

## Protection of Designs in Japan

The Japan Patent Office employs several strategies in order to protect designs and reduce the costs associated to do so. There are five main categories or systems in place under the current Design Law that make Japan's methods of protecting designs unique and attractive. These will be described in the first section of this report, and will be followed with a summary of important points to consider when seeking protection for one's designs in Japan.

### 1. Related Designs

Designs which are similar to another design (often referred to as the "principal design") may be registered. This system is often used when there are numerous design variations. The application for one design needs to be specified as being the principle design, and the other application(s) is selected as the related design. The related design application(s) must be filed prior to publication of the principle design in the Design Bulletin.

Related design rights expire twenty years after the registration of the principle design.

### 2. Partial Designs

In order to protect designs for which only one aspect or part of a design has been infringed upon, the Design Law was amended in 1998 to include the registration of partial designs. Under this system, the distinct parts, shapes, and forms of a larger design may be registered, thus preventing a defendant in an infringement lawsuit from simply claiming that even if one aspect of the two designs are the same, the overall configurations or designs are different, and thus, there is no infringement.

### 3. Secret Designs

This section of the Design Law protects and delays the disclosure and publication of a registered design in the Design

Gazette for a set period of time after registration. Often, this is useful for designs which are trends or involve fashion both of which generally are temporary. After a set period of time has elapsed, the design is published in the Design Gazette.

#### 4. Design of a set of articles

In most cases, the design law applies to one design - one article. However, there are designs which may be applied to several articles provided that the articles are commonly used or sold together and hence, may constitute a set. Table 2 of the Design Law provides several examples of what constitutes a set, i.e., a set of accessories used for a sole purpose (for example, a set of sofas), a set of silverware or a set of related appliances.

#### 5. Screen designs

In 2006, the Design Law was amended to include operation screens (devices having screens mounted thereon, such as phones, printers, televisions, washing machines, etc.). These screens constitute a part of the entirety of the product, may provide functionality to the product, and thus, may be protected.

## II. Points to Consider regarding the Design Law

There are relatively few judgments in lawsuits seeking injunctions or damages for infringement of a design right. Between 2014 and 2016, five judgments were issued for lawsuits involving partial designs.

Generally, by obtaining a registration for a partial design, products and articles which appear quite dissimilar when viewed as a whole may actually have parts that infringe on a partial design right. Multiple partial design registrations should be considered to properly protect a product or an article, as numerous products and articles are comprised of parts which are strikingly similar in design. The function and the purpose of the other parts of the product or article may also be used in infringement litigation.