- | | |
|-----------------------------------|---------------------------|
| (A) Applicant for a patent | explained on page 12 |
| (B) Rights to apply for a patent | explained on page 13 – 14 |
| (C) Designer | explained on page 15 |
| (D) Patent representative | explained on page 16 – 17 |
| (J) Names indicated on the design | explained on page 21 – 23 |
| (I) Type of product | explained on page 20 |

Printed application for patents (forms สป/สผ/อสป/001-ก)

แบบ สป/สผ/อสป/001-ก(ใบต่อ)
หน้า 2 ของจำนวน 3 หน้า

8. การยื่นคำขออนุสิทธิบัตร				
วันยื่นคำขอ	เลขที่คำขอ	ประเทศ	สัญลักษณ์จำแนกการประดิษฐ์ระหว่างประเทศ	สถานะคำขอ
8.1				
8.2				
8.3				
8.4 <input type="checkbox"/> ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตรขอสิทธิให้ถือว่าได้ยื่นคำขอในวันที่ได้ยื่นคำขอรับสิทธิบัตร/อนุสิทธิบัตรในต่างประเทศเป็นครั้งแรกโดย <input type="checkbox"/> ได้ยื่นเอกสารหลักฐานพร้อมคำขอนี้ <input type="checkbox"/> ขอยื่นเอกสารหลักฐานหลังจากวันยื่นคำขอนี้				
9. การแสดงการประดิษฐ์หรือการออกแบบผลิตภัณฑ์ของผู้ขอรับสิทธิบัตร/อนุสิทธิบัตรได้แสดง วันแสดง วันเปิดงานแสดง ผู้จัด				
10. การประดิษฐ์เกี่ยวกับจุลชีพ				
10.1 เลขทะเบียนฝากเก็บ	10.2 วันที่ฝากเก็บ	10.3 สถานที่ฝากเก็บประเทศ		
11. ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตร ขอยื่นเอกสารภาษาต่างประเทศก่อนในวันยื่นคำขอนี้ และผู้ขอรับสิทธิบัตร/อนุสิทธิบัตรนี้จัดทำ เป็นภาษาไทยภายใน 90 วัน นับจากวันยื่นคำขอนี้ โดยขอเป็นภาษา <input type="checkbox"/> อังกฤษ <input type="checkbox"/> ฝรั่งเศส <input type="checkbox"/> เยอรมัน <input type="checkbox"/> ญี่ปุ่น <input type="checkbox"/> อื่น ๆ				
12. ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตรขอให้อธิบายลักษณะคำขอรับสิทธิบัตรหรือจะทะเบียนและสิทธิพิเศษตามอนุสิทธิบัตรนี้ หลังจากวันที่ เดือน พ.ศ. <input type="checkbox"/> ผู้ขอรับสิทธิบัตร/อนุสิทธิบัตรขอให้อธิบายในภาษาที่ระบุไว้ในการประกาศโฆษณา				
13. คำขอรับสิทธิบัตร/อนุสิทธิบัตรนี้ประกอบด้วย		14. เอกสารประกอบคำขอ		
ก. แบบพิมพ์คำขอ หน้า		<input type="checkbox"/> เอกสารแสดงสิทธิในการขอรับสิทธิบัตร/อนุสิทธิบัตร		
ข. รายละเอียดการประดิษฐ์ หรือคำพรรณนาแบบผลิตภัณฑ์ หน้า		<input type="checkbox"/> หนังสือรับรองการประดิษฐ์/การออกแบบ ผลิตภัณฑ์		
ค. ข้อเท็จจริง หน้า		<input type="checkbox"/> หนังสือมอบอำนาจ		
ง. รูปเขียน รูป หน้า		<input type="checkbox"/> เอกสารรายละเอียดเกี่ยวกับจุลชีพ		
จ. ภาพแสดงแบบผลิตภัณฑ์ <input type="checkbox"/> รูปเขียน รูป หน้า <input type="checkbox"/> รูปถ่าย รูป หน้า		<input type="checkbox"/> เอกสารการขอรับวันยื่นคำขอในต่างประเทศเป็น วันยื่นคำขอในประเทศไทย		
ฉ. บทสรุปการประดิษฐ์ หน้า		<input type="checkbox"/> เอกสารขอเปลี่ยนแปลงประเภทของสิทธิ <input type="checkbox"/> เอกสารอื่น ๆ		
15. ข้าพเจ้าขอรับรองว่า <input type="checkbox"/> การประดิษฐ์นี้ไม่เคยยื่นขอรับสิทธิบัตร/อนุสิทธิบัตรมาก่อน <input type="checkbox"/> การประดิษฐ์นี้ได้พัฒนาปรับปรุงมาจาก.....				
16. ลายมือชื่อ (<input type="checkbox"/> ผู้ขอรับสิทธิบัตร / อนุสิทธิบัตร; <input type="checkbox"/> ตัวแทน)				

หมายเหตุ บุคคลได้ยื่นขอรับสิทธิบัตรการประดิษฐ์หรือการออกแบบผลิตภัณฑ์ หรืออนุสิทธิบัตรแล้วแต่ยังไม่ยื่นคำขอ ความยินยอมเป็นเท็จแก่พนักงานเจ้าหน้าที่
เพื่อไม่ให้สิทธิบัตรหรืออนุสิทธิบัตร ต้องวางโทษจำคุกไม่เกินหกเดือน

(E) Applying for patents in a foreign country explained on page 18

(F) Applicant for patents have indicated designs at the designated state office

explained on page 19

(G) Applicant for patents requests that the Director-General advertise the application for patents

explained on page 19

(H) Signature

explained on page 19

Printed forms สป/สผ/อสป/001-ก (พ)



แบบ สป/สผ/อสป/001-ก(พ)

คำรับรองเกี่ยวกับสิทธิของรับสิทธิบัตร/อนุสิทธิบัตร

เขียนที่

วันที่เดือน.....พ.ศ.....

เรียน อธิบดีกรมทรัพย์สินทางปัญญา

ข้าพเจ้า

ที่อยู่

ข้าพเจ้า

ที่อยู่

ข้าพเจ้า

ที่อยู่

ขอรับรองและยืนยันเกี่ยวกับสิทธิของข้าพเจ้าในการประดิษฐ์/ออกแบบผลิตภัณฑ์ คือ

(ระบุชื่อการประดิษฐ์/ออกแบบผลิตภัณฑ์)

ซึ่งข้าพเจ้าขอรับสิทธิบัตร/อนุสิทธิบัตร ดังนี้

1. ข้าพเจ้าเป็นผู้ประดิษฐ์สิ่งที่ยอมรับสิทธิบัตรหรืออนุสิทธิบัตร/ผู้ออกแบบสิ่งที่ยอมรับสิทธิบัตรดังกล่าว
2. ไม่มีบุคคลหรือหน่วยงานใดมีสิทธิขอรับสิทธิบัตร/อนุสิทธิบัตร สำหรับการประดิษฐ์/ออกแบบผลิตภัณฑ์ ที่ยอมรับสิทธิบัตร
3. ข้าพเจ้ายังไม่ได้โอนสิทธิในการขอรับสิทธิบัตร/อนุสิทธิบัตร ที่ยอมรับสิทธิบัตร/อนุสิทธิบัตร แก่บุคคลอื่นใด

4. รายละเอียดต่าง ๆ ที่ข้าพเจ้าระบุถึงในคำรับรองนี้ ตลอดจนข้อเท็จจริงทั้งปวงที่ระบุในคำขอรับสิทธิบัตร/อนุสิทธิบัตร ถูกต้องและเป็นความจริงทุกประการ

ลงชื่อ

(.....)

.....

(.....)

.....

(.....)

หมายเหตุ

1. ให้ยื่นคำรับรองนี้ในกรณีที่ยอมรับสิทธิบัตร/อนุสิทธิบัตร เป็นผู้ประดิษฐ์/ผู้ออกแบบเอง
2. ให้ยื่นคำรับรองนี้พร้อมกับคำขอรับสิทธิบัตร/อนุสิทธิบัตร

Printed forms PI/PD/PP/001A (Add)



Form PI/PD/PP/001-A (Add)

Statement of Applicant's Right to Apply For a Patent/Petty Patent

Place.....

Date.....

To : The Director – General, Department of Intellectual Property

I (We)

(name)

of.....and

(address)

(name)

of.....and

(address)

(name)

of.....and

(address)

do hereby state and confirm my (our) rights in the invention/design entitled :

for which I (we) apply for a Patent/Petty Patent as follows :

1. That I (we) am (are) the true inventor (s)/creator (s) of the invention/design.
2. That no other person or body has any rights to the invention/design.
3. That the right to the invention/design has not been assigned to any other person.
4. That all the statements contained above and the facts contained in the application are to the best of my knowledge true and accurate.

Signature (S)

(.....)


(.....)

(.....)

Notes : 1. This form must be used in case where the applicant is the inventor/creator

2. This form must be filed together with the application.

Printed forms



แบบ สป/สผ/อสป/๒๐๙-ก

สำหรับเจ้าหน้าที่

คำขอที่.....
รับวันที่.....

**คำขอรับใบแทนสิทธิบัตร หรืออนุสิทธิบัตร หรือ
ใบแทน ใบอนุญาต ให้ใช้สิทธิตามสิทธิบัตรหรืออนุสิทธิบัตร**

สิทธิบัตร/อนุสิทธิบัตร เลขที่.....
ออกเมื่อวันที่.....

๑. ข้าพเจ้า.....สัญชาติ.....
อยู่บ้านเลขที่.....หมู่ที่.....ต.รอก/ซอย.....ถนน.....
ตำบล/แขวง.....อำเภอ/เขต.....จังหวัด.....
โทรศัพท์.....

๒. ข้าพเจ้าขอรับใบแทน

สิทธิบัตร/อนุสิทธิบัตรเลขที่.....
ออกเมื่อวันที่.....

ใบอนุญาตให้ใช้สิทธิตามสิทธิ/อนุสิทธิบัตรเลขที่.....
ออกเมื่อวันที่.....

๓. เหตุที่ขอรับใบแทนดังกล่าว เนื่องจากสิทธิบัตรหรืออนุสิทธิบัตรเลขที่ดังกล่าว/ใบอนุญาตให้
ใช้สิทธิตามสิทธิบัตรหรืออนุสิทธิบัตรดังกล่าว

สูญหาย

ชำรุดสาระสำคัญ

๔. ข้าพเจ้าขอส่งหลักฐานประกอบคำขอ ดังได้แนบพร้อมกับคำขอนี้ คือ

ใบรับแจ้งความของสถานีตำรวจ.....เรื่องสิทธิบัตร/
อนุสิทธิบัตร/ใบอนุญาตให้ใช้สิทธิตามสิทธิบัตร/ใบอนุญาตให้ใช้สิทธิตามอนุสิทธิบัตรสูญหาย

สิทธิบัตร/อนุสิทธิบัตร/ใบอนุญาตให้ใช้สิทธิตามสิทธิบัตร/ใบอนุญาตให้ใช้สิทธิตามอนุ
สิทธิบัตร เลขที่.....ที่ชำรุดในสาระสำคัญ

Printed forms (continue)

๕. ข้าพเจ้าขอรับรองว่าข้อความที่ระบุข้างต้นและเอกสารหลักฐานที่ได้ยื่นมาพร้อมคำขอนี้
ถูกต้องและเป็นความจริงทุกประการ

วันที่.....เดือน.....พ.ศ.

ลงลายมือชื่อ.....ผู้ยื่นคำขอ
(.....)

(โปรดอ่านคำชี้แจงด้านหลัง)

(A) Qualified applicants for patents (Item 3 Page 1)

An applicant for a patent shall possess one of the following qualifications:

(1) being a Thai national or a juristic person having its headquarters located in Thailand;

(2) being a national of a country party to a convention or an international agreement on patent protection to which Thailand is also a party;

(3) being a national of a country which allows Thai nationals or juristic persons having their headquarters to apply for patents in that country;

(4) being domiciled or having a real and effective industrial or commercial establishment in Thailand or a country party to a convention or an international agreement on patent protection to which Thailand is also a party.

- If the applicant is the designer, use forms สป/สพ/อสป/001-ก(พ) page 8
- If the applicant is a foreigner, use form PI/PD/PP/001(Add) page 9
- If the applicant is a minor see details page 86
- If the applicant has passed away see details page 86-87

(B) The right to apply for a patent (Item 4 Page 1)

The inventor shall have the right to apply for a patent and to be named as such in the patent.

As such, the applicant must submit certification of the patent using forms สป/สพ/อสป/001-ก(พ)

The right to apply for a patent may be assigned or transferred by succession.

In the event that the applicant is the successor of a right, a certification of transfer of rights with both the signatures of the assignor and the assignee is required.

Assignment document must be actual documents or

- If the patent representative was the person who signed to receive the Assignment, in the power of attorney, it must be indicated that the person had been given the power to receive the Assignment.

- The Assignment – if the Assignment of the person Assigning is separate from the copy of the receiver of the Assignment indicated in the document, the name in reference to the design must be indicated and to whom the patent is being Assigned to.

Copies are allowed in the following cases:**1. If the copy is certified by a patent office**

- In the event that a patent office of a foreign country had certified that the document was an Assignment submitted to the office.

- In the event that the certification of the application for a patent for the design in a foreign country is the date the application in Thailand was submitted for the first time, and the patent office in such country had certified the validity, with a copy of the Assignment signed by both the person Assigning and person being Assigned the patent, **or**

2. Certified by Notary Public

2.1 In such certification, it must be indicated that the documents attached had been compared to the original copies, whereby such documents must be validated as true copies of the original Assignment with the application number Date of submission submitted to the office of

An example of a certification of a copy

“ I hereby certify that I have compared the attached document with the original, and that such said document is a true copy of the original Assignment document as filed in the U.S. Patent Office in connection with USSN 00/000,000 filed JULY 3, 2007. ”

2.2 In the event that the application submitted to the Department of Intellectual Property had not indicated the details, in terms of application number and date of application in the first country

- It must be certified by the Notary Public that it is a true copy of the original application *submitted as a whole the first time*, to validate that it is true to the design submitted in Thailand.

(C) Designer (Item 6 in Page 1)

Indicate the names of each person indicated in the application for certification concerning patents or indicated in the Assignment contract or Employment contract.

Example of a draft Assignment

หนังสือสัญญาโอนสิทธิลิขสิทธิ์


เขียนที่ เลขที่ 140/2 ถนนจักร
เขตป้อมปราบ ทท.10110


วันที่ 1 เมษายน 2531


สัญญาระหว่างผู้โอน คือ นายศรี เก่งประดิษฐ์ อยู่บ้านเลขที่ 140/2 ถนนจักร
เขตป้อมปราบ กรุงเทพมหานคร 10110 และผู้รับโอน คือ นายโท เก่งคำ อยู่บ้านเลขที่
10/3 ถนนสีลม เขตบางรัก กรุงเทพมหานคร 10500


โดยสัญญานี้ ผู้โอนซึ่งเป็นผู้ประดิษฐ์ พัดลมไฟฟ้า โอนสิทธิในการประดิษฐ์ดังกล่าว
ซึ่งรวมถึงสิทธิบัตรและสิทธิอื่น ๆ ที่เกี่ยวข้องให้แก่ผู้รับโอน โดยผู้รับโอนได้จ่าย
ค่าตอบแทนที่เหมาะสมให้แก่ผู้โอน

เพื่อเป็นพยานหลักฐานแห่งการนี้ ผู้โอนและผู้รับโอนได้ลงลายมือชื่อไว้ข้างล่างนี้

(ลงชื่อ)  ผู้โอน
(นายศรี เก่งประดิษฐ์)

(ลงชื่อ)  ผู้รับโอน
(นายโท เก่งคำ)

(ลงชื่อ)  พยาน
(นายเอก เก่งเขียน)

(ลงชื่อ)  พยาน
(นายจิตวา เก่งคิด)

(D) Patent representative (Item 5 in Page 1)

- In the event that the applicant for the patent, whose address is in the Kingdom, would like to transfer power of attorney to another person, the power of attorney must only be transferred to a person who had been registered with the director-general.

In the event that the applicant or a person who disagrees, argues, or appeals, whose address is not in the Kingdom, the power of attorney must only be transferred to a representative registered with the director-general, whereby a Power of Attorney document must be submitted to the director-general according to the following criteria:

(1) In the event that the power of attorney was drafted *in a foreign country*

The power of attorney must be signed by an authority in the Thai Embassy, or Thai Consulate, or head of the office under the Ministry of Commerce at the country in which the person handing over power of attorney has an address in, or the officer who had been given authority to act in representation of such persons, or had certification of such person by law of such country, or

In the event that the applicant has an address in Taiwan, the person must proceed according to the manual issued by the Ministry of Foreign Affairs (กต 0304/23571 dated 29 March, 1991) and the record of Legal Division of the Department of Commercial Registration (0606 /410 dated 16 May, 1991).

In the event that the applicant for the patent is of a Chinese nationality (Taiwan) the Thai Consulate must certify the signature in the power of attorney.

(2) In the event that the power of attorney was drafted *in Thailand*

A copy of the passport, or a copy of the certification of temporary residence, or any other supporting document which indicates for the director-general that at the time the power of attorney was drafted, the person was in fact in the country.

- In the event that the power of attorney or certification according to (1) was produced in a foreign language, the applicant must have the document translated into Thai language, whereby the translator must certify the translation as true to the original power of attorney, or certification on a case-by-case basis, and the translation is to be submitted together with the power of attorney or the certification, depending on the case.

The person applying for patent representative must

(1) have at least a bachelor's degree or equivalent, in science, engineering, architecture, law, or any other bachelor's degree in which the person studied science as a basic course for at least 12 credits, and

(2) have passed training for legal knowledge and practice of patents as indicated by the Department of Intellectual Property.

In submitting the application for patent representative, the applicant must submit the application to the officer at the Department of Intellectual Property, Ministry of Commerce, together with two 4 x 5 centimeters photos taken of the upper half of the applicant's body with a straight face, with no hats allowed, which was taken no longer than 6 months prior.

The application for patent representative must be of the form สป/สพ/อสป/101-ก

(E) Applying to count the date of applying for a patent in a foreign country the first time as the first day of applying in the Kingdom (Item 8 Page 2)

The person in Section 14 who applied for a patent for designs in a foreign country, if he or she applied for a patent for designs in the Kingdom *six months* from the date on which he or she applied for the patent in a foreign country for the first time, the person may request that the date of applying for a patent in a foreign country is the date on which the person applied for a patent in the Kingdom.

In applying for a patent for a design which have already been applied for in a foreign country, if it is applied in the country within **six months** from the date on which the application in a foreign country was submitted the first time, and the applicant for a patent intended to count the date on which the applicant applied for a patent in a foreign country the first time, according to Section 60, the person must submit another copy of the application according to the printed example designated by the Director-General, as well as apply for a patent, or before the date of advertisement of the application for a patent, whereby the person must submit additional support documents as follows:

1. A copy of documents demonstrating details according to the application for a patent submitted in a foreign country the first time, which must be certified by the patent office in the foreign country in which the applicant applied the first time, and

2. A certificate of the date on which the application for a patent in the foreign country the first time issued by the patent office in the respective country.

(F) Presentation of the design, whereby the applicant had presented the design at a venue at which the government was the organizer (Item 9 Page 2)

The applicant must request for a certificate from the organizer of the presentation event that the design, along with photos of the design, had be presented to the public at a venue which was organized by the government, or had been permitted to **be held in the kingdom**, indicating the date on which the event began.

As such, if the application for a patent for a design was submitted within 12 months from the date on which the event presenting the design to the public began, that date will be counted as the date on which the application for the patent was submitted.

(G) The applicant for a patent for a design requests for the Director General to announce the application for a patent after the date..... (Item 12 Page 2)

In the event that the applicant wishes to delay presentation of the design to the public, the applicant should indicate the day, month, and year in Item 12 on Page 2.

(H) Signature (Item 12 Page 2)

- If the applicant is a person, the applicant must sign and write their first name and last name in block letters.

- If the applicant is a juristic person, the person authorized with the power to act in representation of such juristic person must sign and write their first name and last name in block letters, as well as stamp a seal of the company.

- If the applicant assigns a representative to sign in representation for the applicant, the representative may sign and write their first name and last name in block letters.

(I) Type of products

Classifying products makes it easier to collect similar types of designs to allow for a database to be formed, facilitating a more efficient search for designs.

Classifying products systematically is an international practice which the World Intellectual Property Organization (WIPO) calls the Locarno Design Classification, which improves the classification of products every 5 years.

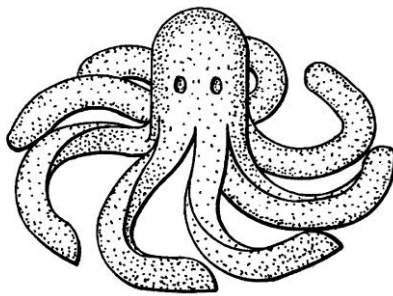
As such, the applicant does not have to indicate the type of product. The examiner of the patent will be the one who classifies the product in the initial examination.

And if the examiner finds that the product has important characteristics which qualify it for multiple classifications, it will be stored in the database as such.

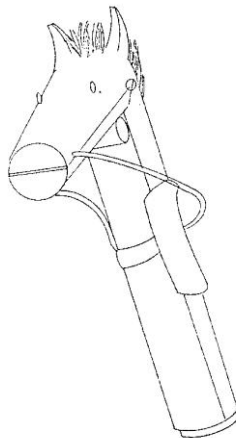
(J) Name of the design (Item 1 Page 1)

It is a way of indicating the characteristics of the product's use and is in line with the design of the product submitted, whereby the name demonstrating the design of the product must not indicate a quality, characteristic, material, or brand of the product.

Examples

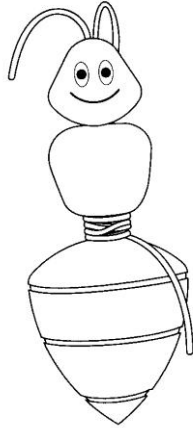


Name of the classification of the product: Snack

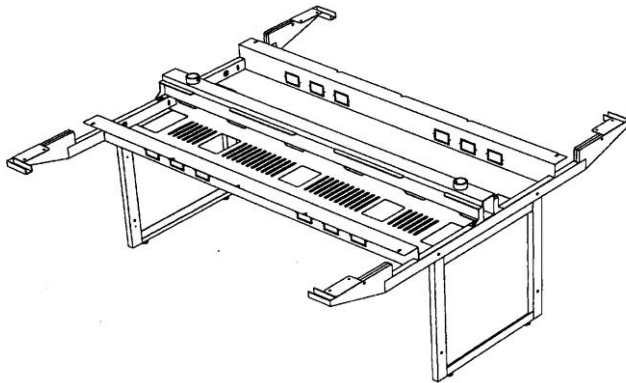


Name of the classification of the product: Toy

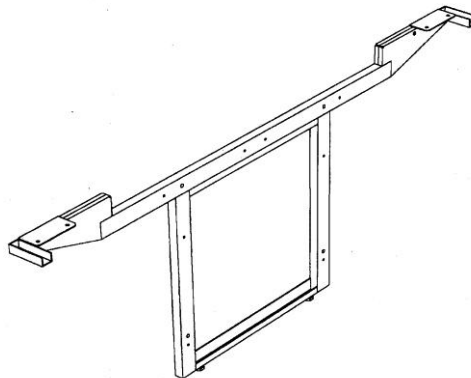
Name of the design (continue)



Name of the classification of the product: Toy (Look Khang)

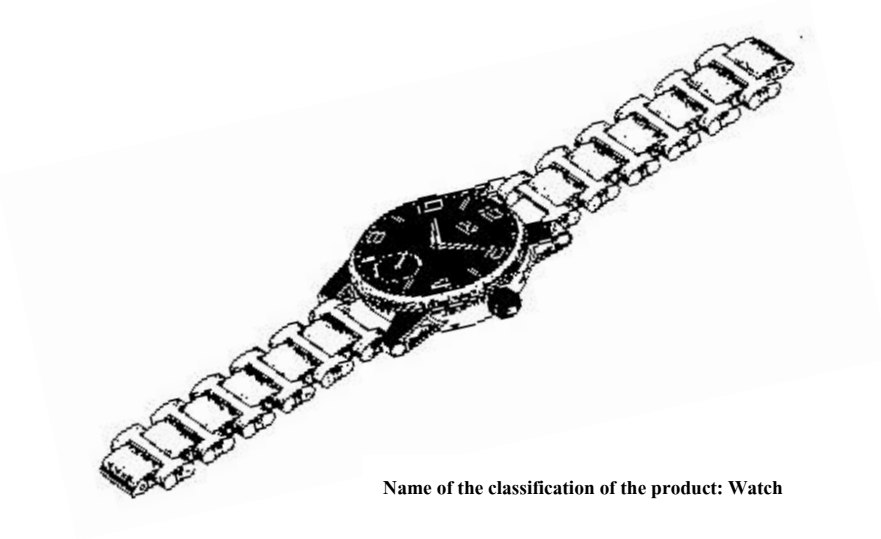


Name of the classification of the product: Table Frame

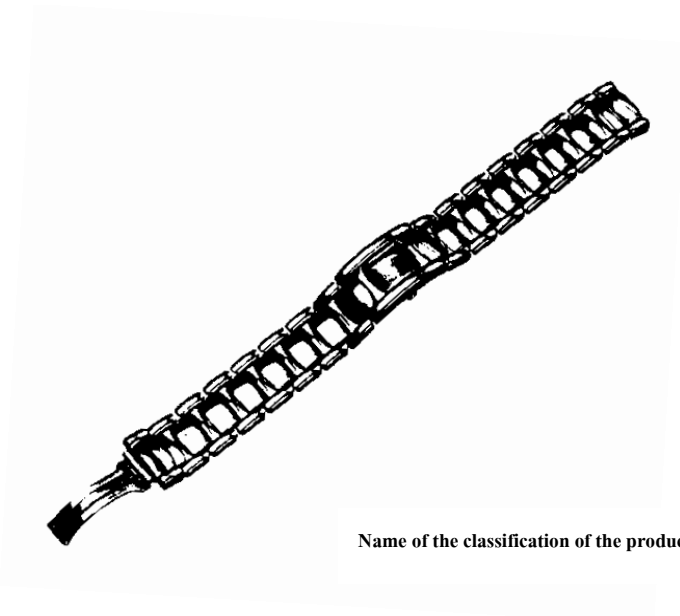


Name of the classification of the product: Table Leg

Name of the design (continue)



Name of the classification of the product: Watch



Name of the classification of the product: Watch Strap

(2) Claim

The important part of the application for a patent for a design is the image of the design and the claim, which according to the Ministerial Regulation issue 21 (B.E.2542) Item 21, only one claim can be made.

As such, the claim in the application submitted must indicate only one special characteristic of the design as follows:

- If the claim is of the “**shape**” of the product

The claim of the design, which is of its shape, is the characteristic of with details as appearing on the images demonstrating the design.

- If the claim is of the “**pattern**” of the product

The claim of the design, which is of its pattern, is the characteristic of with details as appearing on the images demonstrating the design.

- If the claim is of the “**appearance**” of the product

The claim of the design, which is of its appearance, is the characteristic of with details as appearing on the images demonstrating the design.

Restrictions

Not indicating the claim of the material, the space occupied, characteristics, or benefits of the design.

(3) Image of the design

As each application for a patent can only request for 1 design, which only covers the claim indicated in the application, according to the image of the design attached to the application, the image of the design must demonstrate the significant shape and/or pattern of the product which seeks coverage. The image can be hand-drawn or photographed.

3.1 Hand-drawn images

- The image must clearly indicate the shape and details of the design, and must follow the academic principles of drawing, which includes the front, the top, the side, and viewpoints which are relative to one another.

If the image is symmetrical, only one image is needed

- It is not necessary to indicate the size or description of the image of the parts or materials.
- Use stationery or computer software to draw the design, such as AutoCAD.
- Lines are smooth with equal thickness, and no colored bar is needed.
- Write or print with durable black ink
- Shadowing is to be done only at various curves of the design to demonstrate only shades in the view of the product design, and to demonstrate with small and thin lines. Shading must not affect the clarity of the image being submitted with the application.

Displaying image of design using stationery

Examples

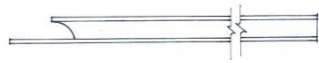


Image 2



Image 5

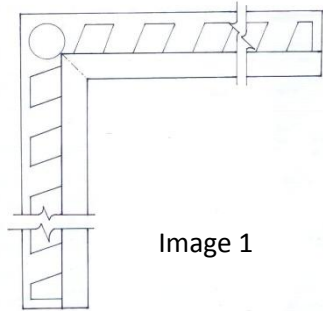


Image 1



Image 4

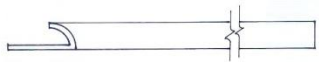


Image 3

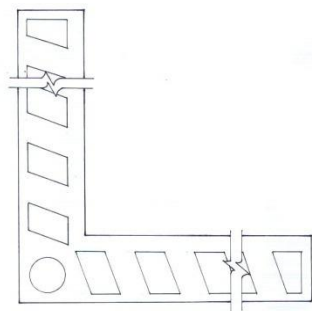


Image 6

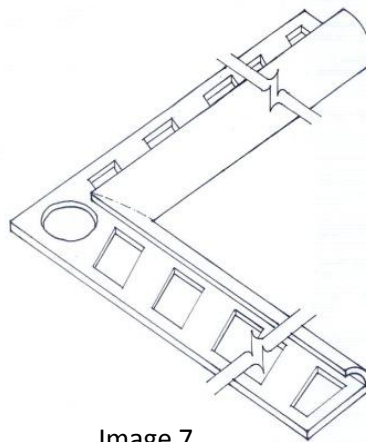


Image 7

Displaying image of design using stationery

Examples

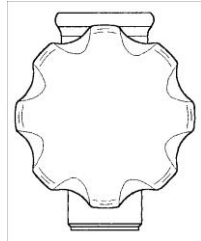


Image 2

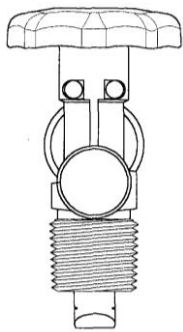


Image 3

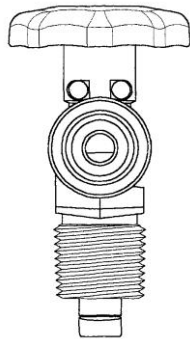


Image 1

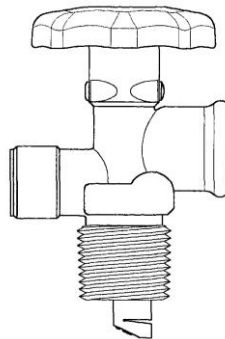


Image 4

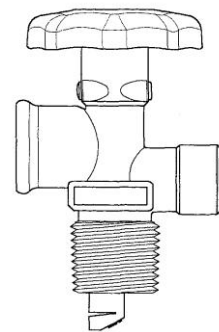


Image 5

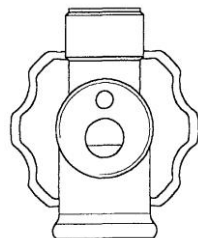


Image 6

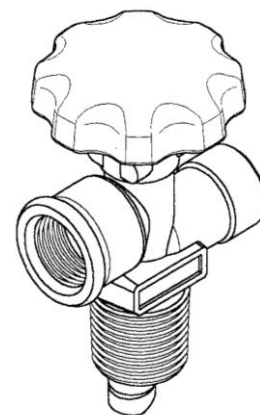


Image 7

If the design has a flat shape, a computer software like AutoCAD or Illustrator should be used.

A design drawn by a computer software

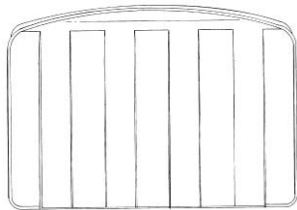


Image 4

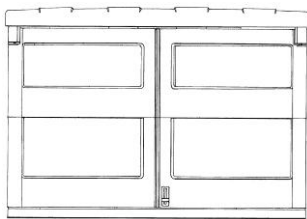


Image 2

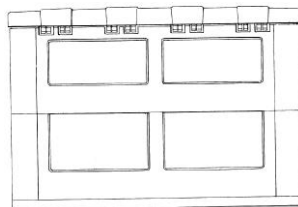


Image 1

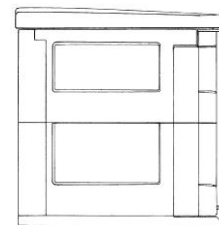


Image 3

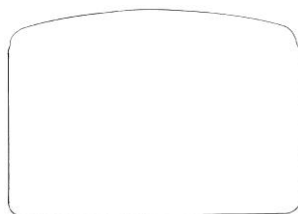


Image 5

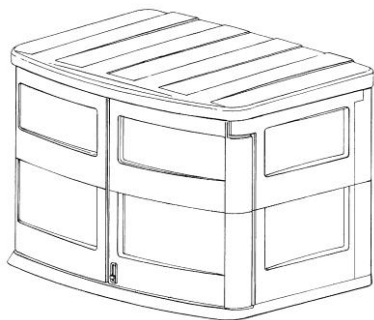


Image 6

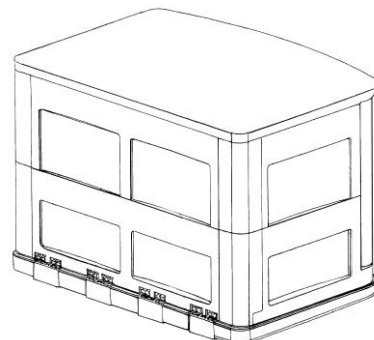


Image 7

If the design has a curved or protruded frontal surface, a computer software should be used such as Rhinoceros, 3D Max, etc.

Designs which are drawn by a computer software



Image 2



Image 3

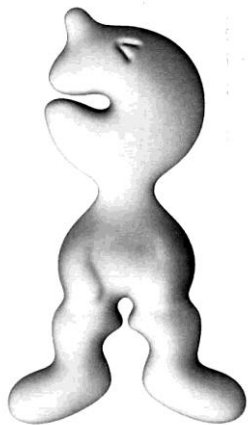


Image 1



Image 4

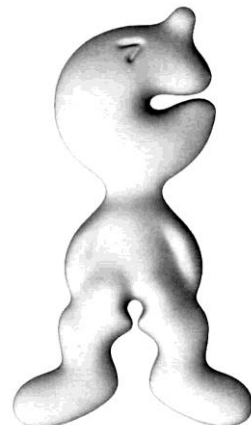


Image 5



Image 6

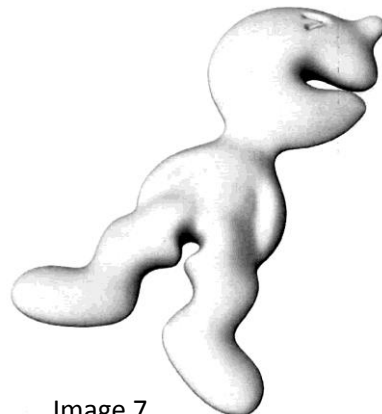
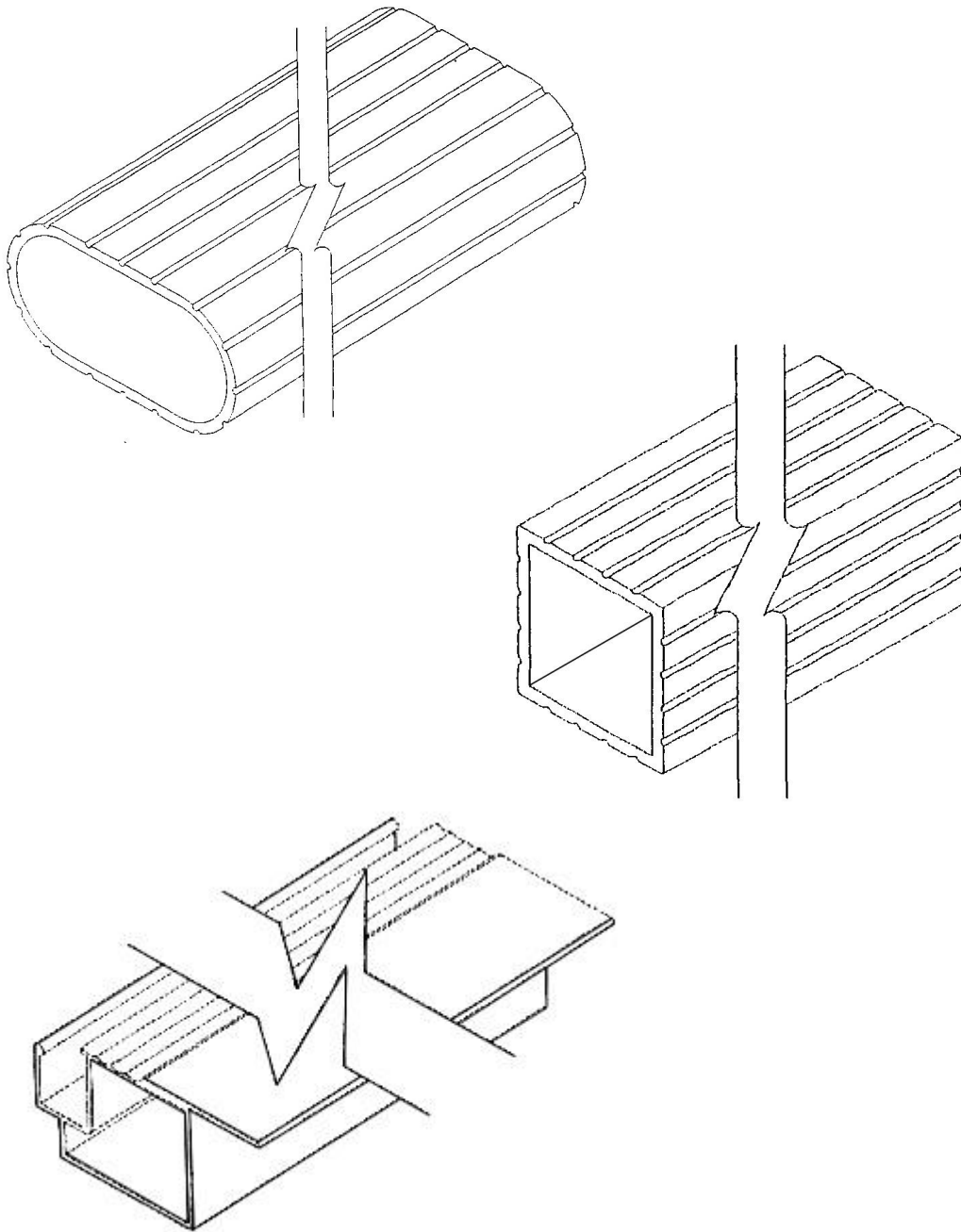


Image 7

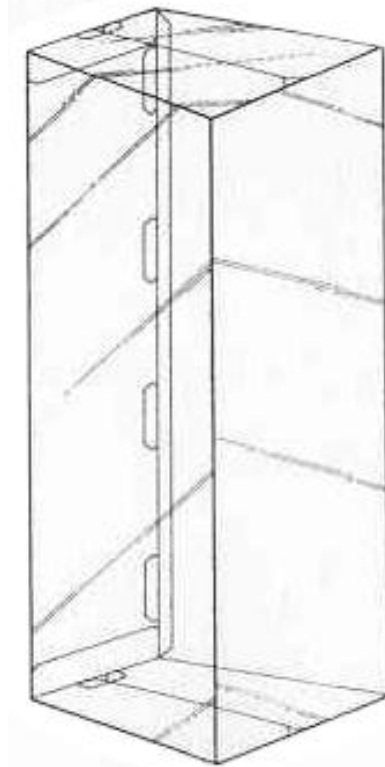
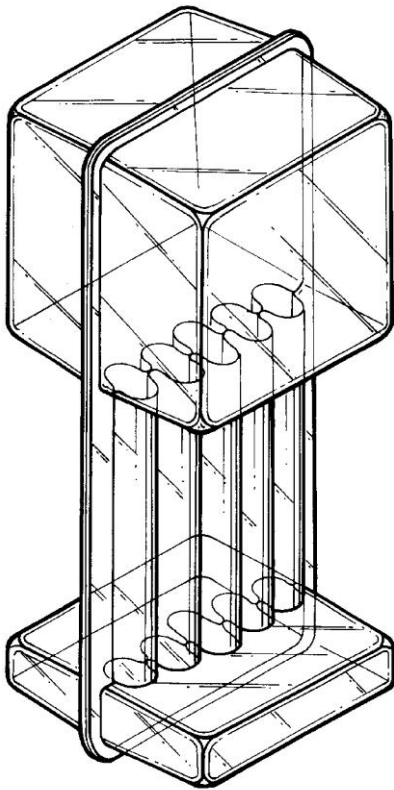
If the design has a long shape, the following markings should be made:

- The design of a long material with a diagonal surface should have the following markings:



If the design is transparent, the following markings should be made:

- Design which are transparent or have a characteristic of transparency, light parallel lines should be made to mark transparency:



Special design

1. Designs with shapes indicating its use

If the design of the product, which, when used, has a special characteristic, such as spreading out or folding in, makings must be made to indicate the special characteristics, and only the fully closed appearance of the product is allowed.

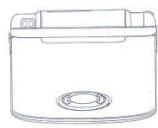


Image 5



Image 2

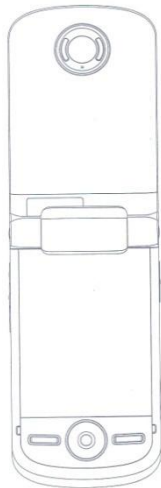


Image 1



Image 3

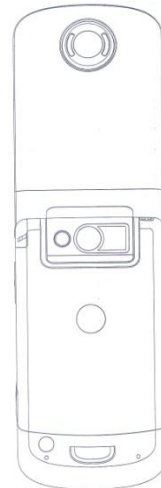


Image 6

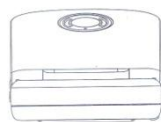


Image 4

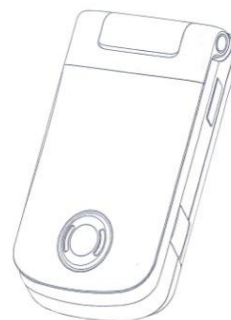


Image 8

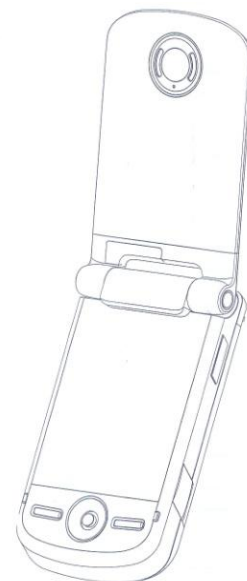


Image 7

Designs which changes shapes according to its use (continue)

If the design of such product, when in use, takes a special characteristic, such as spreading open, or closing in, markings must indicate its forms when opened, and only the fully closed appearance of the product is allowed.



Image 4



Image 2

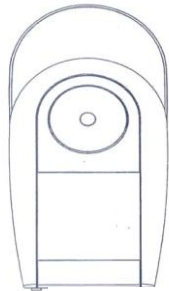


Image 1



Image 3

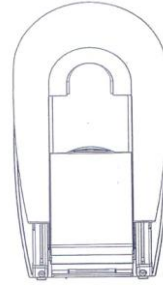


Image 6

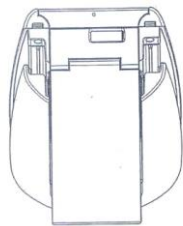


Image 5

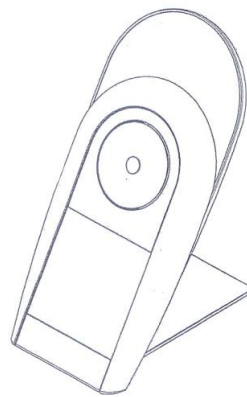


Image 7

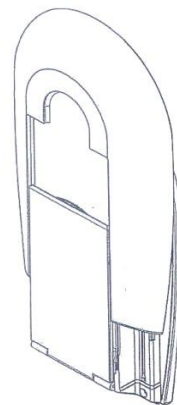
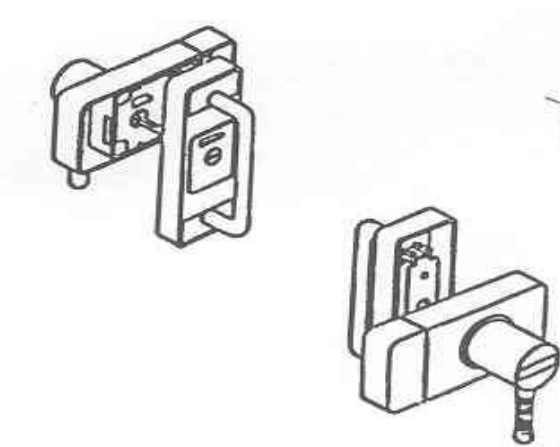
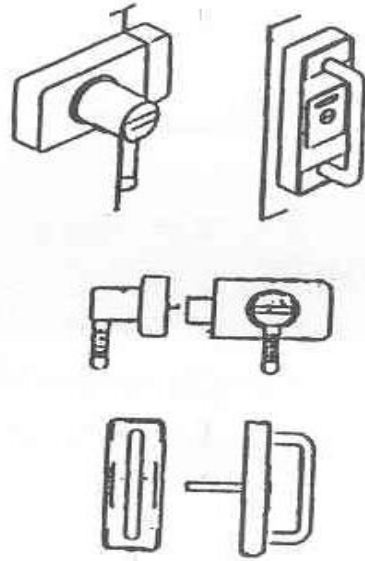


Image 8

If the design of the product is a multimedia device which can slide or can open like a flip phone or with stands which can open up, markings should be made to indicate that the product had already been in movement, legs moving, and fully extended, and fully closed form only (not sliding closed)

2. Designs which can separate parts

If the applicant wishes to display a door lock, such that the lock is on one plane and the part where the hand touches is on another plane, markings should be made to clearly indicate the correct direction of the lock.

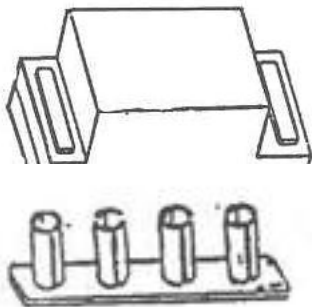


If many or some parts can separate from one another, but when in use, they are combined, such as construction materials, markings must indicate the form of the fully combined parts,

whereby parts are not blocked when in the combined form.

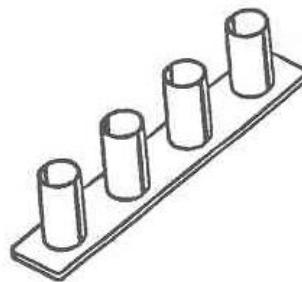
3. Design of many identical parts

If the design being applied for a patent is of a product of many identical special parts, which can be separated, use the name which demonstrates the design by parts, and the image of the design must indicate each special part.



Application for patents for a 'circuit breaker' with two covers on top of one another, which was redesigned to close up the opening of the ends.

If it can be seen that the important part of the design, which as the cover, only the cover should be applied for a patent, as the two covers are of the same design. As such, only one design must be applied for a patent.



3.2 If the image is a photograph

Arrange the viewpoint so that a shadow does not cover the design of the product, and it must indicate the shape of the design clearly.

- The photograph of the design must be black and white, except for applicants which intend to apply for a patent involving the color as a component.
- The size of the design image must be large enough to see the details of the design's shape
- Display the design in all sides and viewpoints.
- Mark each image with an Arabic numerals.
- Photographs must be of good quality on A4 paper

But if the photograph is small, it must be placed on an A4 paper and must be laminated.



Image 2



Image 4



Image 1



Image 3



Image 6



Image 5

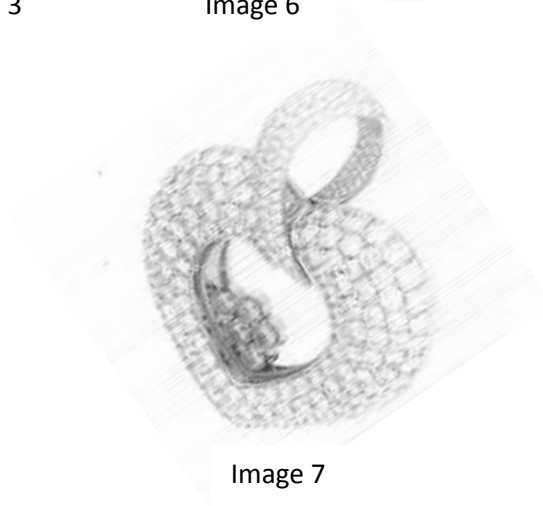


Image 7

The name of the design: "Pendant"

3.2 If the image is a photograph (continue)

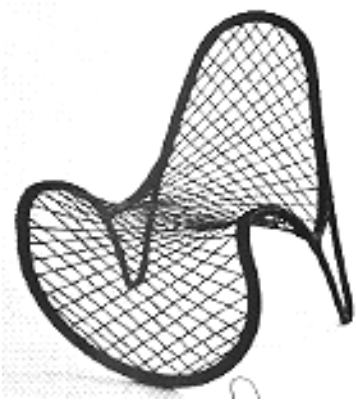


Image 7

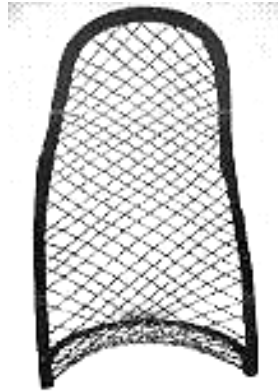


Image 4



Image 6

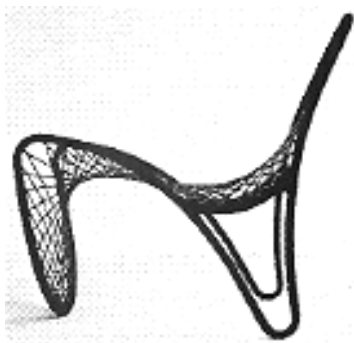


Image 2

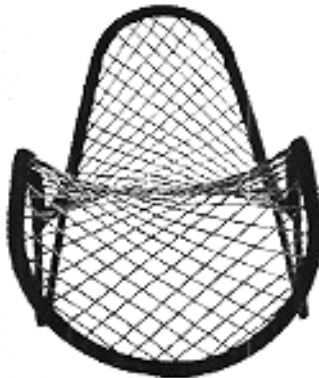


Image 1

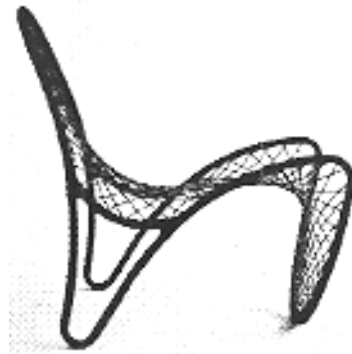


Image 3

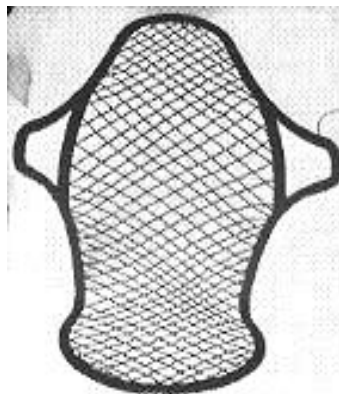


Image 5

3.2 If the image is a photograph (continue)

The name of the design: "Dozer"



Image 4

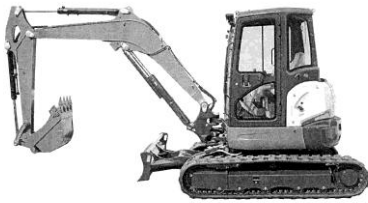


Image 2

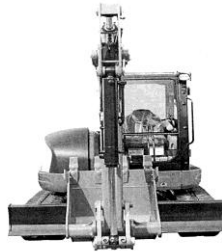


Image 1



Image 3



Image 5

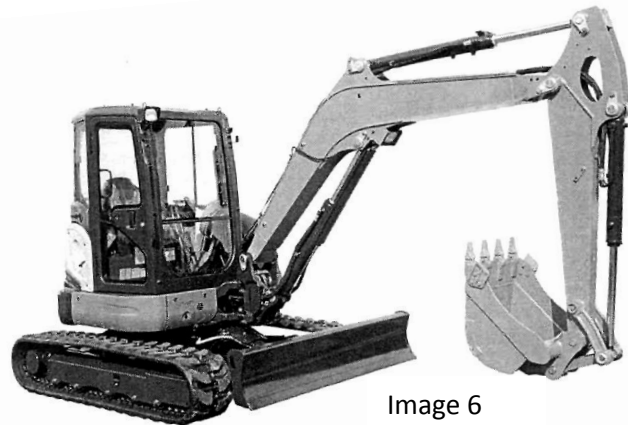


Image 6

3.2 If the image is a photograph (continue)

The name of the design: "Car"



Image 1

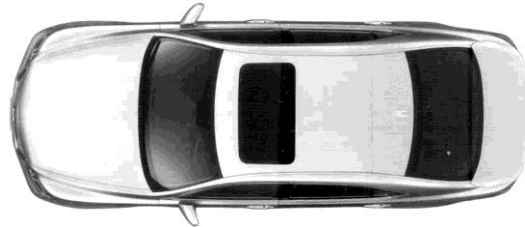


Image 3



Image 2



Image 4



Image 5



Image 6



Image 7

(4) Design of patterns on products

4.1 Patterns on products with shapes

Such patterns are to be marked the same way as the design of the product, indicating the various shapes and viewpoints to indicate the pattern characteristics and areas on which the patterns exist.

The name of the design: "Patterns on a bowl"

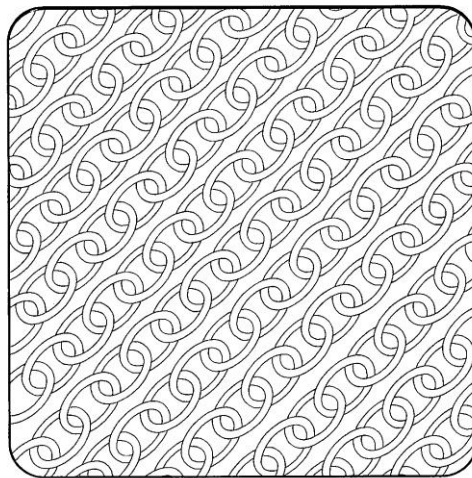


Image 1

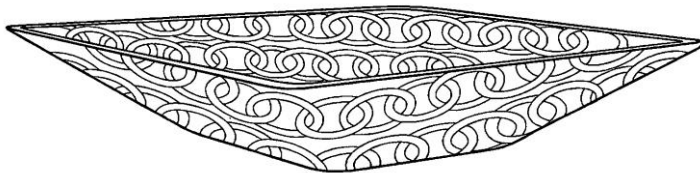


Image 2

Or in the case of “patterns on a shirt”, the same markings should be made indicating the various shapes and viewpoints

For designs of fabrics which are laid out flat, indicate its anterior and posterior appearance.

If only one side of the product is indicated, it means the opposite side bears the same pattern.



From the image demonstrating the design of the fabric in the shape of circles along its widths and its lengths, and the pattern ends before reaching the ends of the fabric.

In this case, if only the anterior side is displayed, it means the posterior side of the fabric bears the same pattern.

As such, if the posterior side bears a different pattern or does not bear a pattern, a separate image must be displayed.

4.2 Design on fabrics

If the design is of “**patterns on fabric material**” with repeated patterns continuing without an end, the repeated pattern should be indicated with the following markings to indicate the four corners of the fabric.



Case Study

of Consistency and Connection

between

the Name Indicating the Design,

the Product Description (its use),

and / or

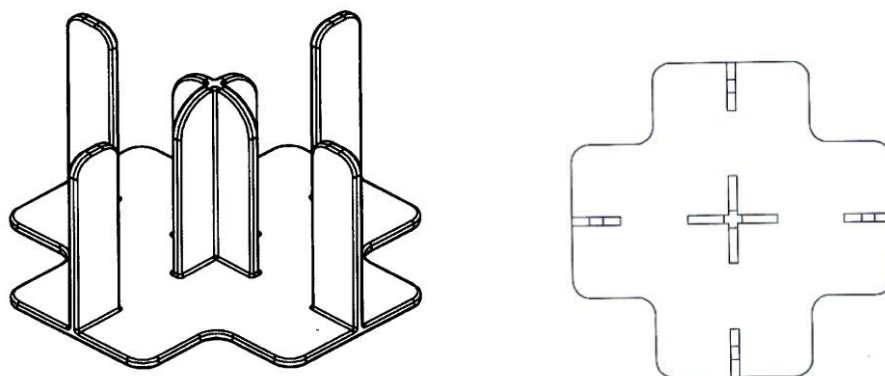
Image of the Design

Case Study 1

The name of a design which is not consistent with its use

- This application for a patent of a design has a name for the design which is not consistent with its use according to the image of the design.

The name of the product design being applied: “Floor mat”



The description of the product's use

This product design was intended for products to be used to assist in laying out ready-made construction materials such as floor tiles, or concrete, so that they separate between each tile equally both horizontally and vertically.

From the description of its use, it can be seen that the product is to be used as a separator for flooring materials.

As such, the name of the design should have been: **“Separator for flooring materials”**

Case Study 2

The name of the design, the image of the design, and the product description are not consistent with each other.

- In this case, the name of the design is **“Paper reel for printing”**. The image of the design indicates multiple parts combined together, and in separated form, with distinct parts according to the product description, which indicates the following significant characteristics of the design as follows:

Image 1

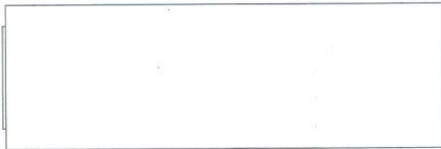


Image 2

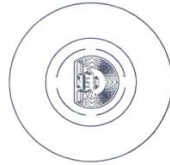


Image 3

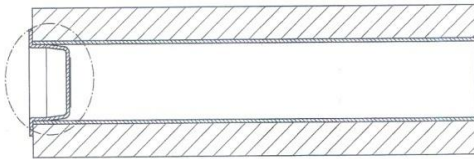


Image 4

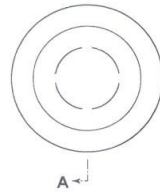


Image 5



Image 6

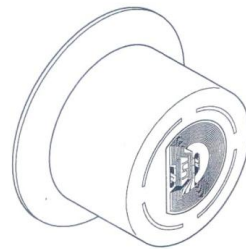


Image 7

Product description:

The design of this product as a “Paper reel for printing”, is of a reel of paper with an axle in the middle. The diameter of the item may differ in length in the direction along with length of the reel. The separation of parts occurs at the end of the axle, which is for the convenience in taking off the IC when the axle has been scratched.

From the product description, it can be seen that the importance of the design is as a tool to control the functions of a printer, designed to be used in conjunction with other tools or systems. And as the tool to control the functions of a printer is attached to a reel of paper with a hollow axle which can be found anywhere, the application for a patent must be modified.

1. The name of the design should be “Tool to control the functions of a printer”.
2. The claim should be for its shape, characteristics as a “Tool to control the functions of a printer”, as appears in the image of the design attached to the application.
3. The image of the design should indicate various sides and viewpoints of the design as follows:



Image 4

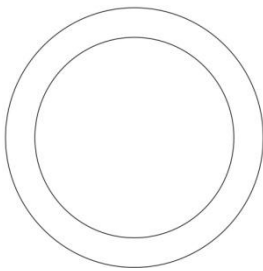


Image 3



Image 2

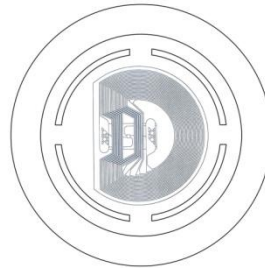


Image 1

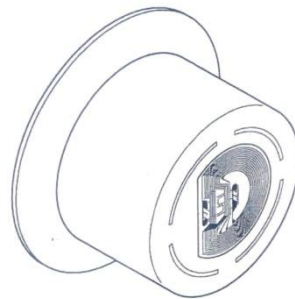


Image 5

Case Study 3

The image of the design is not consistent with one another, which, when considered, lacks proper design, and can be interpreted in two ways.

The application for a patent for a design of “**fragrance**” in this case study shows Image 1 and Image 2, which indicates a square case with curved edges.

As the name of the design is of “**fragrance**”, the function of which implies that its use would require holes in the design or small gaps on any of its surface to allow the dispersal of aromatics.

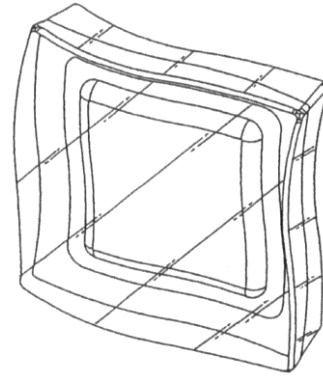


Image 1

From Image 1 the anterior surface and edges are opaque

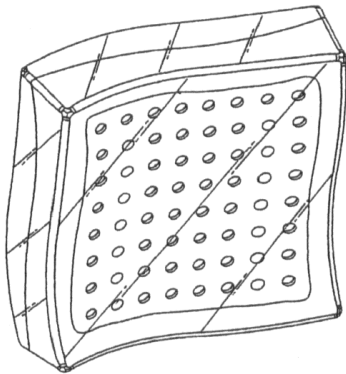


Image 2

From Image 2, it can be seen that thin diagonal lines indicate transparency, but such lines cover both the surface and the edges, which indicate that the entire product is transparent, whereby the holes are on a different plane of the product.

In this case, the design of the “**fragrance**” cannot possible allow for the evaporation of aromatics, except for if the product has a cover which can be opened.

First interpretation

In this application for a patent for this design, Image 1 and Image 2 are consistent with one another, but the name of the design should be

“Case for fragrance”

Note: If the case was opened when in use, the product will allow for aromatics to evaporate too quickly.

Second interpretation

It’s possible that the design does have holes according to Image 2, or small holes, on the outer walls of the case for fragrance products.

In this case, Image 2 must be modified whereby:

- Take out the lines indicating transparency on the anterior plane and,
- If the edges on the outside of the area with holes in it is in fact transparent, keep the lines indicating transparency, and indicate thickness of the of the area with holes in it (thickness can be seen in the holes)

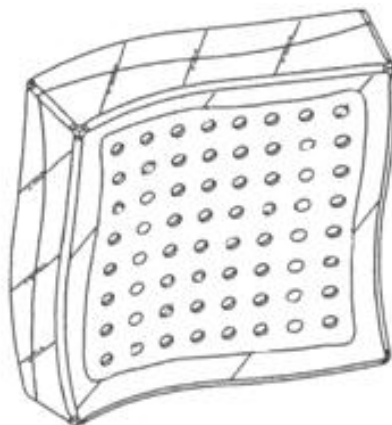


Image 2 (Modified)

Case Study 4

Innovative design; transforming a popular design

This application for a patent for a design of a “sink” includes Image 1, Image 3, and Image 5. It can be seen that a pipe extends from the bottom of the sink, which is consistent with one another. The images indicate an opening for water to pass through which can be connected to a sewer line.

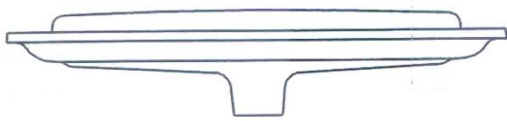


Image 3

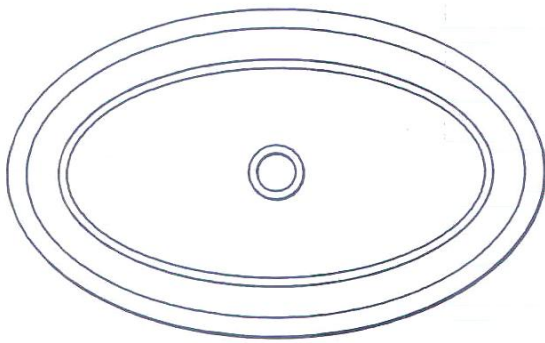


Image 1

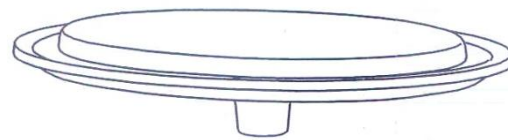


Image 5

This case study is an example of an innovative design which surpasses the popular design of a conventional sink. The product description describes that the top layer can be removed, and the top layer can be used to receive water which flows from the tap or from the sewer line.

“ In a preferred embodiment, the nature of this product is as a plumbing fixture in the form of a removable platform and of a receptor for receiving water, the fixture being primarily useful for washing the face and hands of humans.”

Case Study 5

Designs of products which are used together but have different functions

This design being applied for a patent for a design are of different functions but when used in combination or in commerce are bought and sold in combination, such as spoon and fork.

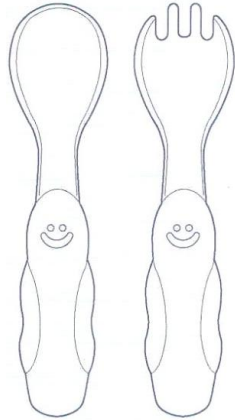


Image 1

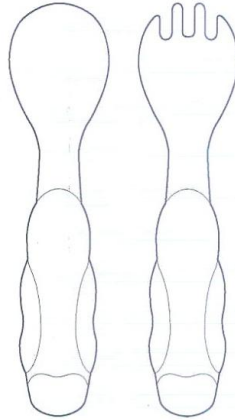


Image 2

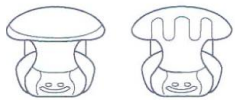


Image 3

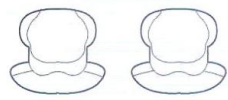


Image 4

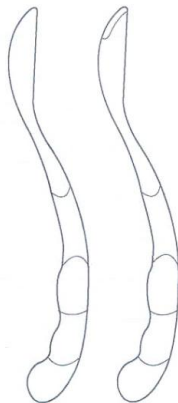


Image 5

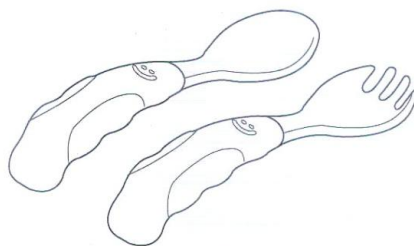


Image 6

In this case, separate applications should be submitted as follows

The name of the design: **“Spoon”**

Image of the design



Image 4



Image 2

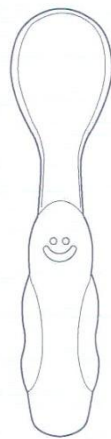


Image 1



Image 3

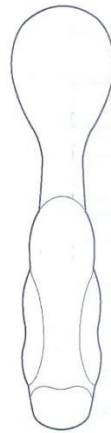


Image 6



Image 5



Image 7

and a claim should be made as follows:

*“The claim for this design is its shape and characteristic of **the spoon** as appears in the image of the design being submitted.”*

The application for a patent for the design of the “**fork**”

The name of the design: “**fork**”

Image of the design



Image 4



Image 2

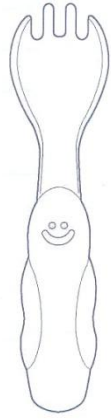


Image 1



Image 3



Image 6



Image 5

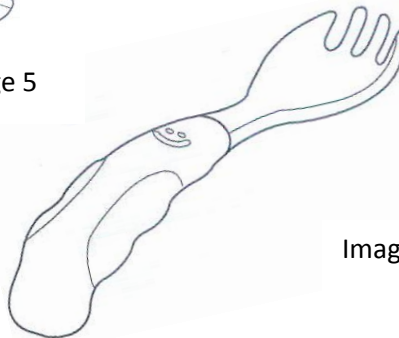


Image 7

and a claim should be made as follows:

*“The claim for this design is its shape and characteristic of **the fork** as appears in the image of the design being submitted.”*

Granting registrations of patents for designs

Part 2

Granting registrations for design patent

According to the Ministerial Regulations Issue 22 (B.E. 2542) issued in accordance with the Patent Act B.E. 2522 item 11, stipulating officers to examine designs being applied for patents for designs for whether they are in accordance with Section 56 or not, by evaluating whether the designs reveal significant content or details in the documents or in print media submitted were for the benefit of an examination or not.

The directory of designs available for the benefit of examination is categorized by an international standard called the Locarno Design Classification, which the Department of Intellectual Property has followed in its classification. All designs which have been disclosed in announcements and advertisements of the application for designs have been archived since the year B.E. 2533 (1990).

Now, designs can be searched via printed media and digital database to be used as references for examinations of new applications.

The entire copy of the Locarno Design Classification

can be downloaded at www.wipo.int

The classification of products according to the Ministerial Announcement on products to be used with designs seeking patents announced on the 9th of October B.E. 2522 (1979) is as follows:

Products are divided into:

Category 01. Food Products

02. Clothing and decorative products such as ribbons, needles, threads, buttons

03. Things used for travel such as box, umbrella, personal care products not in any other

category

04. Brush

05. Textile, fabric, synthetic and natural

06. Furniture

07. Household products not in any other category

08. Tools and hardware

09. Package, containers for transport or moving products

10. Clocks or watches or any other time keeping device, monitor, signaling device

11. Accessories or jewelry

12. Vehicles or winch

13. Equipment used for production, distribution, or transformer

14. Noise and image recorder , Equipment used for communication and searching

information

15. Machine not indicated in any other category

16. Camera for photography, film, and items related to glasses

17. Musical instruments

18. Machines for printing and machines used in offices
19. Office stationery, equipment used in artwork and teaching art
20. Sales equipment and advertisements, all kinds of signs, symbols, logos
21. Game equipment, toys, and sports equipment
22. Weapons, fireworks, hunting equipment, fishing tools, equipment to eradicate
or kill insects
23. Equipment used to spray liquids, equipment used in sanitation, heaters,
ventilators, air conditioners, solid fuel
24. Medical equipment and laboratory equipment
25. Building units and construction materials
26. Lighting equipment (light bulbs)
27. Tobacco and smoking equipment
28. Personal care products related to cosmetics, related equipment, toiletries
29. Equipment and tools to prevent fire hazards and accidents, rescue
30. Equipment used to care for and to capture animals
99. Coffins, mail boxes, etc.

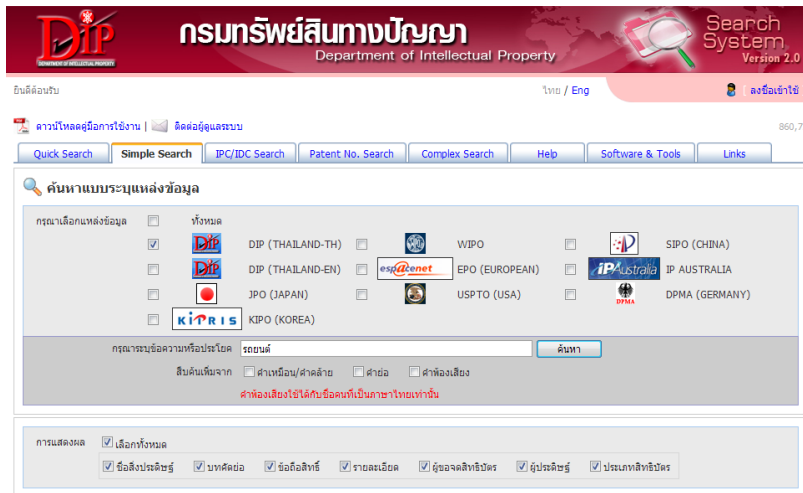
.....

1. Examining existing designs

Currently, the Patent Office’s examiner of designs will search the database of announcements of applications for patents for designs in Thailand in print media, which are stored in categories of products and can be searched from databases of designs both in Thailand and the office of Intellectual Property in foreign countries via the internet. The following are complete design databases:

Database of designs in Thailand

www.ipthailand.go.th



Data

www.uspto.gov

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- Claims

United States Patent [11] Des. 252,365

Durham, III [45] .. Jul. 17, 1979

[54] CORNER CONNECTOR FOR KNOCK-DOWN FURNITURE 3,973,371 8/1976 Heller 32/758 H
4,945,104 8/1977 Peterson 312/263 X

[76] Inventor: William S. Durham, III, 2660 La Salle Dr., Mountain View, Calif. 94040 FOREIGN PATENT DOCUMENTS
1010069 11/1965 United Kingdom 312/263
Primary Examiner—Bruce W. Dunkins

[**] Term: 14 Years [57] CLAIM

[21] Appl. No.: 799,206 [57] The ornamental design for a corner connector for knock-downs furniture, as shown and described.

[22] Filed: May 23, 1977

[51] Int. Cl. D6-99 DESCRIPTION

[52] U.S. Cl. D6/186, 191, 191; FIG. 1 is a perspective view of a corner connector showing an installing plug in place;

[58] Field of Search 312/263, 237, 262, 403/40, 382, 52/758 H FIG. 2 is a top plan view thereof;

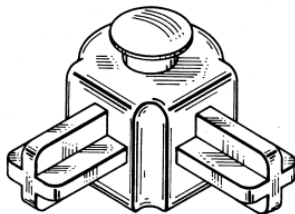
[56] References Cited FIG. 3 is a bottom plan view showing bottom of an installing plug and a mini-pipe fastener in place;

U.S. PATENT DOCUMENTS FIG. 4 is a front view thereof;

3,033,598 5/1962 Polgar D25/78 X FIG. 5 is a right view thereof;

3,835,324 9/1974 Torres-Pena 312/257 SK FIG. 6 is a left view thereof;

3,866,265 6/1976 Porch et al. 312/257 R FIG. 7 is a back view thereof.



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- Introduction Page
- Legal and Copyright
- About ADDS
- Help

Search for a Design

Data Current as of 22 December 2010

App/Des Number (eg. 198803281, 200412478)

Registration Number: (eg. 61353, 153380, 300007)

Article/Product: (eg. bed linen)

Classification Code: 12-08 (eg. 01-01 or 02-01a)

A list of Registration or App/Des Numbers, separated by commas, can be submitted.

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588 Search Results - Page 1 of 12

22 December 2010 06:10 PM

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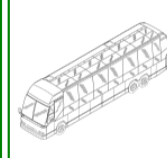

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201015515	Motor truck	12-08	<input type="checkbox"/>
201015514	Motor truck	12-08	<input type="checkbox"/>
201015408	Whole body of car	12-08	<input type="checkbox"/>
201015379	Whole body of car	12-08	<input type="checkbox"/>
201014599	Electric vehicle	12-08	<input type="checkbox"/>
201014249	Automobile	12-08	<input type="checkbox"/>
201013616	Automobile	12-08	<input type="checkbox"/>
201013615	Automobile	12-08	<input type="checkbox"/>
201013614	Automobile	12-08	<input type="checkbox"/>
201013613	Automobile	12-08	<input type="checkbox"/>
201013577	Automobile	12-08	<input type="checkbox"/>

Registered

			
333841 <input type="checkbox"/>	333840 <input type="checkbox"/>	333383 <input type="checkbox"/>	333277 <input type="checkbox"/>

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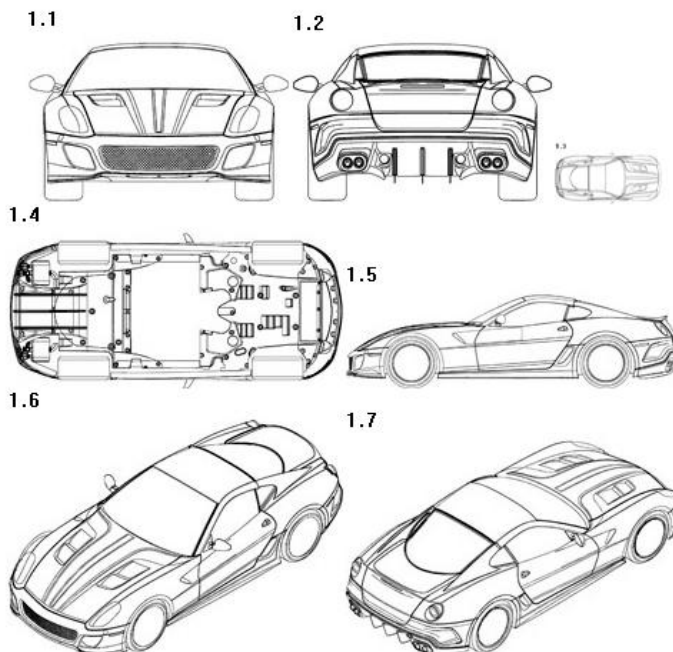
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Enregistrements internationaux / International Registrations / Registros internacionales

(11) DM/073635 (15) 19.05.2010 (18) 19.05.2015
 (22) 19.05.2010 (73) FERRARI S.P.A., Via Emilia Est, 1163, I-41100 MODENA (IT)
 (86)(87)(88) IT,EM (88) EM (74) JACOBACCI & PARTNERS S.p.A. Corso Emilia, 8, I-10152
 Torino (IT) (72) Flavio MANZONI, Via Vandelli 2, I-41053 MARANELLO (MODENA) (28) 1
 (51) Cl. 12-08 (54) 1. Car / 1. Voiture / 1. Automóvil (81) II. BJ, CI, KP, MA, MC, ME, SN, SR.
 III. CH, EG, LI, MD, MK, MN, OM, RS, SG, TR, UA. (30) 25.11.2009; 1639972; EM (45)
 30.11.2010



2. Examining significant content of design

This step involves the examination of significant content of the design being applied for a patent, and the search for existing designs in databases to compare similarities.

If the new design can be produced by industrial production or handicrafts, a proposal will be forwarded to register the design.

If the new design is found to be identical or have similarities to existing designs, a proposal will be made to reject the application.

The following designs are not considered to be new:

- (1) Designs existing or has been widely distributed in the country prior to the date of application.
- (2) Designs which have already disclosed significant content in documents or print media widely distributed, either in the country or in a foreign country, prior to the date of the application for a patent.
- (3) Designs which have already disclosed significant content in advertisements of the application for a patent for a design according to Section 65 and Section 28 prior to the date of application for a patent. (Announced by Department of Intellectual Property)
- (4) Designs similar to designs of (1) (2) or (3), which can be interpreted as copying them.

Note

If the person or juristic person intends to submit documents or print media which have been widely distributed, whether in the country or in a foreign country, **as support for existing designs**, they must be credible and valid, whereby the applicant must sign to certify the validity of all pages of such documents.

Guideline for the consideration of qualifications for registration

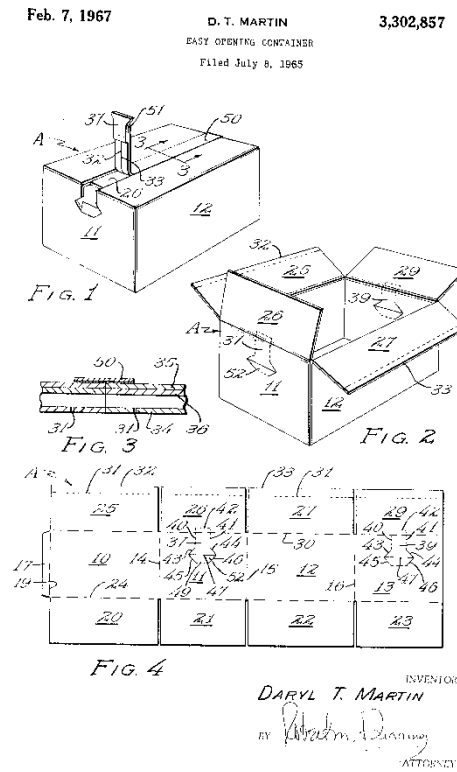
The consideration of qualifications for registration include the consideration of significant content of the design as follows:

- *Is it a product design or not?*
- *Does the design violate Section 58 or not?*
- *Is it a new design or not, and,*
- *Is it a new design which can be industrially produced or by handicrafts?*

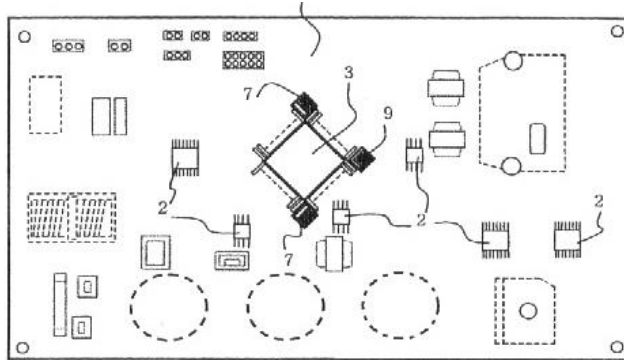
1. The consideration of whether the design is a product or not.

Designs aimed at the following characteristics cannot be registered.

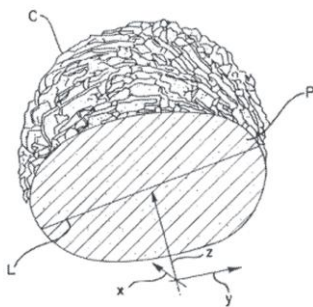
- Aimed for its use or improvement, for example:



- Methods or basic concepts such as organizing of items, computer software, or IC



- Layout of ideas such as organization of book pages
- Designs which lack a definite shape such as gas, liquid, electricity, or heat
- Designs which cannot be seen with the naked eye such as bits of detergent powder, sugar, or sugar crystals, etc.



fondant product have polycrystallites ,each having
a diameter no greater than about 50 microns

2. **Considering whether a design is in violation of Section 58 or not.**

The following designs cannot be registered for a patent:

- Designs in violation of public peace and order or morality including designs with shapes which indicate disrespect to religion, the monarch, or the royal family, which are revered by the public, such as:

- Using images of Buddha as decoration or on utility items such as candle holder or table base, etc.

Or designs of good luck charms or amulets



- Using a picture of His Majesty the King or a sculpture of His Majesty the King or members of the royal family to be made into statue of worship or decorations such as King Rama the V, etc.



- Designs which are of obscene images such as naked pictures of women or men or a body part which are used to make utility products such as hangers, ashtray, etc.



- *Designs which are indicated in the Royal Decree (no example)*

3. Considering whether the design is new or not

The application for patents for designs, which have been advertised for at least 90 days and did not face opposition, or had opposition but the Director General had rejected the opposition, can be registered only after an consideration of whether the design is new or not. The consideration includes a search of existing designs in databases of the Department Intellectual Property and the office of intellectual property in respective foreign countries. The new and existing designs will then be compared for similarities in significant content, the results of which will be used as support the final consideration. The result of the consideration will be reported to the Director General for consideration before the patent is issued or the application is rejected.

3.1 The method of evaluating significant content of designs is related to 3 significant content of the application which must be considered, including:

3.1.1 Name of the design

3.1.2 Extent of the concise claim, and,

3.1.3 Significant content of the design as appears in the image of the design

3.1.1 Name of the design

The name of the design must be evaluated because it will be widely publicized. If only some parts of the design are found to be new, only the new parts are to have new names.

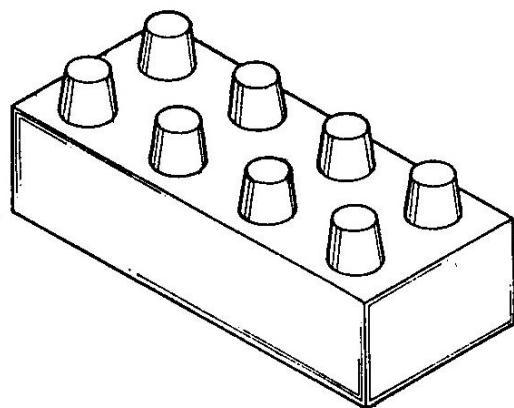
If the design is a transformation of a commonly known existing design, but they are of the same function as they are referred to in name or as understood, or if a search of existing databases reveal that they are of different function, or are used in complement of different systems, there should be additional searches of designs of the same function, unless there is no image or the images are different.

In this case, the design would be considered new and will be proposed to be registered for a patent for a design (see case study on page 78).

3.1.2 Extent of the concise claim

As applications of patents for designs will indicate the general claim of the patent rights for the name of the design, if the existing design is of a shape according to its function or a basic geometrical shape, an additional concise claim may be added for the new part of the design.

Example “Name of the design: **Brick**”



Concise claims can be indicated as follows:

“This patent reserves the right to this design by the shape of the brick, only in the part that is significant, in that the top is flat, and along its width there is a number of half-cut cones arranged in two rows with equal distance between them along the length of the product, as in the following detail.”

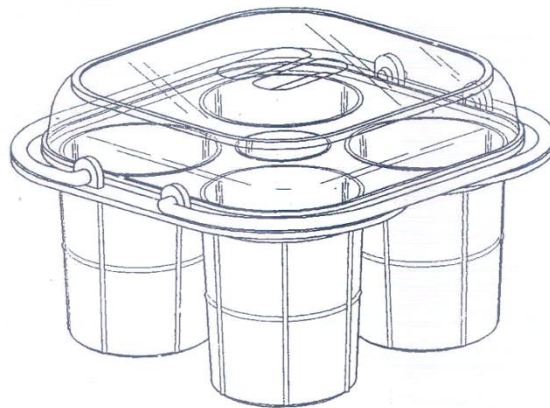
In this case, if existing designs of “bricks” is of a rectangular shape and has a flat surface without the half-cut cones on top, the design being applied for a patent can be considered as **new**, with a special claim, that is the number of half-cut cones on the flat surface of the brick.

3.1.3 Significant content of designs appearing in the image of the design

This part is considered to be at the heart of the patent rights as the message indicated in the concise claim, even if claiming rights only to the shape and/or pattern of the “name of the design”, does not indicate the shape or pattern of the design itself. It is only a claim of rights according to the image of the design.

For example, the application for a patent for the design number 076359 is the design of a “container with a lid”.

The claim is for the shape of the “container with a lid” as illustrated in the image of the design.

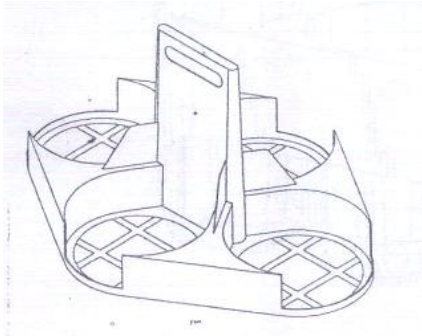


From the image of the design, the container is opaque while the lid is transparent, and the two parts can be separated from one another. However, the applicant intended to claim rights to both parts of the design as the two parts are to be used and sold together.

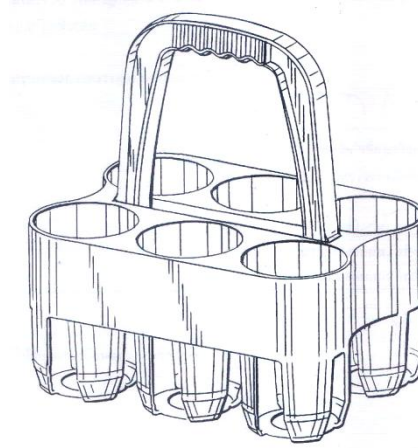
In this case, the examiner will compare the new design to existing products found in a search. If one part or the other of the new design is found to be identical or has similarities to the existing design, the applicant will be asked to limit the claim only to the new part.

In this case, a search found an existing design.

A search of the database of advertisements of applications for patents for designs and the office of patents and trademarks in the United States of America found the following similarities:



Advertisement No. 48168



US. D 405,006

When the existing design is considered, it can be seen that it is a container with a different shape without a lid. As such the design of the applicant is considered new.

The new design can be registered.

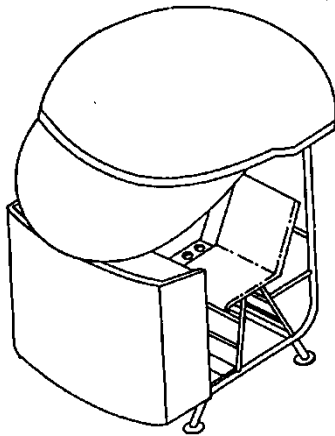
3.2 An consideration of whether the design is new or not

The design being applied for a patent, when compared to existing designs, may be considered as the following:

- They are designs of the same shape.

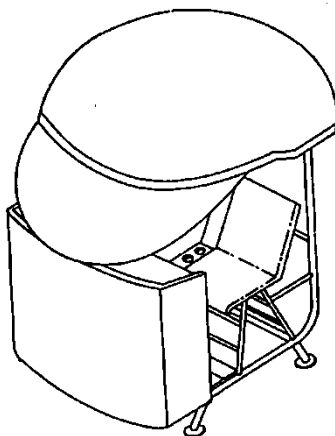
In this case, the applicant is the same person, but submitted the applications on different dates.

The name of the design is “Traffic Booth”, number 023400, submitted August 8th, 1994, and advertised on May 9th, 1996.



Existing Design

Later, the same applicant submitted the application number 079663 on January 28th, 2003.



Applied Design

A search of existing designs found the “Traffic Booth” advertised on May 9th, 1996, which was prior to the date of submission for the design number 079663.

An evaluation found that the structure and shape of the designs are **identical without a difference even in its parts**. In this case, the designs are considered to be the same design and, therefore, not new.

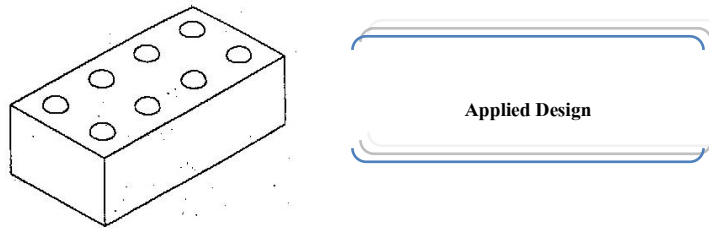
Application Rejected

Case Study 1

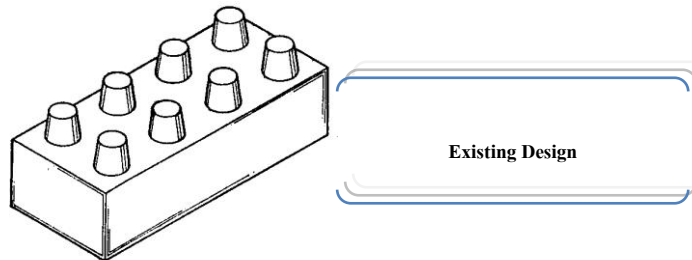
Similar design guideline, but different in appearance

The appearance of the following two designs is different, but the method of design is considered to be of the same guideline.

This design of a brick has a number of protruding circles on the flat surface. The design is named “brick block”, patent number 084658, submitted on August 21st, 2003.



The existing design from a database of advertisements of applications for patents for designs announced on October 19th, 1995.



Consideration Result

The applying design has the same rectangular shape as the existing design, with the same number of protruding shapes in 2 rows along the brick’s length.

The difference is that the applying design’s protruding shapes are circles, while the existing designs have half-cut cones on its surface.

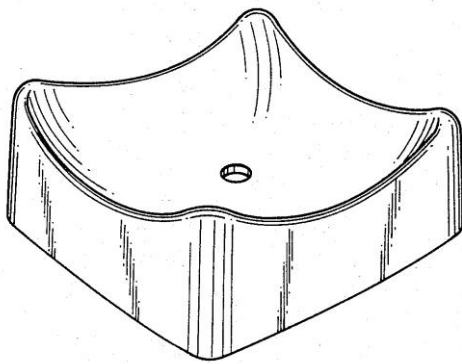
However, a consideration finds that the shapes on the surfaces are basic geometrical shapes, which do not affect the shape of the designs. As such, the applying design is not considered to be of a new design. ***Application Rejected.***

Case Study 2

Same guideline of design, but different in sizes.

This kind of design, in the nature of design, is considered a design method of an alternative shape, but is not of a different design, and **therefore not considered new**.

Application for a patent for the design of a “sink”, submitted December 2nd, 2005.



Existing Design



Applied Design

A search of existing designs found “sink” in the database of the office of patent design of the United States Patent and Trademark Office.

When compared, it can be seen that the designs are both squares with significant content in design as the slope in the middle of the sink, while the top edges are curved upwards. The difference is in the dip of the new design, which is shallower and is taller than the existing design.

It can be seen that the applying design has the same design of top edges as the existing design, even though they are different in height. The difference in height did not make the shape of the applying design any different from the existing design, and, therefore, not considered new.

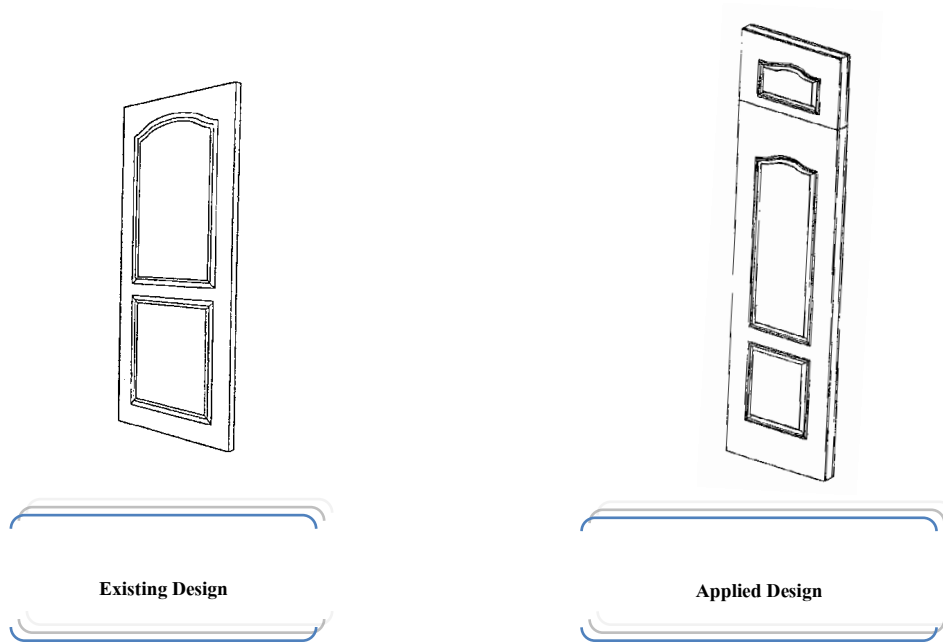
Application Rejected

Case Study 3

Same design guideline, but different in parts.

Even though the applying design has more or less parts or pieces, if the significant content of the designs are identical, it isn't considered a new design.

The design of a "Door" being applied has two separated parts which can be opened wide. On its front surface, there are two rectangular shapes marked by grooves as significant content of the design.



A

search of

existing designs found the design of "**Door Panel**".

From the database of the advertisement of patents for designs announced November 28th, 1997, with significant content as the grooves marking the rectangular pattern on the panel, which are identical.

Even though the sizes of the patterns are different, they are still considered identical significant content of designs on the front surface of the panels. Therefore, the applying design is not considered new.

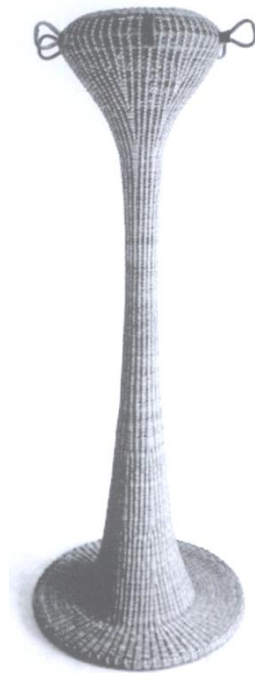
Application Rejected.

Case Study 4

Designs of the same additional function

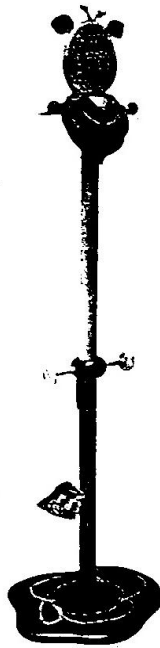
In the consideration of an applying design, even if the design has additional functions from an existing one, so long as the new design is covered neatly, it can be considered as significant content of design.

The application for a patent for the design of a “cloth hanger and a lamp”



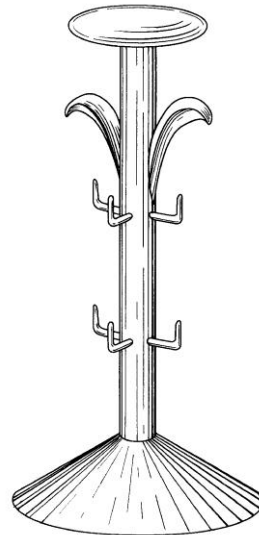
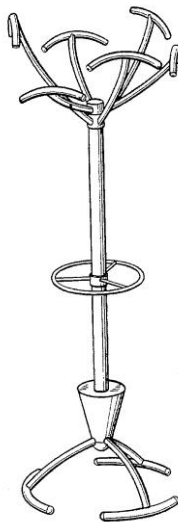
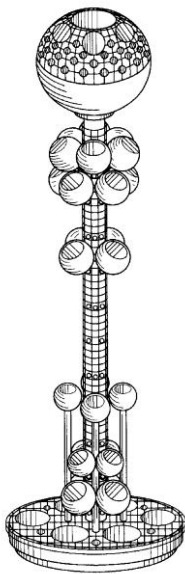
From the image of the design, the applying design “cloth hanger and a lamp” can be seen as a tall hanger with conical shapes at the top and bottom, with a number of loops to hang clothes on at the top.

The application for a patent for the design of a “cloth hanger and a lamp” (continue)



An existing design from
advertisements of patents for
designs

From the database of the United States Patent and Trademark Office



It can be seen that they are different in the design of the poles and hooks. The applying design is considered new.

Application approved for registration.

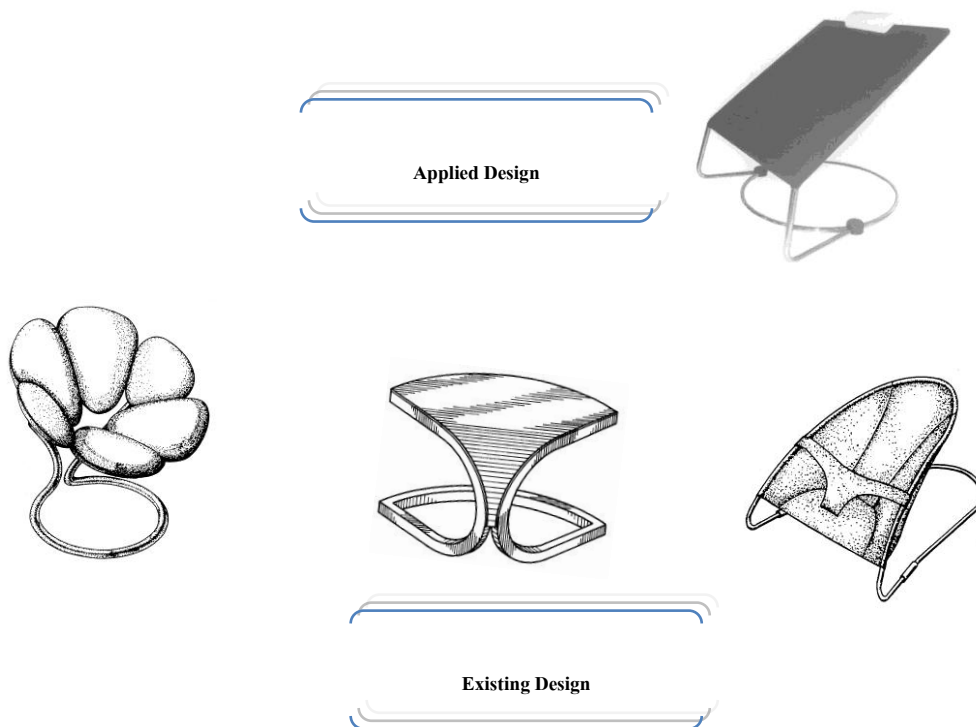
Case Study 5

Same design structure guideline

Designs of furniture, such as tables and chairs, are limited by their structures. As such, the guideline for their structures are the same and are used to develop with new materials, affecting their shapes and appearance, and can be considered new.

In this case, the existing design should be of the same structure, then should be considered that it new or not.

The application for patents for the design of a “chair” being applied has a free seating part with no attached end in the front, which is a special characteristic. The seating part is designed for a material which can support the sitter.



A search of existing designs found the design of a “chair” with the same structure from the database of the United States Patent and Trademark Office. They have similar structures, but are different in parts of the structures, and different shapes of the seating area, and, therefore, the applying design is considered new.

Application approved for registration.

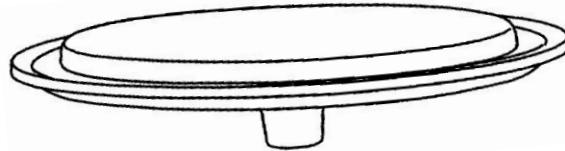
Case Study 6

An innovative design of a popular design with the same function

In this case, a search for designs of the same functions should be done. If not found, a search for designs of similar shapes should be done.

The name of the design is a “sink”.

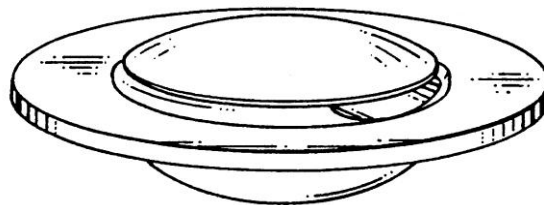
The design has a part to receive water running from the tap or waste water passed the sink and hand. The receiving part is designs as a flat oval surface on top of the part of the sink which allows water to flow out. It is an oval with open ends underneath, which can be combined with the pipe or connected with the sewer line.



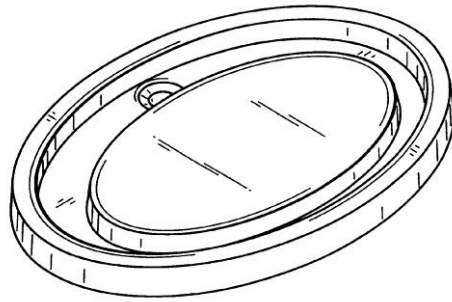
From the image of the design, the shape is not of a common sink, as it covers the part which has the holes to allow water to flow through at the middle of the sink.

A search of existing designs with similar characteristics and shape revealed:

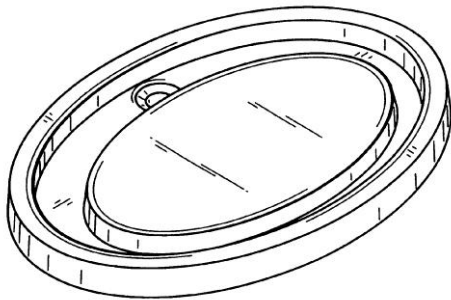
- US D 346,641 issued May 3rd, 1994, under the name “**air valve**”



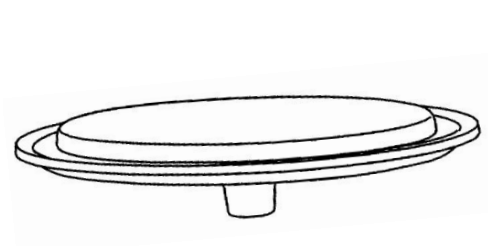
- US D 479,586 issued September 9th, 2003, under the name “**sink**”



The most similar design is US D479,586, even though the applied design has a similar oval “sink” shape, but is different from the existing design. That is, in the existing design, the inner oval is continuous with the sink and is adjacent to the outer oval with wider edges and a hole to allow water to flow through in the middle. It can be seen that the design of the “sink” is of the same popular design.



Existing Design



Applied Design

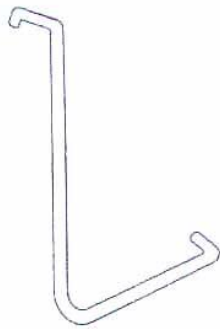
The

new

way of letting water flow through is allows **the application to be approved for registration.**

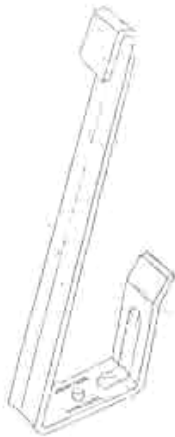
Case Study 7

Design for function may be indicated by the part which works in conjunction with another system with shapes, distance, and sizes that can be combined together. A design with improved functions may be registered, even if the shapes developed may be of the same design guideline, but clearly has a different shape. It is to be considered a new design.



The design of a “hook” is of an existing design, with a round shape with closed ends, used to hook two items together.

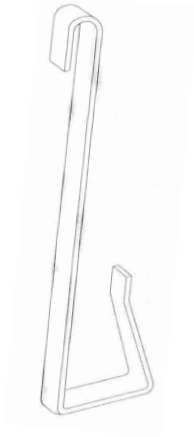
The second design of a “hook”,



When compared to the existing design, it can be seen that they are of the same design guideline, but are different in its body, which is flat and has a different folded part. Its shape is clearly different from the existing design (first design).

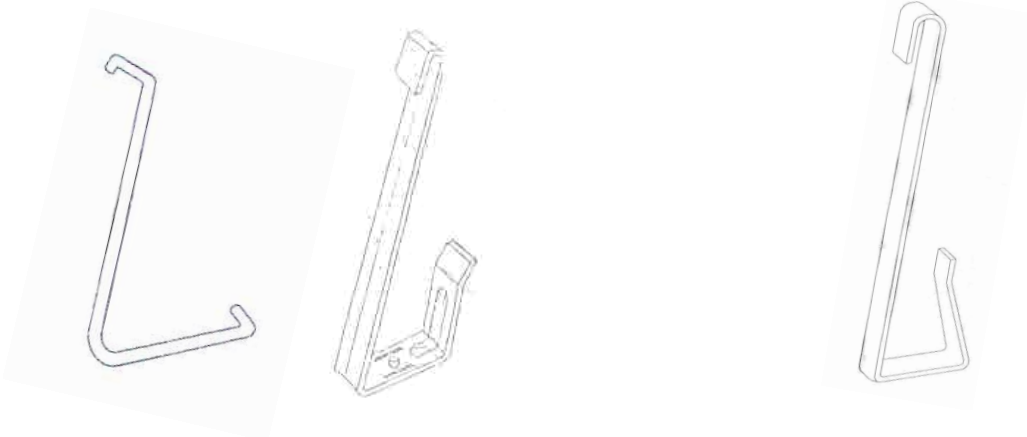
It can be seen that the design of a “hook” in the second image is new and, therefore, can be registered.

The design of a “hook” in the third image,



Even though a search of the designs of a “hook” found the first and second designs, it can be seen that the second design has the most similar shape.

When comparing the second existing design (as advertised on April 10th, 1993), it can be seen that the flat body with both ends bended are the same as the existing design (second image). The difference is in the surface of the end with the larger hook, which is more inverted than the same end of the second design.



It can be seen that the third design is the same design as the second design, and therefore, is not considered new. **Application Rejected.**

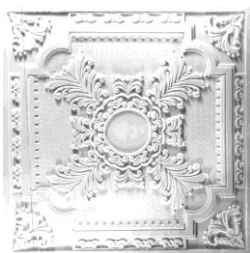
Case Study 8

Design guideline for patterns

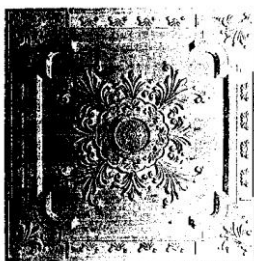
The design of a “pattern on ceiling tiles” will have patterns on its front surface with a bas relief, not on a smooth surface.

In general, the design will be of the main pattern, then a pattern to be used in combination. The arrangement of the main pattern will be different.

As such, the consideration of a new pattern on a product must be evaluated by the shape of the main pattern and the arrangement of the significant content of the design.



Design Number 069751



Existing Design

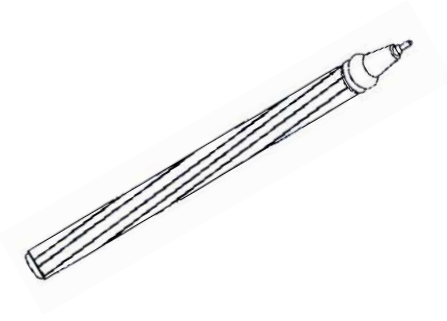
A search found an existing design of a “**pattern on a ceiling tile**” from the database of advertisements of designs announced January 31st, 2000, which was prior to the date of the application number 069751.

It can be seen that the applied design has a main pattern with the same shape (large leaf) in four main parts pointing towards the corners of the tiles. It isn't considered a new design. **Application Rejected.**

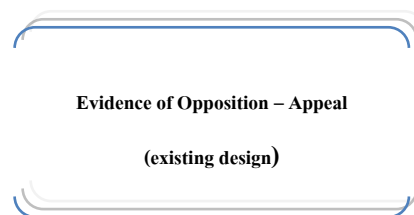
Case Study 9

(Decision of the patent committee)

The application for a patent for the design of a “pen” number 0302001768 submitted on June 23rd, 2003. This application is submitted to claim the patent rights to the body of the pen for its cylindrical shape, with a conical shape at the end which supplies ink which has a ring separating the body from the conical end. It was advertised on May 25th, 2003.



On August 21st, 2006, an opposer submitted evidence in the form of a copy of a patent number 2885 and a product catalog of pens.



The Director General of the Department of Intellectual Property issued decision number 42/2552 dated October 5th, 2009 to nullify the opposition.

The opposer opted to appeal the ruling on May 23rd, 2009, which can be concluded as follows:

1. The applied design of a pen is not considered a new design that can be registered for a patent as the design is similar to an existing design which has revealed significant content or details in a document or print media which have been widely distributed in or outside of the country prior to the date of the new application. It can be seen that the new design is a copy of a design so similar that it can be clearly determined as a copy of a design that was advertised prior to the date of the new application.
2. The applied design has parts which are similar to the parts of an existing design.

The patent committee have concluded an evaluation of the argument filed by the opposer as well as the appeal of the patent for the design of the opposer, as well as supporting evidence as follows:

1. The body of the applied design of a pen is of cylindrical shape with lines twisting around the body.
 - 1.1 That part of the design is clearly a copy of the design of a pen which have already been registered for patent number 2885, as the shape of the body is cylindrical with lines twisting around its body as well.
 - 1.2 That part of the design is clearly a copy of the design of a pen of the opposer which have been produced and distributed according to the copies of catalogs advertising products, printed in January 1999.
2. The tip of the pen has a curbed tip similar to the design of the opposer which was produced and widely distributed for many years prior to January 1999.

The patent committee found that the design of patent number 0302001768, in all of its parts, are similar to the design of an existing design of a pen, whereby the new design was a copy and recombination of existing designs, and was seeking a new patent.

The patent committee concluded that the applied design was not any different in significant content from the existing design and upholds the judgment of The central intellectual property and

international trade court number 48/2551, which referred to the TRIPs Agreement's Section 25, which protected the patent rights of designs in Item 25.1.

By the power of Section 70(2) of the Act in B.E. 2522 (1979), modified by the Patent Act (3rd issue) B.E.2542 (1999), the patent committee issued ruling number 48/2553 to nullify the application of the patent as the applied design was not considered a new design.

(See details of the decision in pages 86-90)



คำวินิจฉัยคณะกรรมการสิทธิบัตร

ที่ 48/2553

เรื่อง สิทธิบัตรการออกแบบผลิตภัณฑ์ ปากกา คำขอเลขที่ 0302001768

นายกรวิทย์ สุพุทธิพงศ์ สัญชาติไทย ได้ยื่นคำขอรับสิทธิบัตรการออกแบบผลิตภัณฑ์ ปากกา คำขอเลขที่ 0302001768 เมื่อวันที่ 23 มิถุนายน 2546 และได้มีการประกาศโฆษณา เมื่อวันที่ 25 พฤษภาคม 2549

บริษัท ดี.ที.ซี. อินดัสตรีส์ จำกัด (มหาชน) ได้ยื่นคำคัดค้านการออกแบบผลิตภัณฑ์ ปากกา เมื่อวันที่ 21 สิงหาคม 2549 โดยสรุปได้ว่า แบบผลิตภัณฑ์ของผู้ขอรับสิทธิบัตรไม่เป็นแบบผลิตภัณฑ์ใหม่ เพื่ออุตสาหกรรม รวมทั้งหัตถกรรม ที่จะขอรับสิทธิบัตรแบบผลิตภัณฑ์ได้ เพราะเป็นแบบผลิตภัณฑ์ปากกาที่ คล้ายกับแบบผลิตภัณฑ์ที่ได้เปิดเผยสาระสำคัญ หรือรายละเอียดในเอกสารหรือสิ่งพิมพ์ที่ได้เผยแพร่อยู่แล้ว ไม่ว่าในหรือนอกราชอาณาจักรก่อนวันขอรับสิทธิบัตร จนเห็นได้ว่าเป็นการเลียนแบบ และเป็นแบบผลิตภัณฑ์ ที่คล้ายกับ แบบผลิตภัณฑ์ที่เคยประกาศโฆษณามาแล้ว ก่อนวันขอรับสิทธิบัตร โดยนำเสนอขออนุญาต เอกสาร หลักฐาน เช่น สำเนาสิทธิบัตรเลขที่ 2885 แคตตาล็อกสินค้าปากกา เป็นต้น

ผู้ขอรับสิทธิบัตรได้ยื่นคำโต้แย้ง เมื่อวันที่ 27 กุมภาพันธ์ 2550 โดยสรุปได้ว่า ผู้โต้แย้ง ได้ออกแบบผลิตภัณฑ์และให้ฝ่ายศิลป์วาดแบบหัวตายัน เพื่อผลิตตามปากกาตามที่ต้องการ โดยหัวตายันนี้เป็น ตัวตั้งตามปากกาเพื่อผลิตเป็นเส้นตรงขนาดใหญ่ และขนาดเล็ก โดยนำหัวตายันมาประกอบกับเครื่องรีด พลาสติกเมื่อเปรียบเทียบกับแบบผลิตภัณฑ์ของผู้คัดค้าน พบว่าไม่เหมือนกัน เพราะตัวตั้งเป็นลายเกลียว ที่พาดต่างกัน ภาพโดยรวมของปากกาก็แตกต่างกัน ซึ่งไม่ทำให้หลงผิดได้

อธิบดีกรมทรัพย์สินทางปัญญาได้มีคำวินิจฉัยที่ 42/2552 ลงวันที่ 5 ตุลาคม 2552 ให้ยก คำคัดค้าน

ต่อมา บริษัท ดี.ที.ซี. อินดัสตรีส์ จำกัด (มหาชน) ผู้คัดค้านได้ยื่นคำอุทธรณ์ เมื่อวันที่ 23 พฤศจิกายน 2552 โดยสรุปได้ว่า

/1. แบบผลิตภัณฑ์

2

1. แบบผลิตภัณฑ์ปากกา ตามที่ขอรับสิทธิบัตร ไม่ถือว่าเป็นการออกแบบผลิตภัณฑ์ใหม่ที่จะขอรับสิทธิบัตรได้ เพราะเป็นแบบผลิตภัณฑ์ที่คล้ายกับ แบบผลิตภัณฑ์ที่ได้เปิดเผยสาระสำคัญหรือรายละเอียดในเอกสารหรือสิ่งพิมพ์ ที่ได้เผยแพร่อยู่แล้วไม่ว่าในหรือนอกราชอาณาจักรก่อนวันขอรับสิทธิบัตร จนเห็นได้ว่าเป็นการเลียนแบบ และเป็นแบบผลิตภัณฑ์ที่คล้ายกันจนเห็นได้ว่าเป็นการเลียนแบบ กับแบบผลิตภัณฑ์ที่เคยประกาศโฆษณาแล้วก่อนวันขอรับสิทธิบัตรรายนี้

2. แบบผลิตภัณฑ์ ตามที่ขอรับสิทธิบัตร แต่ละส่วนของผลิตภัณฑ์ปากการวมกันมีลักษณะของส่วนต่างๆ คล้ายกับส่วนของแบบผลิตภัณฑ์ปากกาที่มีอยู่ก่อนแล้ว

ผู้ขอรับสิทธิบัตรรายนี้ไม่ได้ใช้ความคิดสร้างสรรค์ออกแบบผลิตภัณฑ์ขึ้นมาใหม่แต่ประการใด เพียงแต่ใช้แบบของตัวด้ามและปลอกหุ้มซึ่งเป็นผลิตภัณฑ์ที่มีอยู่ก่อนแล้ว พร้อมจุกปิดท้ายซึ่งเป็นส่วนประกอบของปากกาที่เป็นสามัญทั่วไป มารวมกัน แล้วยื่นคำขอรับสิทธิบัตรเท่านั้น

คณะกรรมการสิทธิบัตรได้พิจารณาคำคัดค้าน คำโต้แย้ง รวมทั้งอุทธรณ์สิทธิบัตร การออกแบบผลิตภัณฑ์ของผู้คัดค้าน ตลอดจนหลักฐานต่างๆ แล้วมีประเด็นที่จะต้องพิจารณา ดังนี้

1. การคัดค้านการขอรับสิทธิบัตรการออกแบบผลิตภัณฑ์รายนี้ เป็นการคัดค้านที่ชอบด้วยกฎหมายหรือไม่

2. สาระสำคัญตามคำขอรับสิทธิบัตรการออกแบบผลิตภัณฑ์รายนี้ คล้ายกับสำเนาเอกสารต่างๆ ที่ผู้อุทธรณ์ (ผู้คัดค้าน) ได้กล่าวอ้าง ถือได้ว่าเป็นแบบผลิตภัณฑ์ที่มีหรือใช้แพร่หลายอยู่แล้วในราชอาณาจักรก่อนวันขอรับสิทธิบัตรหรือได้มีการเปิดเผยภาพ สาระสำคัญหรือรายละเอียดในเอกสารหรือสิ่งพิมพ์ที่ได้เผยแพร่อยู่แล้วไม่ว่าในหรือนอกราชอาณาจักรก่อนวันขอรับสิทธิบัตร หรือเป็นแบบผลิตภัณฑ์ที่คล้ายกับแบบผลิตภัณฑ์ดังกล่าวมาข้างต้น จนเห็นว่าเป็นการเลียนแบบ ตามมาตรา 56 ประกอบกับมาตรา 57(4) แห่งพระราชบัญญัติสิทธิบัตร พ.ศ. 2522 แก้ไขเพิ่มเติมโดยพระราชบัญญัติสิทธิบัตร (ฉบับที่ 3) พ.ศ. 2542 หรือไม่

ประเด็นที่ 1 เห็นว่าคำขอรับสิทธิบัตรการออกแบบผลิตภัณฑ์รายนี้ ได้ประกาศโฆษณาเมื่อวันที่ 25 พฤษภาคม 2549 และผู้อุทธรณ์ (ผู้คัดค้าน) ได้ยื่นคำคัดค้าน เมื่อวันที่ 21 สิงหาคม 2549 จึงเป็นกรณีที่ผู้อุทธรณ์ (ผู้คัดค้าน) ยื่นคำคัดค้านต่อพนักงานเจ้าหน้าที่ภายใน 90 วัน นับแต่วันที่ประกาศโฆษณา

การที่ผู้อุทธรณ์ (ผู้คัดค้าน) อ้างว่าคำขอรับสิทธิบัตรการออกแบบผลิตภัณฑ์รายนี้ คล้ายกับสำเนาเอกสารต่างๆ ที่ผู้อุทธรณ์ (ผู้คัดค้าน) ได้กล่าวอ้าง ซึ่งเป็นแบบผลิตภัณฑ์ที่มีหรือใช้แพร่หลายอยู่แล้วในราชอาณาจักร ก่อนวันขอรับสิทธิบัตร หรือเป็นเอกสารหรือสิ่งพิมพ์ที่ได้เผยแพร่อยู่แล้ว ไม่ว่าในหรือนอกราชอาณาจักรก่อนวันยื่นขอรับสิทธิบัตรนั้น เป็นการกล่าวอ้างว่าคำขอรับสิทธิบัตรรายนี้ไม่เป็นการออกแบบผลิตภัณฑ์ใหม่ ตามมาตรา 56 ซึ่งถือว่าการใช้สิทธิคัดค้านของผู้อุทธรณ์ (ผู้คัดค้าน) เป็น การใช้สิทธิตาม

/มาตรา 31

มาตรา 31 ประกอบกับมาตรา 65 แห่งพระราชบัญญัติสิทธิบัตร พ.ศ.2522 แก้ไขเพิ่มเติมโดยพระราชบัญญัติสิทธิบัตร (ฉบับที่ 3) พ.ศ.2542 เพราะฉะนั้นคำคัดค้านของผู้อุทธรณ์ (ผู้คัดค้าน) จึงเป็นคำคัดค้านที่ชอบด้วยกฎหมาย

ประเด็นที่ 2 เมื่อเปรียบเทียบแบบผลิตภัณฑ์ตามคำขอรับสิทธิบัตรกับแบบผลิตภัณฑ์ที่แสดงปรากฏอยู่ในสำเนาประกอบคำคัดค้านนั้น จะเห็นได้ว่า แบบผลิตภัณฑ์ของผู้ขอรับสิทธิบัตร มีลักษณะดังนี้

1. ตัวด้ามปากกา ตามคำขอรับสิทธิบัตร ตัวด้ามเป็นรูปทรงกระบอกกลม ลายเส้นพาดเฉียง บิดเป็นลายเกลียวรอบตัวด้าม

1.1 คล้ายจนเห็นได้ว่าเป็นการเลียนแบบกับผลิตภัณฑ์ตัวด้ามปากกาที่ได้รับสิทธิบัตรไว้ตามสิทธิบัตรเลขที่ 2885 เลขที่คำขอ 012898 ขอรับสิทธิบัตรเมื่อวันที่ 25 กุมภาพันธ์ 2544 ประกาศโฆษณาเลขที่ 55059 ประกาศวันที่ 12 กุมภาพันธ์ 2546 เพราะมีลักษณะเป็นทรงกระบอกกลม มีเส้นบิดเกลียวรอบตัวด้าม คล้ายกัน

1.2 คล้ายจนเห็นได้ว่าเป็นการเลียนแบบกับแบบผลิตภัณฑ์ปากกา ซึ่งบริษัท ดี.ที.ซี. อินดัสตรีส์ จำกัด (มหาชน) ผู้อุทธรณ์ ได้ผลิตออกมาจำหน่าย คือปากกาลูกกลิ้งรุ่น LANCER SPIRAL 825 ปรากฏตามสำเนาแคตตาล็อกโฆษณาสินค้าปากกา LANCER ดีพิมพ์มกราคม 2542

2. ปลายด้ามปากกา มีลักษณะเป็นจุดโค้งมนคล้ายกับแบบของปลายด้ามปากกา ของแบบผลิตภัณฑ์ปากกาลูกกลิ้ง LANCER SPIRAL 825 และ LANCER HORN 824 ของบริษัท ดี.ที.ซี. อินดัสตรีส์ จำกัด (มหาชน) ได้ผลิตจำหน่ายอย่างแพร่หลายก่อนปี พ.ศ.2542

จึงเห็นได้ว่าแบบผลิตภัณฑ์ตามคำขอเลขที่ 0302001768 แต่ละส่วนมีลักษณะคล้ายกับแบบผลิตภัณฑ์ปากกาที่มีอยู่ก่อนแล้ว โดยเป็นการนำแบบผลิตภัณฑ์ที่มีอยู่แล้ว มาประกอบเข้ากันเป็นแบบผลิตภัณฑ์ที่ยื่นขอรับสิทธิบัตร

อีกทั้ง เมื่อพิจารณาคำพิพากษาของศาลทรัพย์สินทางปัญญาและการค้าระหว่างประเทศกลางที่ 48/2551 ซึ่งมีการวินิจฉัยถึงประเด็นการออกแบบผลิตภัณฑ์ไว้ว่า หลักเกณฑ์ลักษณะพิเศษของแบบผลิตภัณฑ์ในมาตรา 3 และมาตรา 56 แห่งพระราชบัญญัติสิทธิบัตร พ.ศ. 2522 หมายความว่า การออกแบบผลิตภัณฑ์นั้น ต้องเป็นการออกแบบเพื่อให้เป็นแบบผลิตภัณฑ์ กล่าวคือ ต้องเป็นการออกแบบที่มุ่งให้มีลักษณะของความงามอันเป็นพื้นฐานของแบบผลิตภัณฑ์ที่ประกอบอยู่ มิใช่เป็นเพียงการออกแบบเพื่อประโยชน์ในการใช้งานเพียงอย่างเดียว รวมทั้งต้องเป็นการออกแบบที่ไม่เป็นที่ประจักษ์โดยทั่วไปสำหรับแบบผลิตภัณฑ์ประเภทนั้น ๆ ด้วย ซึ่งหลักเกณฑ์ดังกล่าวนี้สอดคล้องกับ หลักเกณฑ์เรื่องเดียวกันในกฎหมายระหว่างประเทศและกฎหมายต่างประเทศทั่วไป ยกตัวอย่างเช่น ความตกลงทริปส์ (TRIPs Agreement) มาตรา 25 ซึ่งเป็นบทบัญญัติของการคุ้มครองการออกแบบผลิตภัณฑ์ ได้บัญญัติไว้ในมาตรา 25.1 ว่า "ประเทศภาคีต้องให้ความ
/คุ้มครองการ

4

คุ้มครองการออกแบบผลิตภัณฑ์ ที่สร้างสรรค์ขึ้นเอง หรือสร้างสรรค์ขึ้นมาใหม่ ประเทศภาคีอาจถือว่าแบบผลิตภัณฑ์นั้นไม่มีความใหม่ หากว่าเป็นแบบผลิตภัณฑ์ที่ไม่แตกต่างในสาระสำคัญจากแบบผลิตภัณฑ์ที่มีอยู่แล้ว หรือเป็นเพียงการนำแบบผลิตภัณฑ์ที่มีอยู่แล้วมาประกอบเข้ากัน ความคุ้มครองที่รัฐภาคีจะให้แก่การออกแบบผลิตภัณฑ์นั้น ไม่ต้องขยายไปถึงการออกแบบที่สร้างขึ้นเพื่อความประสงค์ทางด้านเทคนิค หรือทางด้านการใช้งาน เป็นสำคัญ"

ดังนั้น แบบผลิตภัณฑ์ของผู้ขอรับสิทธิบัตรจึงไม่เป็นการออกแบบผลิตภัณฑ์ใหม่ ตามมาตรา 56 แห่งพระราชบัญญัติสิทธิบัตร พ.ศ. 2522 แก้ไขเพิ่มเติมโดยพระราชบัญญัติสิทธิบัตร (ฉบับที่ 3) พ.ศ. 2542 และเป็นแบบผลิตภัณฑ์ที่คล้ายกับงานที่ปรากฏอยู่แล้ว ตามมาตรา 57 (4) แห่งพระราชบัญญัติเดียวกัน

อาศัยอำนาจตามความในมาตรา 70 (2) แห่งพระราชบัญญัติสิทธิบัตร พ.ศ. 2522 แก้ไขเพิ่มเติมโดยพระราชบัญญัติสิทธิบัตร (ฉบับที่ 3) พ.ศ. 2542 คณะกรรมการสิทธิบัตรจึงมีมติในการประชุมครั้งที่ 8/2553 เมื่อวันที่ 25 สิงหาคม 2553 กลับคำวินิจฉัยของอธิบดีกรมทรัพย์สินทางปัญญา โดยยกคำขอรับสิทธิบัตร และให้พนักงานเจ้าหน้าที่พิจารณาดำเนินการตามขั้นตอนต่อไป

ทั้งนี้ หากคู่กรณีไม่เห็นด้วยกับคำวินิจฉัยของคณะกรรมการสิทธิบัตร คู่กรณีมีสิทธิอุทธรณ์ต่อศาลได้ภายใน 60 วัน นับแต่วันที่ได้รับแจ้งคำวินิจฉัย หากมิได้ดำเนินการภายในเวลาดังกล่าวให้ถือว่าคำวินิจฉัยของคณะกรรมการเป็นที่สุด

(ลงนาม)

ทำหน้าที่ประธานกรรมการ

(นายวีระศักดิ์ ว่องปรีชา)

(ลงนาม)

(นายอำพล โมตรีเวช)

กรรมการ (ลงนาม)

กรรมการ

(นายกิตติ อมรรักษา)

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(ลงนาม) 
(นายอุดมเกียรติ นนทแก้ว)

กรรมการ (ลงนาม) 
(นายพลวุธ เซาวนโยธิน)

(ลงนาม) 
(นายกิตติ ตั้งจิตรมณีสักดา)

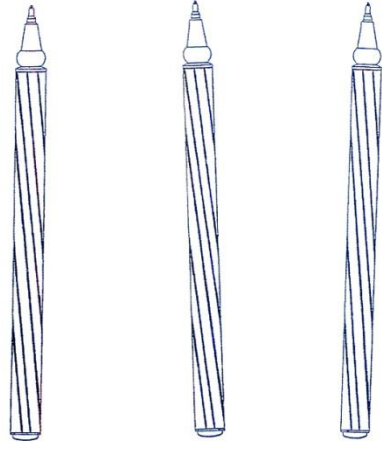






(ลงนาม) 
(นายสำเร้ง จักรใจ)

(ลงนาม) พ.ต.อ. _____
(สุรเชษฐ ชีรวินิจ)
(ไม่เข้าร่วมพิจารณา)

กรรมการ (ลงนาม) 
(นายวิม มโนพิโมกษ์)

กรมทรัพย์สินทางปัญญา
22 กันยายน 2553

ประกอบการพิจารณาคำอุทธรณ์ 030200 1768

แบบผลิตภัณฑ์ของผู้รับสิทธิบัตร	แบบผลิตภัณฑ์ของผู้อุทธรณ์
 <p>รูป 1 รูป 2 รูป 3</p>	<p>แบบผลิตภัณฑ์ของผู้อุทธรณ์ ชื่อผู้อุทธรณ์ บริษัท ดี.ที.ซี. อินดัสตรีส์ จำกัด (มหาชน) วันที่ยื่นอุทธรณ์ 23 พฤศจิกายน 2552</p> <p>1. ตัวด้ามปากกา สิทธิบัตรเลขที่ 2885 คำขอเลขที่ 012898 ขอรับวันที่ 25 กุมภาพันธ์ 2544 ประกาศโฆษณา เลขที่ 55059 วันประกาศโฆษณา วันที่ 12 กุมภาพันธ์ 2546</p> 
 <p>รูป 4 รูป 5</p> <p>ชื่อผู้ขอรับสิทธิบัตร นายกรวิทย์ สุพุทธิพงศ์ วันที่ยื่นคำขอ 23 มิถุนายน 2546 ประกาศโฆษณา 25 พฤษภาคม 2549</p>  <p>รูป 6</p>	<p>2. ตัวด้ามปากกา LANCER SPIRAL 825 ของบ. ดี.ที.ซี.อินดัสตรีส์ จำกัด ปรากฏตามแคตตาล็อกโฆษณาสินค้าปากกา LANCER ตีพิมพ์ มกราคม 2542</p>  <p>LANCER SPIRAL 825 POINT : 0.5 MM. INK ●●●</p> <p>3. ปลายด้ามปากกา ปากกา LANCER SPIRAL 825 ของบ. ดี.ที.ซี.อินดัสตรีส์ จำกัด จำหน่ายอย่างแพร่หลายก่อนปี พ.ศ. 2542</p>  <p>LANCER SPIRAL 825</p> <p>4. ปลายด้ามปากกา ปากกา LANCER HORN 824 ของบ. ดี.ที.ซี.อินดัสตรีส์ จำกัด จำหน่ายอย่างแพร่หลายก่อนปี พ.ศ. 2542</p>  <p>LANCER HORN 824</p>



Decision of the Patent Committee

No. 48/2553

Subject: Patent of the design of a “pen” number 0302001768

Mr. Korawit Suputhipong, a Thai national, submitted an application for a patent for a design of a “pen” number 0302001768 dated June 23rd, 2003, and was advertised on May 25th, 2006.

DTC Industries Public Co., Ltd. submitted an opposition to the design of the “pen” on August 21st, 2006. It was concluded that the design of the applicant is not a new design for industrial or handicrafts applications, which can be registered for a new patent, as the design of the pen is similar to an existing design which has already revealed significant content or details in a document or printed media widely distributed, whether in or outside of the country, prior to the date of the new application. It can be seen that the design was a copy and is a similar design to the design advertised prior to the date of the application for a new patent. Evidence including the copy of the patent number 2885 and catalog of pen products were submitted, etc.

The applicant filed an opposition on February 27th, 2007, which can be concluded that the opposer had designed the product and had the arts department draw up a model of a machine to produce the pens as desired, whereby the machines pulled the pen’s body into a straight line of large and small sizes. The machine is used in combination of another machine to iron out plastic. When compared to the design of the opposer, it was found that the designs were not the same, as the body of the pen was in the pattern of a twist which was overlapped differently. The overall appearance of the pens were also different and cannot be mistaken for one another.

The Director General of the Department of Intellectual Property issued decision number 42/2552 dated October 5th, 2009 to nullify the opposition.

Then DTC Industries Public Co., Ltd. filed an appeal on November 23rd, 2009, which can be concluded as follows:

1. The applied design of the pen is not considered a new design which can be registered for a patent as it is similar to an existing design which has revealed significant content or details in a document or printed media widely distributed, whether in or outside of the country, prior to the date of application for a new patent. It can be seen that the applied design was a copy, and was a design so similar that it can be seen as a copy from a design which had been advertised prior to the date of application for the new patent.

2. The applied design, in parts of the pen, when combined, is similar to the existing design of a pen.

The applicant for the new patent did not use creativity to publish a new design, but only copied the existing design of the pen's body, cover, and the cover at the tip, combined them, and applied for a new patent.

The Patent Committee considered the opposition and argument, as well as the appeal of the patent for the design of the opposition, as well as its supplementing evidence, and considered the following aspects:

1. Whether this opposition of the application for a patent for a design is an opposition was lawful or not.

2. Whether the significant content of this application for a patent for a design was similar to the copy of documents that the appellant (opposer) had referred to, such that it can be considered that the existing or widely distributed design in the country prior to the date of application or had been revealed in significant content or detail in documents or printed media widely distributed, in or outside of the country prior to the date of the application for a patent, or is a design similar to the aforementioned design, such that it can be seen that it was a copy according to Section 56 and Section 57(4) of the Patent Act B.E.2522 (1979), modified by the Patent Act (3rd Issue) B.E.2542 (1999) or not.

First Issue - It can be seen that this application for a patent for a design had advertised on May 25th, 2009, and the appellant (opposer) had submitted an opposition on August 21st, 2009. As such, it is considered a legitimate case of the appellant (opposer) submitting an opposition to an officer within 90 days from the date of the advertisement.

The argument of the appellant (opposer) that this design was similar to the copies of documents that the appellant (opposer) had referred to, which were of designs which had already existed or were widely distributed in the country prior to the date of application for a new patent, or were documents or printed media widely distributed, whether in or outside of the country prior to the date of application for a new patent, and claimed that the application for a patent for the design was not a new design. As such, according to Section 56, it is considered an exercise of legitimate right by the appellant (opposer) according to Section 31 and Section 65 of the Patent Act B.E.2522 (1979) modified by the Patent Act (3rd Issue) B.E.2542 (1999), making the opposition of the appellant (opposer) lawful.

Second Issue – When the applied design was compared with the existing design in the copy of supplementing documents in the opposition, it can be seen that the applied design were of the following characteristics:

1. The body of the pen, as in the application, is of cylindrical shape with slanted lines twisting around the body.

1.1 The design is so similar that it can be determined as a copy of the design of the body of a patented design number 2885 of application 012898 submitted for patent registration on February 25th, 2001, advertisement number 55059 announced on February 12th, 2003, as it is of cylindrical shape with slanted lines twisting around the body of the pen the same way.

1.2 The design is so similar it can be determined as a copy of the design of pen products which, the appellant, the DTC Industries Public Co.,Ltd., had produced and distributed, called the LANCER SPIRAL 825 according to copies of product catalogs advertising LANCER pens published January, 1999.

2. The tip of the pen had a curved design similar to the tip of the pen of the LANCER SPIRAL 825 pen and LANCER HORN 824 pen that the DTC Industries Public Co.,Ltd. have produced and distributed prior to 1999.


As such, it can be seen the design of the application number 0302001768, in its parts, were similar to the design of an existing design of a pen. It was merely a matter of taking existing designs to be recombined to submit for a new patent for a new design.



In addition, when considering the decision of The central intellectual property and international trade court number 48/2551, which ruled on the issue of the design, that the criteria of special characteristics of a design in Section 3 and Section 56 of the Patent Act B.E.2522 (1979) refers to the design of a product which must be designed for the purpose of its beautifying appearance, and not merely for its function, and the design was not universal as a design for that particular category. The criteria mentioned was in line with the criteria in general international laws, such as the TRIPs Agreement, Section 25, which protected the rights of designs, which stipulated in Item 25.1 that “member countries must protect the designs which were creatively designed, whereby the member country may considered the design to be new if the design is no different in significant content from an existing design or is merely a recombination of designs, the protection of rights in that member country for such design does not have to extend to cover the design which were created only for technical purposes or for functional purposes.”

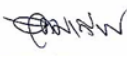
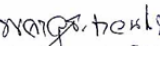
As such, the applied design is not considered a new design according to Section 56 of the Patent Act B.E.2522 (1979) and is similar to an existing design according to Section 57 (4) of the same Patent Act.



By the powers of Section 70 (2) of the Patent Act, B.E.2522 (1979), modified by the Patent Act (3rd Issue) B.E.2542 (1999), the Patent Committee resolved in its meeting number 8/2553 on August 25th, 2010, to reverse the ruling of the Director-General of the Intellectual Property Department, to nullify the application of the new patent of the new design, and for the officer in charge to proceed to the next step.


If the opposing party (the applicant) is in disagreement with the ruling of the Patent Committee, the opposing party may appeal to the court within 60 days from the date of receiving the ruling. If no proceeding are filed by that timeframe, the decision of the Patent Committee is to be considered final.

(Signature)  Chairman of the Patent Committee
(Mr.Veerasak Wongpreecha)

(Signature)  Committee Member (Signature)  Committee member
(Mr.Ampol Mitreevet) (Mr.Kitti Amornraksa)

(Signature)  Committee Member (Signature)  Committee member
(Mr.Udomkiat Nonthakaew) (Mr.Palawut Chaowanayothin)

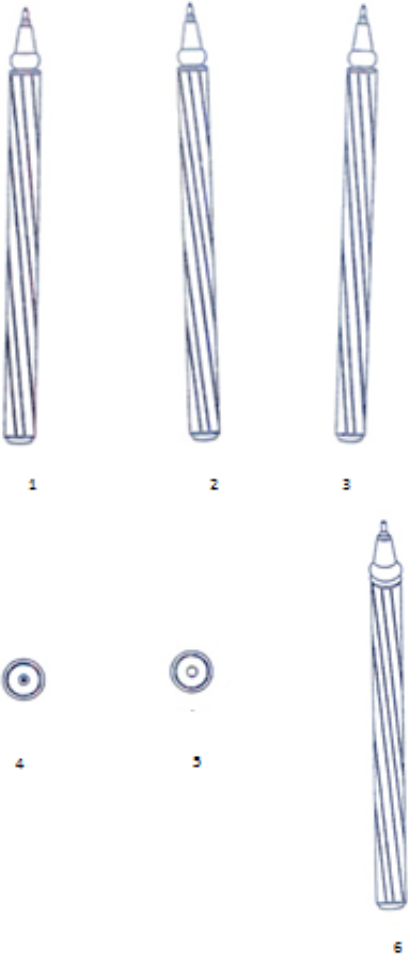




(Signature)  Committee Member (Signature)  Committee member
(Mr.Kitti Tangjitmaneesakda) (Mr.Samroen Jakjai)

(Signature) ----- Committee Member (Signature)  Committee member
(Mr.Surachet Cheeravinij) (Mr.Wim Manopimok)
(was not in attendance)

The Department of Intellectual Property

September 22nd, 2010

Supplement for the Appeal number 030200 1768

Applied Design	Design of the Appealer Name of the Appealer: DTC Industries Public Co., Ltd. Appeal submitted on: November 23 rd , 2009
 <p data-bbox="108 1592 655 1653">Name of the applicant for a patent: <u>Mr. Korawit Suputhipong</u></p> <p data-bbox="108 1659 533 1688">Date of application June 23rd, 2003</p> <p data-bbox="108 1695 563 1724">Date of advertisement May 25th, 2006</p>	<p data-bbox="740 568 1201 763">1. Body of the pen Patent number 2885 Application number 012898 Date of submission: February 25th, 2001 Advertisement number: 55059 Advertised on February 12th, 2003</p> 
	<p data-bbox="740 900 1299 1028">2. Body of the pen LANCER SPIRAL 825 of the DTC Industries Public Co., Ltd. as appears in product catalog of LANCER pen products published on January, 1999</p> 
	<p data-bbox="740 1223 1294 1317">3. Tip of the pen LANCER SPIRAL 825 of the DTC Industries Public Co., Ltd. distributed widely before 1999</p> 
	<p data-bbox="740 1523 1294 1617">4. Tip of the pen LANCER SPIRAL 825 of the DTC Industries Public Co., Ltd. distributed widely before 1999</p> 

Persons qualified for patents

(Additional Explanation)

1. Applicant is a minor

If applicants are minors and are underage, the following documents must be submitted:

Minors who are underage may apply for a patent by using documents and support to supplement the application for a patent as a non-minor applicant would. The applicant must attach a copy of a birth certificate or a copy of house registration, etc.

2. In case that the applicant dies

A person files to inherit the patent rights of a dead applicant.

A. If the person requesting to inherit the rights of a patent is the rightful heir, the person must submit¹:

1. Details of the person's name, address, and all heirs.
2. Identification card of the heir.
3. House registration of the heir.
4. The death certificate or evidence of the death of the applicant for a patent.
5. If the rightful heir is the spouse of the applicant, legal evidence of a marriage must be submitted.
6. If the rightful heir is the father of the applicant, the marriage license with the mother of the applicant or certificate of adoption.
7. If the adopted child is the rightful heir, evidence of adoption registration must be submitted.
8. If there is a dispute of the inheritance, a settlement agreement or a judgment of the highest court must be submitted.
9. If there are multiple rightful heirs and some have died, evidence of the deceased must be submitted.

¹ (The law designates that the person is the rightful heir to the inheritance, such as the husband who was the applicant had died, and the wife with a registered marriage license and child are the legally rightful heirs, are called the “rightful heirs”.)

B. If the heir of the patent rights of the applicant was the legatee, the following documents must be submitted²:

1. The will
2. Identification card of the legatee
3. House registration of the legatee
4. Death certificate or evidence of the death of the applicant
5. If there is a dispute of the inheritance, a settlement agreement or a judgment of the highest court must be submitted.
6. If there are multiple legatees and some have died, evidence of the deceased must be submitted.

C. If the person seeking to inherit the patent rights is the executor, the following documents must be submitted.

1. A court order or the final judgment or the will appointing the executor.
 2. The death certificate or evidence of the death of the applicant for a patent.
 3. Identification card of the executor.
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² (The applicant had already indicated in the will who will be the rightful heir to inherit the rights to the patent, and that person is the rightful heir according to the will, that person is called the “legatee”.)