

# *Revision of the Design Act in Japan*

*Contributing to innovation and branding*

— Revised in 2019 —



**I**nnovation



**B**randing



GUI



Building



Interior

- Expansion of the scope of protection
- Enhancement of the related design system
- Change in the duration of design rights
- Introduction of collective application for multiple designs
- Elimination of the article classification table

- Clarification of the level of creativity
- Introduction of partial design for a set of articles
- Expansion of indirect infringement acts
- Expansion of remediable procedures
- Review of the damage presumption methods

# 1 Expansion of the Scope of Protection

## (1) Design for Graphical User Interface

Recently, as individual equipment can be connected to each other through networks due to the increasing availability of novel technologies such as IoT, graphical user interface (GUI, a mechanism of exchanging information between users and equipment) has been having an important role.

In addition, cyber malls (virtual shopping malls) and navigation services are developing on the Internet due to the diversification of the Internet services and rapid spread of smartphones, and applications and software for these services have been stored in cloud and provided to consumers and users through networks.

Moreover, development of sensor technologies and projection technologies allowed GUI to be projected on walls or human bodies rather than indicated on articles, which allows users to make the GUI appear and operate the equipment regardless of where they are.

Given these circumstances, the definition of design has been reviewed for these designs to be protected by the design right.

## (2) Design for Building and Interior

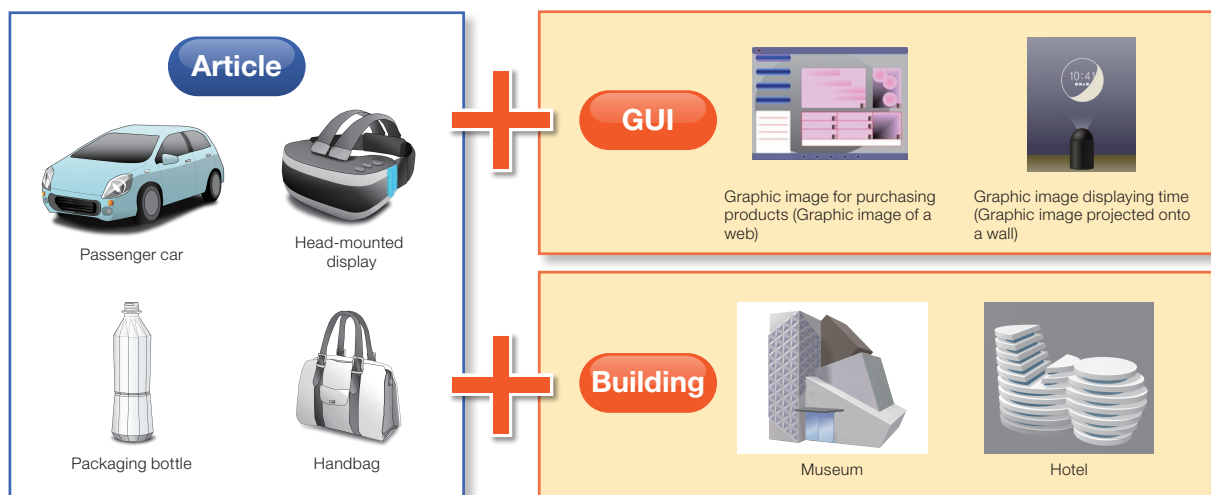
Recently, there has been an increasing number of cases where companies create their brand value by distinctively crafting the exterior and interior designs for their shops to offer services or sell products. Also, in recent years, there have been cases where companies handling office furniture and related equipment make distinctive office designs with their products to offer to their customers.

Some of these designs are made after a vast investment, and if they are easily imitated, it will result in the decrease of design investment which should be a source of the company's competitive force.

Considering these circumstances, the definition of design has been reviewed for designs of building exterior to be protected by the design right.

In addition, a new provision has been established with the purpose of protecting interior designs which consists of a combination or an arrangement of multiple articles such as desks or chairs, or decoration such as walls or the floor as a single design with the design right, which evokes a unified sense of beauty as a whole.

■ The design of the "GUI" that are not stored or indicated on articles and "building" designs, as well as "article" (movable properties as tangible objects) designs, will be added to the scope of protection under the Design Act.



■ "Interior" consisting of multiple articles, walls, floors, ceilings and the like can also be registered as a single design.



## 2 Enhancement of the Related Design System

The “related design system” is a system that allows a registration to be granted for a design if the applicant files the application within a certain period of time, even if the design is similar to the one the applicant has already filed an application for.

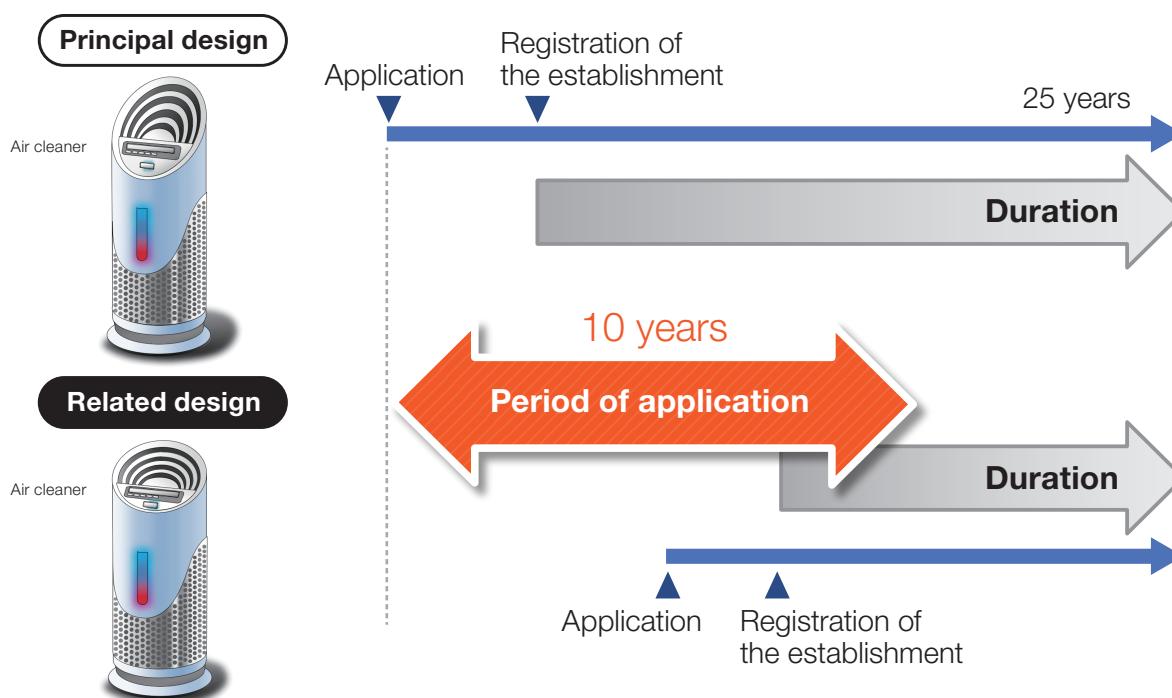
While the establishment of companies’ branding have become more significant in business activities, the status of design has also been changing significantly. Although design development has thus far been carried out individually for each product, it is now shifting to use a method where multiple products are designed based on a consistent concept. Same movement has been seen in Japan, too. Such “group design” technique is extremely effective in strengthening the competitiveness by design, and the number of companies adopting such technique has been increasing every year.

However, under the conventional related design system, the period of application allowed for the related designs had been limited to before the publication of the design bulletin for the principal design (approximately 8 months from the application of the principal design (as of 2018)). As such, the related designs could not be protected in accordance with the long-term market trend. Moreover, as the conventional system failed to protect similar designs consecutively, evolving designs could not be protected.

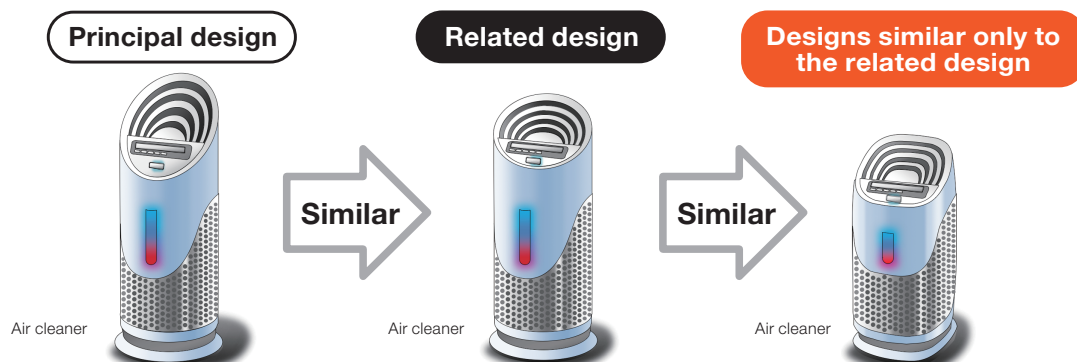
Thus, it has been decided that the period of application for the related designs should be extended and a design registration could be granted for the related designs that are applied before the date which has elapsed 10 years from the application of the principal designs. In addition, provisions have been reviewed with the aim of consecutively protecting designs that are similar only to the related designs.

- The period of application for a related design will be changed to “before the date which has elapsed 10 years from the application of the principal design.”

(The expiration date of the design right for the related design will be “the date which has elapsed 25 years from the application date of the principal design.”)



- Registration will also be allowed for the “designs similar only to the related design.”



\*Each image has been created for explanation purposes. In order for a registration to be granted for a design, the requirements for the registration (such as novelty, creativity and the like) set force in the Design Act have to be satisfied.

## 3 Other Revisions

### ➤ Change in the duration of design rights

The expiration date of the design right will be “the date on which has elapsed 25 years from the filing date.

### ➤ Introduction of collective application for multiple designs

Application can be filed with a single request for multiple designs.

### ➤ Elimination of the article classification table

The “Table for Classification of Articles”, which defines the granularity of articles to be stated on request, will be abolished. Instead, criteria will be set forth the standard to be considered a “single design” in an Ordinance of the Ministry of Economy

### ➤ Clarification of the level of creativity

Shapes or patterns that have been published in publications or posted on websites will also be considered as the materials constituting the ground for the judgment of creativity, regardless of whether they are publicly known.

### ➤ Introduction of partial design for a set of articles

A design registration will be allowed for a partial design for a set of articles.

### ➤ Expansion of indirect infringement acts

Dividing infringing articles into components and manufacturing or importing them to avoid control will also be regulated.

### ➤ Expansion of remediable procedures

Documents can be submitted even after date which has elapsed the designated period or the submission period for the documents related to the priority documents and the like.

### ➤ Review of the damage presumption methods

The amount equivalent to the license fee can be considered as the damage for the part exceeding the production or sales capacity of the right holder.

## 4 Design Registration Applications to which the Revised Design Act Applies

### **(1) The provisions related to the following are applied to design registration applications filed on or after April 1, 2020.**

Expansion of the scope of protection for buildings, interior and graphical user interface designs; enhancement of the Related Design System; change in the duration of design rights; clarification of the level of creativity; and introduction of partial design for a set of articles.

### **(2) The provisions related to the following are applied to design registration applications filed on or after April 1, 2021.**

Introduction of collective application for multiple designs; elimination of the article classification table; and expansion of remediable procedures (design registration applications containing priority claims after the lapse of the period of priority).

### **(3) The provisions related to the following are applied to design registration applications for which the statutory or specified period of time has passed after April 1, 2021.**

Expansion of remediable procedures (except for design registration applications containing priority claims after the lapse of the period of priority).



For more information,  
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