Feedback from KIPO as a designated Contracting Party

- Substantive requirements of registration & more

2019.10.28.

Eunmi Sohn, Deputy Director of Design Examination Policy Division
Korean Intellectual Property Office
### Recent filing trends at KIPO

#### Hague Applications (Number of Designs)

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Inbound Applications</strong></td>
<td>984</td>
<td>2,591</td>
<td>2,566</td>
<td>2,402</td>
<td>2,621</td>
</tr>
<tr>
<td><strong>Top 3 Locarno classes in the international applications designating Korea (Locarno Class)</strong></td>
<td>No. 11</td>
<td>No. 10</td>
<td>No. 10</td>
<td>No. 12</td>
<td>No. 14</td>
</tr>
<tr>
<td></td>
<td>No. 9</td>
<td>No. 11</td>
<td>No. 11</td>
<td>No. 14</td>
<td>No. 12</td>
</tr>
<tr>
<td></td>
<td>No. 7</td>
<td>No. 12</td>
<td>No. 12</td>
<td>No. 2</td>
<td>No. 2</td>
</tr>
</tbody>
</table>
1. Fees

<table>
<thead>
<tr>
<th>Substantive Exam. Track (except Locarno class 2,5, or 19)</th>
<th>Non-substantive Exam. Track (class 2,5, or 19)</th>
</tr>
</thead>
<tbody>
<tr>
<td>- individual designation fee</td>
<td>- Standard designation fee (level three)</td>
</tr>
</tbody>
</table>

2. Changes in ownership has no effect until KIPO receives doc. evidencing the agreement of the joint owner.

3. The maximum **duration of protection** for designs provided by Korean national law is **20yrs from the date of international registration**.

4. Special reproductions
   - A set of articles & typeface

   **A design of a set of articles**: one view of the coordinated whole and corresponding views of each of its components

   **Typefaces**: views of the given characters, a sample sentence and typical character

5. Period of Refusal & etc.
   - **6 months (class 2,5, or 19)**
   - **12 months (except the above)**
   - Overcoming Refusal grounds: Just in case of an unforeseen circumstance, such as a natural disaster
Priority claim to KIPO

- Available E-filing Submission of document(s) in support of a priority claim to the KIPO

  - * eHague: under ‘Priority tab’ tab, or DM/1/V

- Priority document should be submitted at the time of filing or directly to the KIPO within 3 months from the date of publication of the IR
### Priority claim to KIPO

<table>
<thead>
<tr>
<th>Priority Claim Details</th>
<th>Date of Publication of Registered Industrial Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>(30) Data relating to priority claim under the Paris Convention</td>
<td>02.11.2018</td>
</tr>
<tr>
<td>No. 2: 16.03.2018; 004 761 526; EM</td>
<td></td>
</tr>
</tbody>
</table>

**Diagram:**

1.1

1.2

1.3

1.4

1.5

1.6

1.7

2.1

2.2

2.3

2.4

2.5

2.6

2.7
Available E-filing Submission of documentation (PDF) in support of a declaration concerning exception to lack of novelty to the KIPO

* eHague: ‘More optional contents’ tab, or DM/1/II

Where the application of a design is disclosed or the registration is published according to a law or a treaty, you shall not claim the exception to lack of novelty.
Exception to lack of novelty

(23) International exhibition
1: CES 2018; Las Vegas, United States of America; 09.01.2018
(45) Date of publication of the registered industrial design by printing or similar process or making it available to the public by any other means
23.11.2018

EXHIBITION (OPTIONAL)

OPTIONAL CONTENT

DECLARATION CONCERNING EXCEPTION TO LACK OF NOVELTY

The applicant claims to benefit from exceptional treatments provided for in the applicable laws of the respective designated Contracting Parties concerned, for disclosure of the following industrial designs.

If you wish to make a declaration concerning exception to lack of novelty, click "save" to record your declaration. You may also submit supporting documentation in PDF.

For design(s) 1 CP KR Disclosure Document DISC_236.pdf
Common grounds for Refusals from KIPO

- Design usable for an industrial purpose
- Novelty
- Ease of creation
- Related design
- Indication of Products
Common grounds for Refusals from KIPO

IR designated KR (2018)
- Decision of Refusal (19%)
- Withdraw of Refusal (40%)
- Grant of Protection without Refusal (41%)

Refusals by ground (2018)
- Industrial applicability (14%)
- Prior application (14%)
- Novelty & Ease of Creation (72%)

Source: KIPO Internal Statistics 2018
Design usable for an industrial purpose

© Article 33 (Requirements for Design Registration)

(1) A design usable for an industrial purpose is eligible for design registration, except:

1. A design publicly known or worked in the Republic of Korea or a foreign country before an application for design registration is filed;
2. A design described in a printed publication distributed in the Republic of Korea or a foreign country or made available for public use via telecommunications lines before an application for design registration is filed;
3. A design similar to any of the designs specified in subparagraph 1 or 2.
Design usable for an industrial purpose

Design Protection Law of Republic of Korea

discrepancies between drawings

DM/086955
© Article 33 (Requirements for Design Registration)

(1) A design usable for an industrial purpose is eligible for design registration, except:

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3. A design similar to any of the designs specified in subparagraph 1 or 2.

Self-disclosure before 12 months
Novelty

Self-disclosure before 6 months of filing date
© Article 35(1) (Related Designs)

(1) Notwithstanding the provisions of Articles 33 (1) and 46 (1) and (2), the owner of a design right or the applicant for registration of a design may have designs similar only to his/her registered design or the design claimed in the application pending for design registration (hereinafter referred to as “base design”) registered as related designs (hereinafter referred to as “related designs”), only if he/she files an application for registration of such related designs within one year from the filing date of the application for registration of the base design.

<table>
<thead>
<tr>
<th>Order of time</th>
<th>Principle design(A)</th>
<th>Related design (A’)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered design</td>
<td>Subsequent application</td>
<td>(within 1 year from the filing date of principle design)</td>
</tr>
<tr>
<td>Antecedent application</td>
<td>Subsequent application</td>
<td>(within 1 year from the filing date of principle design)</td>
</tr>
<tr>
<td>Application filed on the same date</td>
<td>Application filed on the same date</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of design</th>
<th>Finished article</th>
<th>Finished article</th>
</tr>
</thead>
<tbody>
<tr>
<td>Component</td>
<td>Component</td>
<td></td>
</tr>
<tr>
<td>Set of article</td>
<td>Set of article</td>
<td></td>
</tr>
<tr>
<td>Partial design</td>
<td>Partial design</td>
<td></td>
</tr>
</tbody>
</table>
Indication of Products

Article 40 (One Registration Application for Each Design)

(2) A person who intends to file an application for design registration shall follow the classification of products prescribed by Ordinance of the Ministry of Trade, Industry and Energy.

GUI (Graphic User Interface) is only applicable as a partial design of a whole article, therefore the indication of Products shall be the whole article embedding the partial area for claim.

Recommendations

- display panel with animated graphical user interfaces
- Multimedia Device with GUI
- Icons [for computers]
- Display panel in which Graphical user interface is indicated
- Computer monitor in which Graphical user interface is indicated
Thank You

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