

# **Practices of the Japan Patent Office with Regard to Graphical User Interface (GUI), Icons and Typeface/Type Font Designs**

Information Session on Graphical User Interface (GUI), Icon and  
Typeface/Type Font Designs

Geneva

October 31, 2017

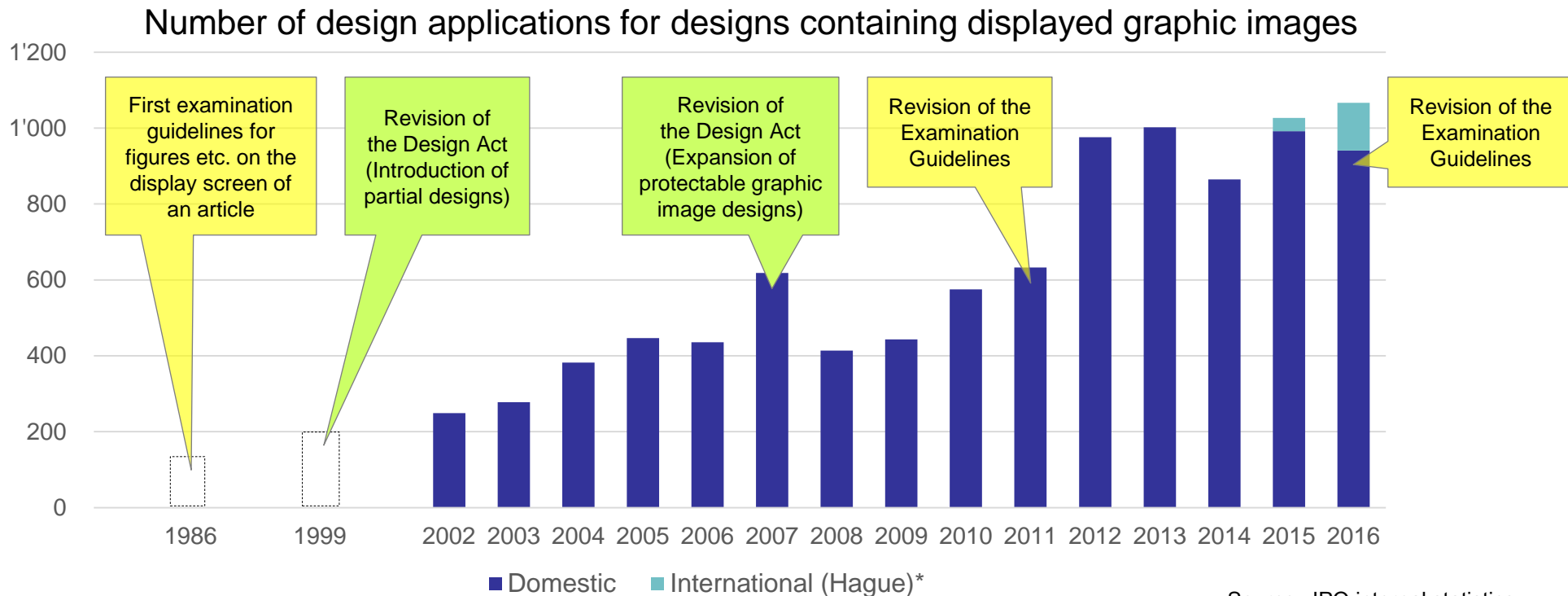
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Design Division  
Japan Patent Office

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1. Overview of the current practices for GUI/Icon related designs under the Japanese Design Act

- With the advance of digital technology, GUIs have been playing more and more important role as a vehicle that intuitively embodies the function of products through an elaborated visual expression. [Industrial design]
- The number of design applications for the designs that contain graphic images displayed on a screen has been steadily increasing.
- To provide better protection for these designs, consideration has been frequently made and resulted in several changes in legislation and practices.



\* Number of registered designs in that year

Source: JPO internal statistics

- Under the current Japanese Design Act, GUIs and Icons are protectable as a “partial design” (i.e. an appearance of a part of an article) in relation to the article to which the design is incorporated.
- 3 most popular Locarno Classes in 2016 (\*among domestic applications)
  - ✓ Class 14 Recording, communication or information retrieval equipment (60.4%)
  - ✓ Class 10 Clocks and watches and other measuring instruments, checking and signaling instruments (12.3%)
  - ✓ Class 16 Photographic, cinematographic and optical apparatus (8.6%)

Source: JPO internal statistics

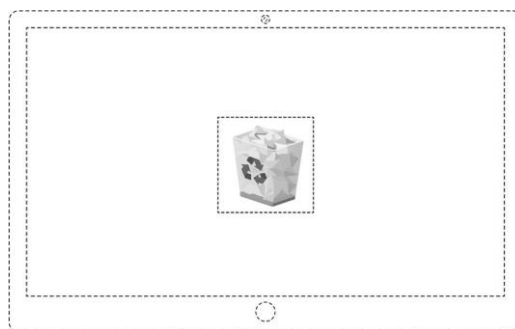
## Examples of registered designs



Reg. No. 1569697  
“Operation controller  
for truck crane”



Reg. No. 1562992  
“Portable terminal”



Reg. No. 1562545  
“Portable information terminal”



Reg. No. 1559969  
“Portable information terminal”

✓ Protectable subject matters

# Definition of “design” in the Japanese Design Act

## ➤ “Design” is an appearance of a tradeable article.

Article 2(1) of the Design Act (Definition of “Design”)

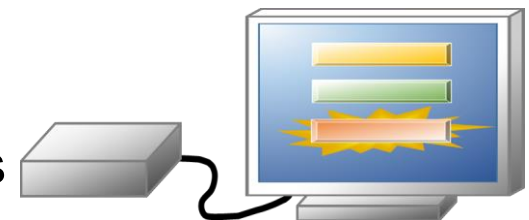
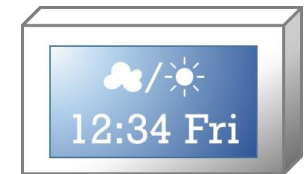
“Design” in this Act shall mean the shape, patterns or colors, or any combination thereof, of an article (including a part of an article...), which creates an aesthetic impression through the eye.

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



Basic requirements for a graphic image displayed on a screen (i.e. GUI, icon, etc.) to be admitted as an element constituting a “design” defined in the Design Act are;

- The graphic image is that what is fixedly recorded in the article, and
- (a) it is a necessary indication for the article to perform its function, or
  - (b) it is provided for use in the operation of the article.
- In both cases (a) and (b), a graphic image displayed on the article itself becomes the subject of protection.
- Only in case (b), a graphic image displayed on another article that is used with the article (in which the graphic image is recorded) in an integrated manner also becomes the subject of protection.





## Type (a)

- Graphic image that is a necessary indication for the article to perform its function and is displayed on the article itself

### Examples of registered designs



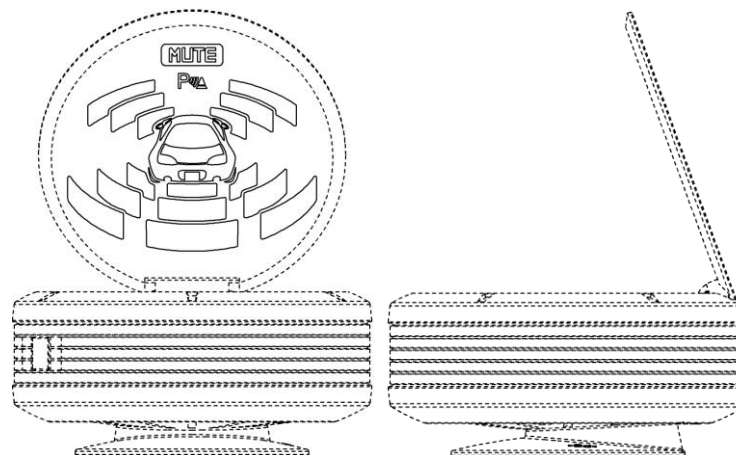
Reg. No. 1558241  
"Meter for motorcycle"



Reg. No. 1584419  
"Manometer with wireless communication equipment"



Reg. No. 1469250  
"Digital camera"

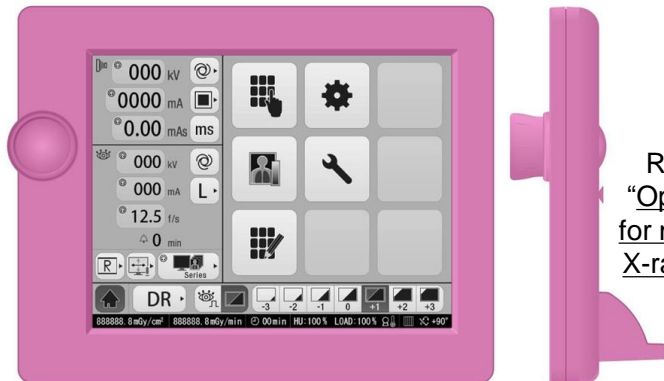


Reg. No. 1351196  
"Obstacle indicator for automobile"

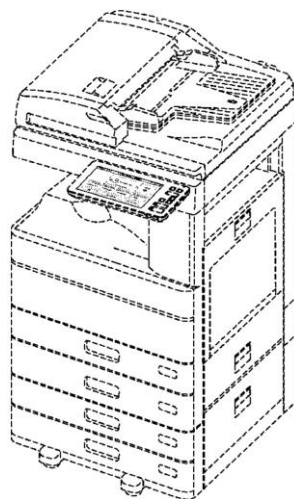
## Type (b-1)

- Graphic image that is provided for use in the operation of the article and is displayed on the article itself

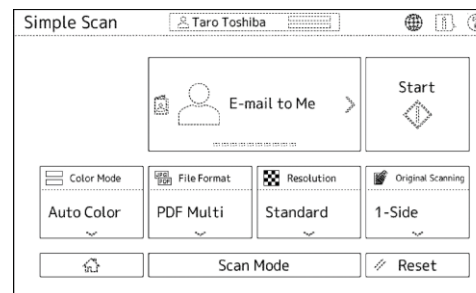
### Examples of registered designs



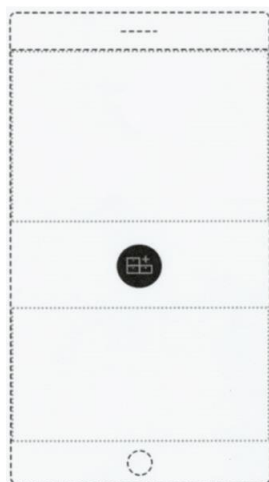
Reg. No. 1586699  
 “Operation apparatus  
 for medical-application  
 X-rays movie camera”



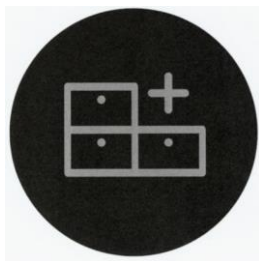
[Enlarged view of the display part]



Reg. No. 1561831  
 “Electronic  
 copying machine”



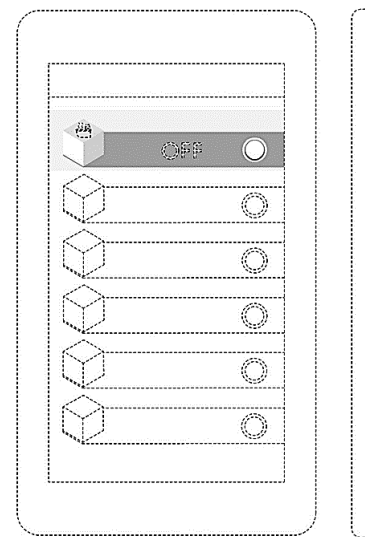
[Enlarged view]



Reg. No. 1581676  
 “Portable information  
 terminal”



Reg. No. 1577417  
 “Portable information  
 terminal”



Reg. No. 1583206  
 “Computer with remote  
 control function”

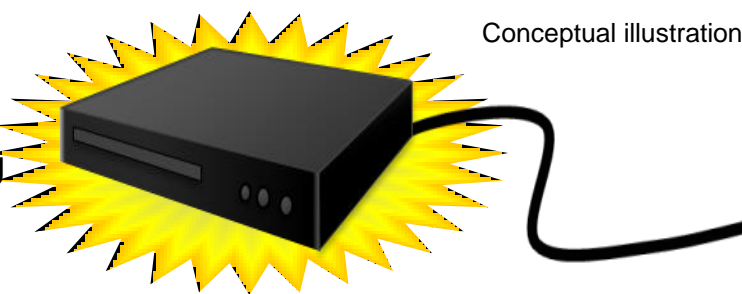
## Type (b-2)

- Graphic image that is provided for use in the operation of the article and is displayed on another article that is used with the article in an integrated manner

### Article (A)

(e.g. Video recorder)

that performs its own function (e.g. start recording) on giving the operational instruction made in accordance with the graphic image



Conceptual illustration

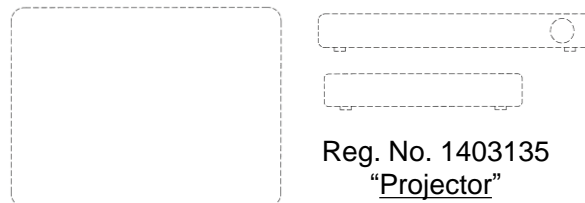
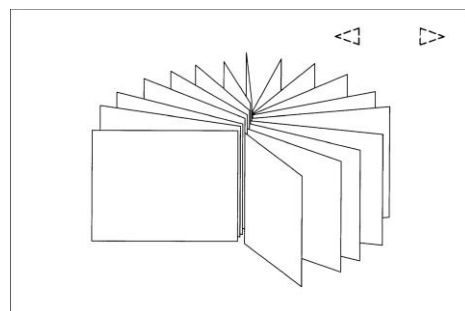
### Another article (B)

(e.g. TV monitor) that merely displays the graphic image

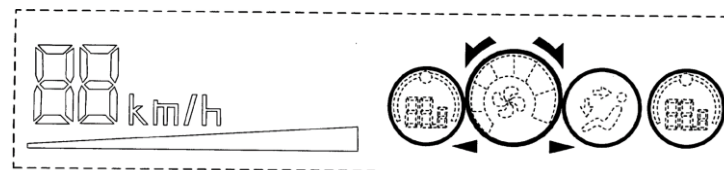
## Examples of registered designs



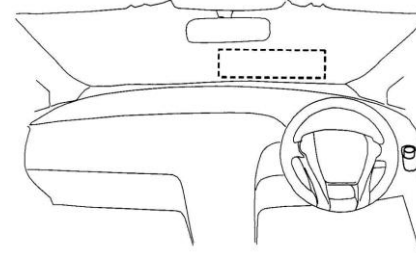
Reg. No. 1585836  
“Artificial heart and lung machine”



Reg. No. 1403135  
“Projector”

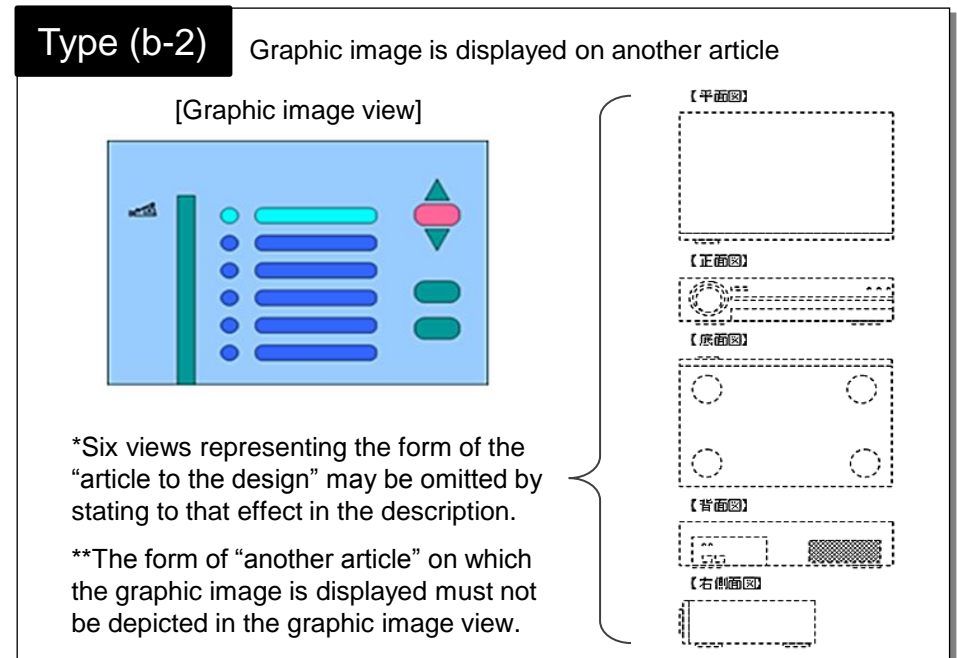
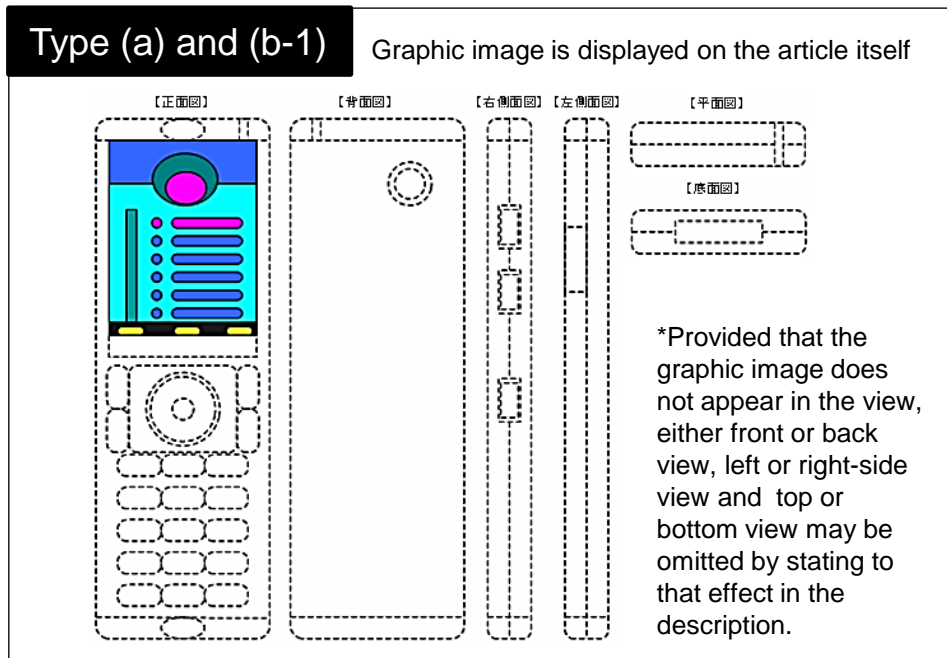


[Reference view showing a displaying place of the graphic image]



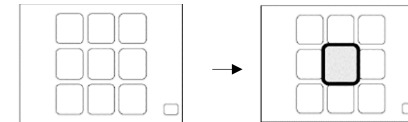
Reg. No. 1490672  
“In-vehicle information projector”

- In the application, following items must be stated;
  - ✓ Specific “article” to which the design is incorporated (e.g. mobile phone, etc.) as the “article to the design” (indication of product), and
  - ✓ Explanation as to the intended use and function of the graphic image in the description.
- Drawing must represent, in principle, the whole appearance of the “article”.
  - ✓ Disclaiming expression (broken lines, etc.) and omission of certain views may be allowed.

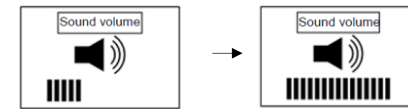


- Two or more graphic images on a screen are found to be “one design” provided that
  - ✓ the graphic images are for the same function of the article, and
  - ✓ certain relevance in form is found between the graphic images.
- Typical examples of cases where relevance in form is found;

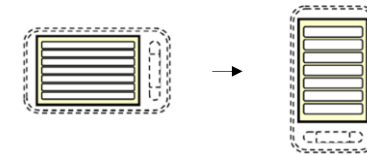
(a) Movement, etc. of a figure



(b) Increase or decrease of the same figure



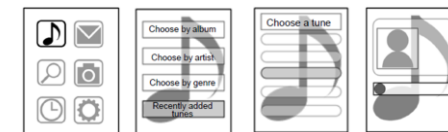
(c) Change of the layout within the graphic image



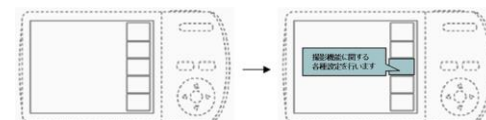
(d) Gradual change of the graphic image or figure



(e) Continuous use of a common motif

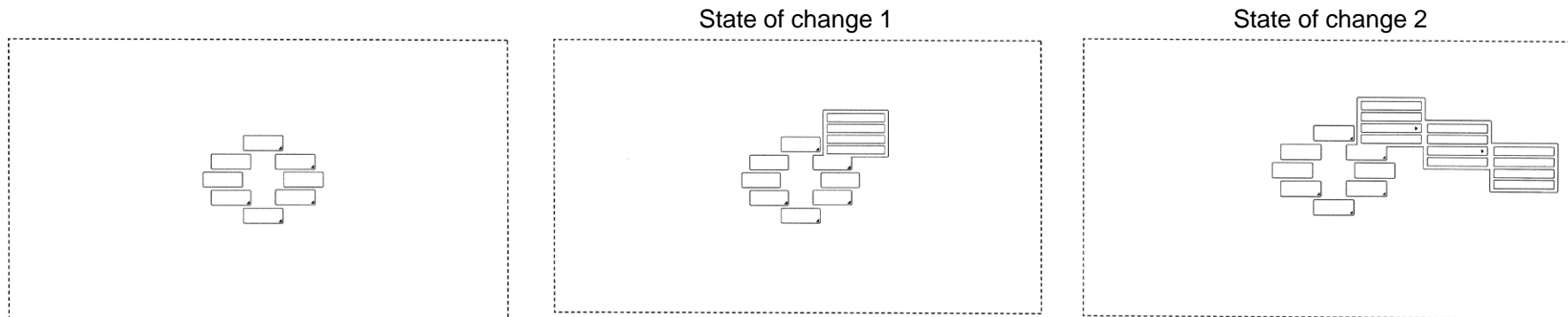
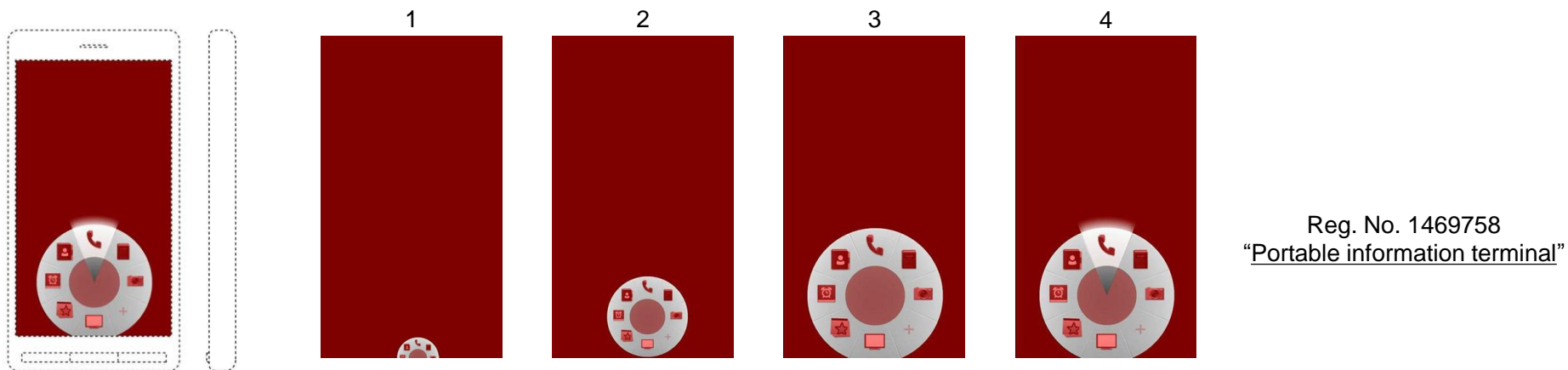


(f) Development of an additional figure



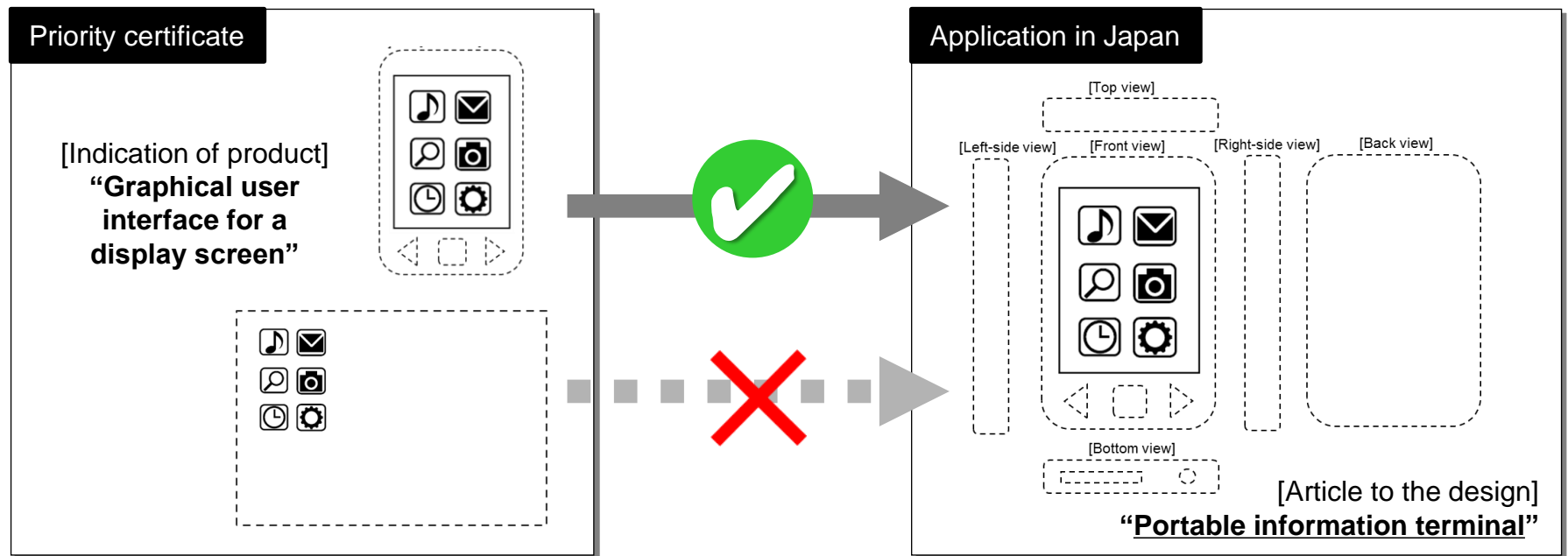
- Transformable (animated) graphic images must be represented by means of two or more static images. Movie files cannot be used.
- Before and after the change (transition order) must be specifically indicated.

## Examples of registered designs



Reg. No. 1489390  
"Surveillance apparatus for plants"

- Basic concept for the judgement of “identity of the design” in approval of a priority claim under the Paris Convention at the JPO is as follows;
  - ✓ Regardless of the style of expression/representation, substantial identity of the design is needed.
  - ✓ Substantial identity is determined based on the ordinary skill in the art of the design by making comprehensive examination of the entire contents of the application and the priority certificate.
  - ✓ Laws and regulations of the first filed country may be taken into consideration for the finding of the design described in the priority certificate.



✓ Non-protectable subject matters



- Any product which does not constitute an article is NOT to become the subject of design protection in Japan.

## Inappropriate examples



Icon/GUI



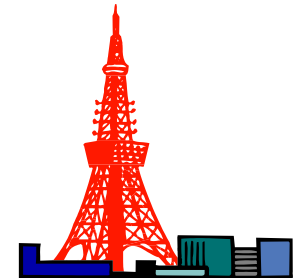
Typeface



Logo  
(Graphic symbol)



Surface pattern  
(Ornamentation)

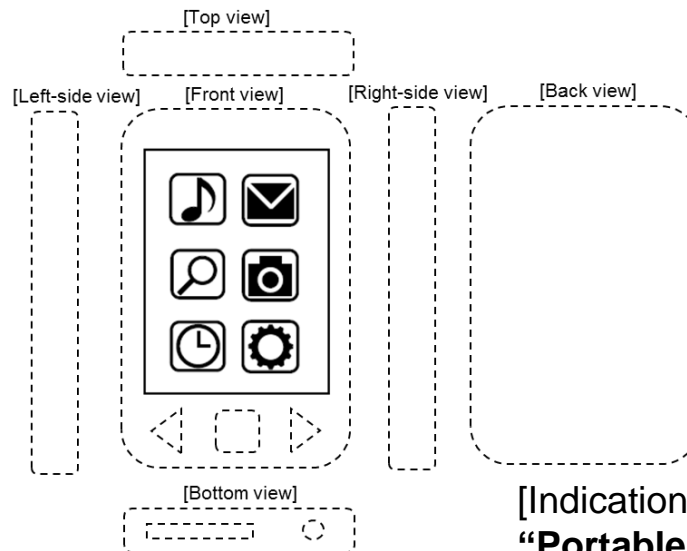


Immovable property  
(Building, etc.)



[Indication of product]

**“Graphical user interface for a display screen”**

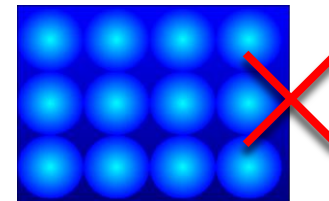


[Indication of product] (Article)

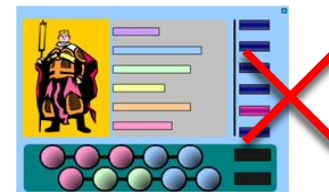
**“Portable information terminal”**

Followings are the subject matters that do NOT constitute a “design” defined in the Design Act;

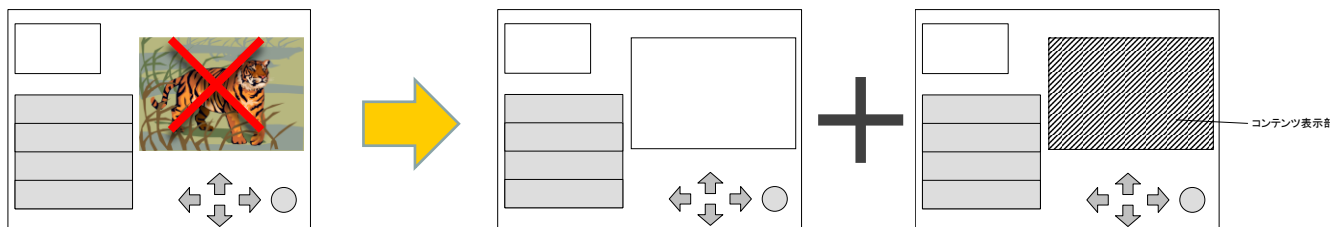
- Graphic images provided only for decorative purpose (e.g. desktop wallpaper)



- Graphic images representing “contents” that are independent from the function of the article (e.g. movies, TV programs, games)



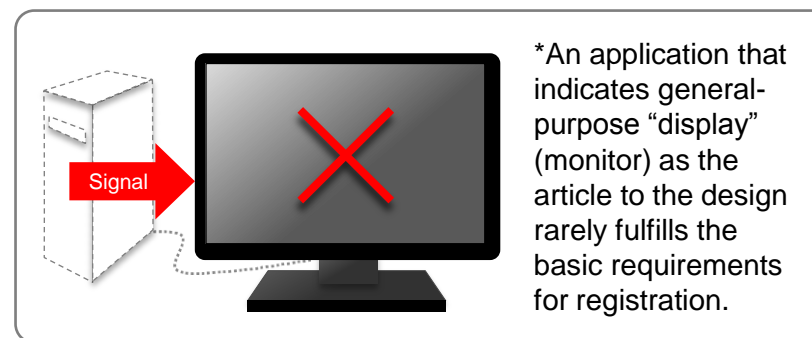
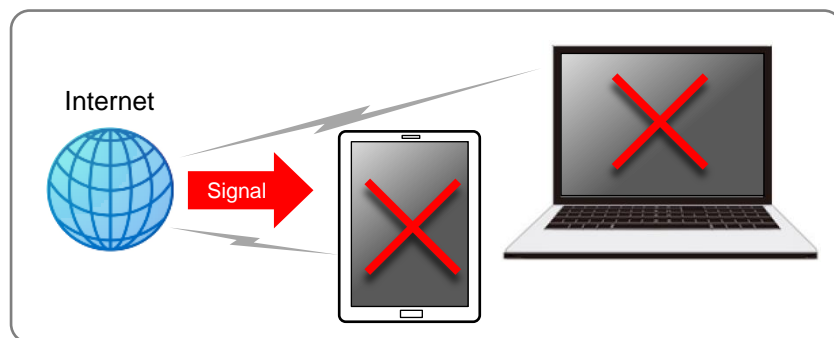
[Example of drawing] A graphic image for the use of video playback function



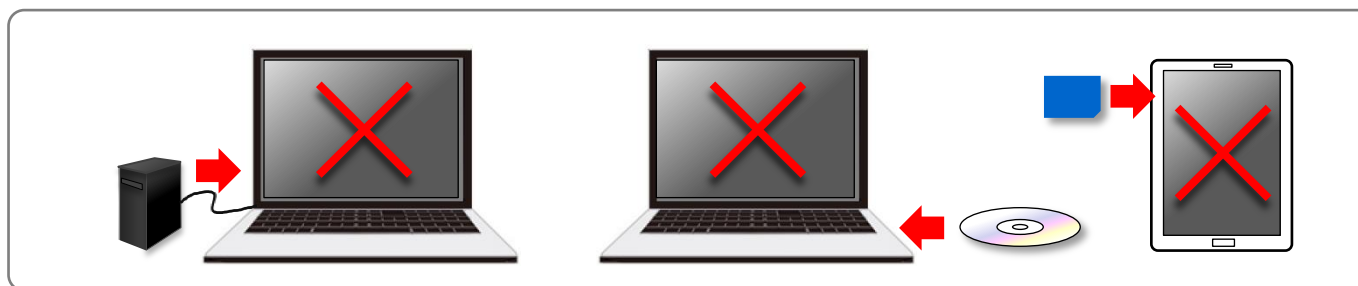
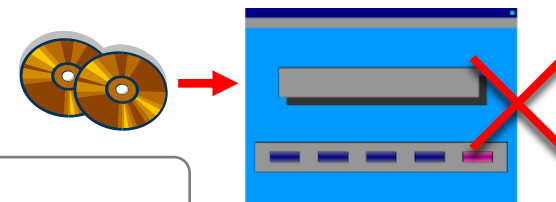
“Contents” must not be represented in the drawing. The presence of a reference view that indicates the area for “contents” would lead to better understanding of the design.

Followings are the subject matters that do NOT constitute a “design” defined in the Design Act;

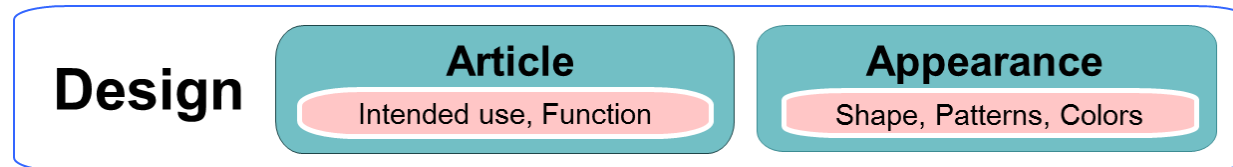
- Graphic images that are merely displayed based on an external signal  
(e.g. Internet websites, software used via the Internet (including cloud computing))



- Graphic images recorded on a recording medium



- **Registrable design must be specific in both “article” and “appearance”.**
  - ✓ Design right is an exclusive right to commercially manufacture, use, assign (sell), lease, export, ... the article to the design (i.e. the article that embodies the registered design and designs similar thereto).
  - ✓ In deciding similarity of designs, similarity as to the intended use and function of the article as well as the appearance is considered.
  - ✓ Right to seek injunction is a deserved right for the holder of a design right.



## Article 23 (Effect of design right)

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

## Article 2(3) (Definition of “Work”)

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

## Article 37 (Right to seek injunction)

(1) A holder of a design right or an exclusive licensee may demand of a person who infringes or is likely to infringe the design right or exclusive license to stop or prevent such infringement.

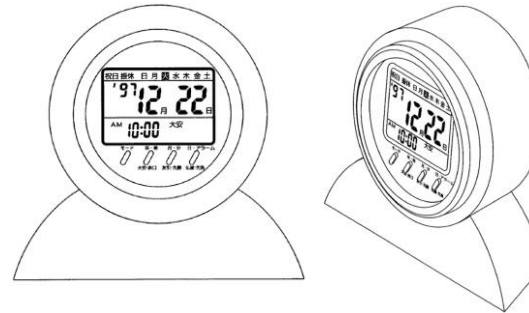
## 2. Important practical developments to date

# History of important practical developments (1)

1986 Established the first examination guidelines for figures etc. on the display screen of an article

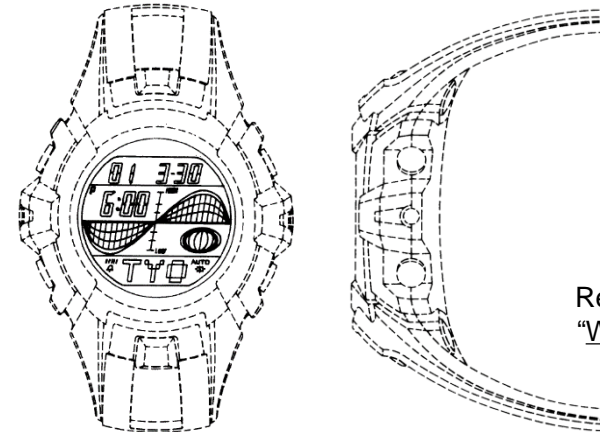
[3 essential requirements]

- To be an indispensable indication for materialization of a function of the article.
- To be indicated based on the function of the article itself.
- Where transformable, the manner of change is specific.



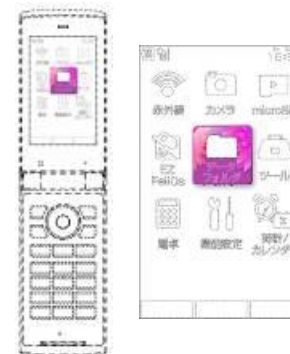
Reg. No. 1029281  
"Table clock"

1998 Revised the Design Act (Took effect in 1999)  
[Introduction of partial designs, Art. 2(1)]



Reg. No. 1149610  
"Wristwatch body"

2006 Revised the Design Act (Took effect in 2007)  
[Expansion of protectable graphic image designs: those provided for use in the operation of the article, Art. 2(2)]



Reg. No. 1417796  
"Cellular phone"



Reg. No. 1149610  
"Controller for head mount display"

## 2011 Revised the Design Examination Guidelines

[Expansion of the scope of transformable graphic images]

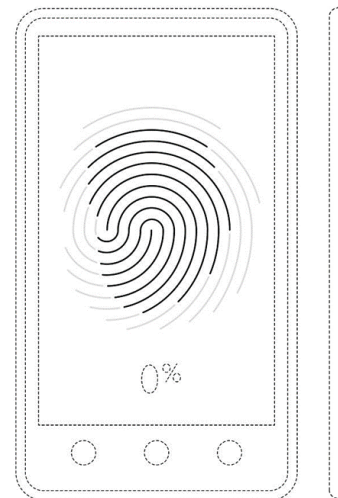


Reg. No. 1430529  
“Portable wireless telephone”

## 2016 Revised the Design Examination Guidelines

[Permission of graphic images on a screen derived from installation of application software in an all-purpose computer (e.g. PC, Tablet PC, smartphone)]  
(Abolition of “pre-recorded” requirement)

\* “Article to the design” of these designs must be stated as “Computer with [specific] function”.



Reg. No. 1584266  
“Computer with fingerprint authentication function”

- In the rapid developing movement of the society, further flexibility and appropriateness must be expected for the industrial design protection system. We are still on the way...

## More information about the Japanese Design Registration System

### ✓ Design Examination Guidelines

[http://www.jpo.go.jp/tetuzuki\\_e/t\\_tokkyo\\_e/design\\_es.htm](http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/design_es.htm)

### ✓ Design Act

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

### ✓ Graphic Image Park

[Assistance tool for searching design gazettes (registered designs) containing graphic images displayed on a screen]

<https://www.graphic-image.inpit.go.jp/>





**Thank you very much for your kind attention!**

**Japan Patent Office**

<http://www.jpo.go.jp/index.htm>