

VISUAL REPRESENTATION IN INDUSTRIAL DESIGN REGISTRATION:
A PROPOSED GUIDELINE FOR TURKEY BASED ON LEGAL TEXTS AND
GUIDELINES FROM EIGHT DIFFERENT JURISDICTIONS, AND INTERVIEWS
WITH TURKISH PATENT INSTITUTE EXAMINERS

IRMAK YALÇINER

SEPTEMBER 2012

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A THESIS SUBMITTED TO
THE GRADUATE SCHOOL OF NATURAL AND APPLIED SCIENCES
OF
MIDDLE EAST TECHNICAL UNIVERSITY

BY

IRMAK YALÇINER

IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR
THE DEGREE OF MASTER OF SCIENCE
IN
INDUSTRIAL DESIGN

SEPTEMBER 2012

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I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

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ABSTRACT

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September 2012, 178 pages

Visual representation is the most important element of a design registration in terms of scope of protection. This study examines national, regional and international design registration systems in terms of legal texts and guidelines related to visual representation, investigates problematic issues concerning the features and qualities of visual representation in industrial design registration applications in Turkey through the interviews conducted with the Turkish Patent Institute examiners, and proposes a guideline for Turkey which would assist applicants and attorneys in preparing visual representations.

Keywords: Design protection, design registration, industrial design registration in Turkey, visual representation of designs, guideline for visual representation, examination of visual representation, preparation of visual representation.

ÖZ

ENDÜSTRİYEL TASARIM TESCİLİNDE GÖRSEL ANLATIM:
SEKİZ FARKLI HUKUK SİSTEMİNDEKİ DÜZENLEMELER VE KILAVUZLAR
İLE TÜRK PATENT ENSTİTÜSÜ UZMANLARIYLA YAPILAN GÖRÜŞMELER
TEMELİNDE TÜRKİYE'YE YÖNELİK BİR KILAVUZ ÖNERİSİ

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Yüksek Lisans, Endüstri Ürünleri Tasarımı Bölümü

Tez Yöneticisi: Yrd. Doç. Dr. Fatma Korkut

Eylül 2012, 178 sayfa

Görsel anlatım, bir tasarım tescilinde koruma kapsamını belirleyen en önemli unsurdur. Bu çalışma, ulusal, bölgesel ve uluslararası tasarım tescil sistemlerinde görsel anlatıma ilişkin hukuki düzenlemeleri ve kılavuzları incelemekte, Türk Patent Enstitüsü uzmanlarıyla yapılan görüşmelere dayanarak Türkiye'de endüstriyel tasarım tescili başvurularında kullanılan görsel anlatımların özelliklerine ve niteliklerine ilişkin sorunları araştırmakta ve görsel anlatımların hazırlanmasında başvuru sahiplerine ve vekillere yardımcı olacak bir kılavuz önermektedir.

Anahtar Kelimeler: Tasarım koruması, tasarım tescili, Türkiye'de endüstriyel tasarım tescili, tasarımların görsel anlatımı, görsel anlatım kılavuzu, görsel anlatımın incelenmesi, görsel anlatımın hazırlanması.

To my beloved parents

ACKNOWLEDGEMENTS

I would like to express my deepest gratitude to my supervisor Assist. Prof. Dr. Fatma Korkut for her guidance, advice, criticism, encouragement and insight throughout my research.

I would also like to thank my father Uğur G. Yalçın for his endless support, guidance, encouragement and suggestions, and my mother Mine Yalçın for her support and encouragement during my research. It is hard to express the extent of my gratitude to them.

I would like to thank my colleagues at our office for their support and for standing in for me while I have been on leave during this study. I am extremely lucky to be working with them.

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LIST OF ABBREVIATIONS

Administrative Instructions	Administrative Instructions for the Application of the Hague Agreement
CDIR	COMMISSION REGULATION (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs (OJ EC No L 341 of 17.12.2002, p. 28) amended by Commission Regulation (EC) No 876/2007 on 24 July 2007 amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (OJ EC No L 193 of 25.7.2007, p. 13)
CDR	COUNCIL REGULATION (EC) No 6/2002 of 12 December 2001 on Community designs (OJ EC No L 3 of 5.1.2002, p. 1) amended by Council Regulation No 1891/2006 of 18 December 2006 amending Regulations (EC) No 6/2002 and (EC) No 40/94 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (OJ EC No L 386 of 29.12.2006, p. 14)
CIPPO	Canadian Intellectual Property Office
Common Regulations	Common Regulations under the 1999 Act and the 1960 Act of the Hague Agreement
Directive	Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs
Council Regulation	COUNCIL REGULATION (EC) No 6/2002 of 12 December 2001 on Community designs (OJ EC No L 3 of 5.1.2002, p. 1) amended by Council Regulation No 1891/2006 of 18 December 2006 amending Regulations (EC) No 6/2002 and (EC) No 40/94 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs (OJ EC No L 386 of 29.12.2006, p. 14)
Decree-Law	Turkish Decree-Law no. 554 Pertaining to the Protection of the

No. 554	Industrial Designs of June 27, 1995 amended by the Law No. 4128 of November 7, 1995
Implementing Regulation of Decree-Law	Implementing Regulation under Turkish Decree-Law no. 554 Pertaining to the Protection of the Industrial Designs of June 27, 1995
IP Australia	Australian Intellectual Property Office
IPO	Intellectual Property Office of United Kingdom
TPE	Türk Patent Enstitüsü (See TPI)
TPI	Turkish Patent Institute
KIPO	Korean Intellectual Property Office
OHIM	Office of Harmonization for the Internal Market
PEM	Patent and Trademark Attorneys' Association of Turkey
RCD	Registered Community Design
USPTO	United States Patent and Trademark Office
WIPO	World Intellectual Property Organization

CHAPTER 1

INTRODUCTION

1.1 Background and motivation

Design registration is a system put in place for the protection of designs within the industrial property branch of the intellectual property system. In respect of the principle of territoriality, in Turkey designs are protected by the Decree-Law and the Implementing Regulation under the Decree-Law that aims to protect designs by giving exclusive rights to the right holders to facilitate the formation and development of industry in a fair but competitive environment.

After being awarded a Bachelor of Arts degree in graphic design, I started working in an intellectual property agency in 2006. Serving clients in the protection of their industrial property rights and working as a court expert for the specialized intellectual property courts has allowed me to observe a number of problems related to the visual representation of designs, such as representing a three-dimensional design with a single view, or using low resolution images which fall short of representing the details of the design for which protection is sought. Since registered industrial designs are protected on the basis of their visual representation and description, and the visual representation is the “key element of the design right to be established” (TPI 2011 Article 2.9), the problems in the representations that attracted my attention, not only as an attorney and court expert but also as a graphic designer, represent a crucial flaw in the industrial design registration system.

Hasdoğan mentions that inadequate visual representations are one of the major problems observed in design registrations in Turkey, and are a key aspect in the falling through of court actions related to design protection (Hasdoğan 2005, 344; 348). Elibol suggests that the visual representation requirements of designs should be standardised (Elibol 2011, 139). It is the applicant’s responsibility to provide adequate representation, including a sufficient number of views so as to represent all of the features of the design to be protected (TPI 2011 Article 2.9). However there are no specialized checklists or guidelines published by the Turkish Patent Institute

for applicants, or their representatives or attorneys, which cover all the requisite elements of the visual representations and offer advice during the application preparation stage. Consequently, a study to come up with such a document is imperative in the industrial design registration field in Turkey.

1.2 Aim and scope of the thesis

The aim of this study is to examine national, regional and international design registration systems in terms of legal texts –which include legislations, by-laws and agreements- and guidelines related to visual representation, to investigate problematic issues concerning the features and qualities of visual representation in industrial design registration applications in Turkey, and to develop a guideline which would assist applicants and attorneys in preparing visual representations.

The key questions of this research are as follows:

- What is visual representation as it is defined in national, regional and international design registration systems?
- What are the features and qualities of visual representation as described in legal texts and guidelines in national, regional and international design registration systems?
- How does the Turkish Patent Institute examine the visual representations? Are there any internal examination guidelines, checklists or procedures used for the examination of visual representations?
- What are the critical and problematic issues observed by the Turkish Patent Institute concerning the features and qualities of visual representations in industrial design registration applications in Turkey?
- What are the elements of a guideline, which would assist applicants and attorneys in preparing visual representations for industrial design registration applications in Turkey?

1.3 Structure of the thesis

In the first chapter, the research topic, background, motivation and aim of the study, and the key research questions are explained.

Chapter 2 contains the first part of the literature review, which introduces the study area in general from a legal perspective by explaining and comparing the definitions of “industrial design” and “visual representation” within the surveyed jurisdictions.

The importance and the problems of the visual representation in design registration systems are also explained in this chapter.

Chapter 3 is the second part of the literature review, which explores the features and qualities of visual representations as described in the legal texts and guidelines in national, regional and international design registration systems. The findings are discussed and presented in a categorized form addressing topics and issues relevant for a guideline for visual representation.

After the categorization of the literature survey findings and forming the main topics and sub topics of the guideline to be developed, a field study was conducted of the practitioners responsible for the examination of visual representations in the field of industrial design registration in Turkey –the design examiners of the TPI. Chapter 4 presents the field study and discusses the findings concerning the main problems in visual representations from the perspective of the design examiners at TPI. This chapter helps to understand the problematic areas and issues in visual representations in industrial design registration applications in Turkey together with the suggestions of the examiners, and the eligibility of significant and unusual literature survey findings for adaptation and adoption into the Turkish design protection system.

Drawing upon the findings of both the literature review and the field study, Chapter 5, the concluding chapter, proposes a guideline, which assists design attorneys and applicants in preparing visual representations for industrial design registration applications in Turkey.

CHAPTER 2

LITERATURE REVIEW PART I: INDUSTRIAL DESIGN REGISTRATION AND VISUAL REPRESENTATION

2.1 Strategies and limitations of the literature review

The purpose of the literature review in this study is to explore visual representation in industrial design registration from a legal perspective, and to investigate legal texts and guidelines within the scope of visual representation in Turkey, as well as in other national, regional and international design registration systems.

The general keywords used during the literature survey, mainly of legal literature, are as follows:

- *Design law.* Design and industrial design registration, design legislation, design regulation, design act, design directive, design implementation
- *Design Registration Guideline.* Design registration principles, design registration manual, design application guideline, design examination guideline, design checklist, guide for filing design, guide to industrial design registration, design registration basic facts.
- *Visual representation.* Representation, reproduction, illustration, drawing, photography, visual features, visual description, visualizing a registered design, specimen, view.

Chapter 2, the first part of the literature review comprises an introduction to the industrial property in general and presents a brief history of the developments in industrial design registration in Turkey. Thereafter, definitions of “industrial design” and “visual representation” are discussed and comparisons are made of in respect to the legal texts and the guidelines published by the authorized bodies. A discussion on the importance of visual representation in industrial design registration follows, taking into account legal texts and guidelines in Turkey and in other national, regional and international design registration systems covered in this study. The chapter concludes with a review of the problems related to visual representation in industrial design registration applications.

The literature review covers the sources available in Turkish or in English, which constitutes a limitation for the study. The legal texts and guidelines reviewed in this study include the ones concerning the national design protection systems in Turkey, Australia, Canada, South Korea, the United Kingdom and the United States of America; the regional design protection system for the European Community designs administered by OHIM; and the international design protection system -the Hague System- administered by WIPO.

Table 1 Legal texts and guidelines covered in the literature review

Jurisdiction	Authority	Legal texts and guidelines
Turkey	TPI	<ul style="list-style-type: none"> • Decree-Law No. 554 • Implementing Regulation • Examination Guideline
Contracting Parties to the Hague System	WIPO	<ul style="list-style-type: none"> • Common Regulations Under the 1999 Act, the 1960 Act and the 1934 Act of the Hague Agreement • Administrative Instructions • Guide to the International Registration of Industrial Designs
European Community	OHIM	<ul style="list-style-type: none"> • Directive • Council Regulation (CDR) • Commission Regulation (CDIR) • Examination Guidelines for Community Designs
Australia	IP Australia	<ul style="list-style-type: none"> • Australian Design Act • A Guide to Applying for Your Design
Canada	CIPO	<ul style="list-style-type: none"> • Industrial Design Act • Industrial Design Regulations • A Guide to Industrial Designs • Industrial Design Office Practices

Table 1 (Continued)

United Kingdom	IPO	<ul style="list-style-type: none"> • Registered Designs Act • Registered Designs Rules • Applying for a Design: Illustrations of your design
United States of America	USPTO	<ul style="list-style-type: none"> • Design Patent Law • Design Patent Rules • A Guide to Filing A Design Patent Application • Manual of Patent Examining Procedure (MPEP)
South Korea	KIPO	<ul style="list-style-type: none"> • Industrial Design Protection Act • Enforcement Decree of the Design Protection Act • Overview of the Design System in Korea • Application procedures for designs

2.2 Introduction to the intellectual property rights and industrial design registration system in Turkey

Intellectual property is the umbrella term covering all of the rights concerning inventions, artistic works, trade secrets, etc. WIPO divides intellectual property into two main branches: Copyright and industrial property (WIPO 2011). Yalçiner (2011) classifies intellectual property into three main groups: *Author's rights* (referred to as "copyright" in some jurisdictions), *industrial property rights* and *other rights*. He specifies industrial property rights as:

1. Patents and utility models for the protection of inventions,
2. Trademarks for the protection of brands,
3. Industrial designs for the protection of designs,
4. Geographical indications, also known as appellations of origin, for the protection of geographical signs,
5. Topographies of integrated circuits for the protection of integrated circuits, ([Yalçiner] 2011, 11)

Yalciner also specifies *other rights* related to intellectual property:

1. Plant breeders' rights for the protection of new plant varieties,
2. Trade names
3. Unregistered rights under general provisions, such as unfair competition in commercial law in Turkey
4. Undisclosed information, such as know-how and trade secrets
5. Domain names, etc. ([Yalçiner] 2011, 11).

“Intellectual production is as old as the human history” says Karahan, Suluk, Saraç and Nal, adding that the legal protection of intellectual products is a very new concept in human history (Karahana et al. 2011, 23). Yalçiner (2000) claims that the first recorded evidence of intellectual property in history dates to 1443 in Venice, with the first patent law officially announced in 1474 in Venice (Yalçiner 2000, 5). The United States of America and France followed Venice in the protection of inventions. On March 23, 1879 the Ottoman Empire’s patent law *İhtira Beratı Kanunu* (in Turkish) entered into force, resulting in the first regulation of intellectual property in Turkey (what was then the Ottoman Empire), and the sixth patent law in world history (Karahana et al. 2011, 24). Despite the fact that Turkey was one of the first implementers of patents, up until 1995 there was no specialized design protection law.

Yalçiner (2000), providing a history of design registration in the world, claims that the protection of designs began with a specialized legislation in Lyon, France in 1711 for the textile designs (Yalçiner 2000, 7). He adds “in 1787 legislation for designer’s rights for fabric ornamentations entered into force in Florence. The same year, in the United Kingdom, a law came into force for the new products of ornamentations made of wool” (Yalçiner 2000, 7). The United States of America provided a specialized implementation within patent law for designs in 1842, which was followed by Germany (1876) and Japan (1888) (Yalçiner 2000, 8). In Turkey, designs were not protected under a specialized law until June 27, 1995, when Decree Law No. 554 and the implementing regulation entered into force following the establishment of the Turkish Patent Institute in 1994. Karahan, Suluk, Saraç and Nal states that “1995 is the milestone of the intellectual property rights” in Turkey (Karahana et al. 2011, 24).

In Turkey, the Turkish Patent Institute is authorized to implement the regulations related to industrial property rights, including patents, utility models, trademarks, industrial designs, geographical indications and topographies of integrated circuits. Representing Turkey at international organizations, the TPI is authorized to look

after Turkey's interests in international agreements on industrial property rights, and to implement such agreements in Turkey according to Law No. 5000 (TPI 2003 Article 3). The legal texts on industrial design protection in force in Turkey are given in Table 2.

Table 2 Legal texts on industrial design protection in force in Turkey

Legal text	Date of Entry into Force in Turkey
Decree Law No: 554 for the Protection of Industrial Designs (national)	June 27, 1995
Implementing regulation of Decree Law No: 554 for the Protection of Industrial Designs (national)	November 5, 1995
Locarno Agreement Establishing an International Classification for Industrial Designs, 1968	November 30, 1998
1999 Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs	January 1, 2005

In Turkey, a design can be protected in three different ways within the scope of intellectual property rights: A design can obtain protection by *industrial design registration*; a design obtains protection automatically when it is made available to the public within the scope of the *author's rights*, also known as copyrights; and a design that is already commercialized may obtain protection under the *general provisions of unfair competition in Commercial Law*.

Before June 27, 1995 designs were protected under the general provisions of unfair competition within Commercial Law in Turkey, as well as under author's rights. After the establishment of Turkish Patent Institute in 1994, the Decree Law No. 554 entered into force in 1995, by which registered designs are able to be protected under a specialized industrial property law. Today, the national industrial design registration system in Turkey is based on three grounds: Decree Law No. 554; the implementing regulation of the Decree Law No. 554; and the examination guideline published by TPI.

2.3 Definition of “industrial design” in the reviewed legal texts and guidelines

WIPO defines industrial design as “the ornamental or aesthetic aspect of a useful article” (WIPO 2011, 9). “Useful article” is defined in Canadian Industrial Design Act Section 2 as “an article that has a utilitarian function and includes a model of any such article”, while the utilitarian function of an article means “a function other than merely serving as a substrate or carrier for artistic or literary matter” (CIPO 2003). CIPO defines design as “the visual features of shape, configuration, pattern or ornament (or any combination of these) applied to a manufactured article” (CIPO 2012a under “Glossary”).

The term “article” refers to an object that is the outcome of a design activity, such as a three-dimensional product or two-dimensional ornamentation (CIPO 2012a under “Glossary”). KIPO explains the term “article as being a generally tangible, movable and independent thing” (KIPO 2011 under “What is a design?”). CIPO defines the article in Section 2 as “anything that is made by hand, tool or machine”.

Table 3 Definition of design in the reviewed legal texts and guidelines

Authority	Legal Text or Guideline	Definition of Industrial Design
TPI	Decree Law Article 3/1 (a)	“Concerning the whole or a part of a product, or its ornamentation, “design” means the entirety resulting from the various features or characteristics perceived by the human senses such as line, shape, form, colour, texture, material or elasticity” (TPI 2005 Article 3/1(a))
WIPO	Understanding the Industrial Property	“... is the ornamental or aesthetic aspect of a useful article” (WIPO 2011, 9)

Table 3 (Continued)

WIPO	Handbook On Industrial Property Information and Documentation	“Industrial designs include two-dimensional and three-dimensional features of shape and surface of objects, and thus cover both concepts of ‘designs’ and ‘models’ where a distinction is made between the former and the latter” (WIPO 2004, 3.80.1)
OHIM	Council Regulation	“The appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation” (OHIM 2006 CDR Article 3/1(a))
IP Australia	Design Act Section 5	“In relation to a product, [design] means the overall appearance of the product resulting from one or more visual features of the product.” (IP Australia 2010 Section 5)
	Design Act Section 8	“In this Act, a reference to a design is a reference to a design in relation to a product.” (IP Australia 2010 Section 5)
IPO	Registered Designs Act Section 1/2	“The appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its ornamentation.” (IPO 2006a Section 1/2)
CIPO	Industrial Design Act Article 2	“ ‘Design’ or ‘industrial design’ means features of shape, configuration, pattern or ornament and any combination of those features that, in a finished article, appeal to and are judged solely by the eye.” (CIPO 2011a Article 2)
USPTO	Manual of Patent Examining Procedure (MPEP)	“The design for an article consists of the visual characteristics embodied in or applied to an article” (USPTO 2012 MPEP Article 1502).

Table 3 (Continued)

USPTO	A Guide to Filing a Design Patent Application	A design consists of the visual ornamental characteristics embodied in, or applied to, an article of manufacture. Since a design is manifested in appearance, the subject matter of a design patent application may relate to the configuration or shape of an article, to the surface ornamentation applied to an article, or to the combination of configuration and surface ornamentation. A design for surface ornamentation is inseparable from the article to which it is applied and cannot exist alone. It must be a definite pattern of surface ornamentation, applied to an article of manufacture. (USPTO 2011 under the "Definition of a Design")
KIPO	Design Act Article 2/1	"Shape, pattern or colour or a combination of these in an article which produces an aesthetic impression in the sense of 'sigh'" (KIPO 2011 under "What is a Design?")

TPI, IP Australia, IPO and OHIM explain "design" within the concept of product rather than article. The Turkish legislation¹ provides a definition of product:

"... any industrial or handicraft item, parts of a complex system, sets, compositions of items, packaging, get-ups, graphic symbols and typographic typefaces, excluding computer programmes and semi-conductor products" (TPI 1995).

OHIM describes product, and further, complex product, within Council Regulation Article 3 (OHIM 2006 CDR Article 3(1)(b); Article 3(1)(b) (c)). Product "means any industrial or handicraft item, including inter alia parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs". It is described as a product composed of multiple components, which can be replaced by disassembly and re-assembly of the product within the Counsel Regulation (OHIM 2007 CDIR Article 3(c)). The UK industrial design registration system defines product in the same way

¹ Decree Law No. 554 Article 3/1(a) and (b)

as OHIM in the Registered Designs Act Article 1/3, as “any industrial or handicraft item other than a computer program; and, in particular, includes packaging, get-up, graphic symbols, typographic type-faces and parts intended to be assembled into a complex product”. The UK Registered Designs Act defines a complex product as “a product which is composed of at least two replaceable component parts permitting disassembly and reassembly of the product” in Article 1/3, as same definition as in the Australian Design Act Section 5 (IP Australia 2003).

According to WIPO's definitions and explanations the aim of registered design protection is to protect the visual features of a design in all of the member states. The Handbook on Industrial Property Information and Documentation indicates that the term “industrial design” does not refer to patents or supplementary protection certificates (SPC) specified in the WIPO Standard ST.9 (WIPO 2004 under “Definitions”). In the United States of America, registered designs are protected within the Patent Rules and Laws and called “design patents”; however it is explained that design patent’s scope of protection only covers the appearance of the article, disregarding its structural or utilitarian features (USPTO 2011 under the “Definition of a Design”). The functionality, construction methodology or other such qualifications cannot be protected with design registration or design patents, and therefore it is the design’s visual qualities and features that are reflected within the visual representations that are protected by design registration.²

2.4 Definition of “visual representation” in the reviewed legal texts and guidelines

The visual representation of a registered design means “to specify the features of the design for which protection is sought” according to OHIM, which states further that it is of utmost importance that the representation be clear and complete, and that nothing regarding the design is left conjecture (OHIM 2012 Ch. 4.4). Current regulations in Turkey³ describes visual representation as the visual appearance of the product in which the design is incorporated, or to which it is applied, prepared in a drawing, picture, graphic, photograph or some other medium, specifying that it must clearly show all special characteristics of the design and must be suitable for reproduction through publication (TPI 2009 Article 26/1(b)). IPO, in the Registered Design Rules, defines “suitable for reproduction” as suitable for publication (IPO

² The definitions of design covered in this section give reference to visual features and qualities; the legislations of Canada and South Korea refer to the sense of sight directly. The Turkish legislation, on the other hand, implies a wider scope covering the qualities and features “perceived by the human senses”.

³ Decree Law No. 554 and Implementing Regulation

2006b Rule 9/5). WIPO describes visual representation in its Common Regulations as “reproductions,” and explains “they shall be in the form of photographs or other graphic representations of the industrial design itself, or of the product or products which constitute the industrial design” (WIPO 2012, Rule 9).

The Australian Design Act defines the form of visual representation in the definition section as drawings, tracings or specimens (IP Australia 2003, Ch.1, Part 2, Sec. 5). As a non-legislative text, IPO’s “Illustrations of your design” offers a guideline for applicants, and states that the representation should be an “accurate and complete picture of the design,” and divides the suggested form of visual representations into drawn views and photographic views (IPO 2012a under “Illustrations of your design”). Another non-legislative text from CIPO is the guideline suggesting visual representations in the form of drawings and photographs (CIPO 2012a under “Preparing an Industrial Design Application”). As mentioned previously, in the United States of America, designs are protected within patent law as design patents, and accordingly, USPTO 37 C.F.R. § 1.152 refers to patent drawings, and mentions types of drawings and photographs. The Korean design registration system also cites forms of visual representation, defining drawings and photographs in the Design Act. The forms of visual representation specified in the reviewed legal texts and guidelines are given in Table 4.

Table 4 Forms of visual representation in the reviewed legal texts and guidelines

Authority	Legal Text or Guideline	Forms of Visual Representation
TPI	Decree Law Article 26/1(b)	Drawing, picture, graphic, photograph or similar representation of the design suitable for reproduction
WIPO	Common Regulations Rule 9	Photographs or other graphic representations

Table 4 (Continued)

OHIM	Council Regulation Article 36/1(c)	Representation of the design suitable for reproduction
	CDIR Article 4(1)	Graphic or photographic reproduction of the design
IP Australia	Design Act 2003 Ch.1, Part 2, Sec. 5	Drawing, tracing or specimen
IPO	The Registered Design Rules 2006 Rule 9/5	“Suitable representation,” meaning a representation of the design that is suitable for publication
	“Illustrations of your designs” (non-legislative)	Accurate and complete picture of the design Drawn views or photographic views
CIPO	Industrial Design Act Article 4	Drawing or photograph of the design
USPTO	37 C.F.R. § 1.152 refers to 37 C.F.R. § 1.84	Drawing and photograph
KIPO	Industrial Design Protection Act Article 5/1	Drawing (3D-modelling drawing also mentioned) and photograph

2.5 Importance of visual representation in industrial design registration

Design registration in Turkey consists of three main stages: Application, registration and post-registration (Figure 1). The visual representation of a design has an important role in terms of the scope of protection in all these stages. During the

application stage at which the formal examination takes place, inadequate visual representations may result in formal deficiencies. After the formal examination the registration stage starts. During the registration stage, the design registration application is published in the Official Industrial Design Bulletin, and third parties may file an opposition against the registration within six months. The visual representation of the design plays a critical role in the case of an opposition that involves the comparison of the design with earlier designs. During the post-registration stage, invalidity or infringement actions also involve the comparison of the visual representation of a registered design with earlier designs.

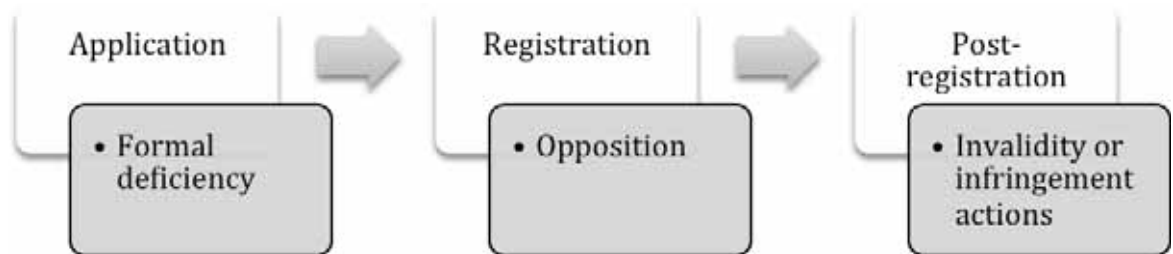


Figure 1 Stages of a design registration in Turkey and the procedures where the visual representation plays an important role.

WIPO states that if the applicant wishes to obtain maximum protection for their design, they should ensure that the design is fully represented, as only the aspects that are visibly represented shall be protected (WIPO 2012c BII.22.05.10).

Visualizing the design for registration is important in the industrial design protection system in Turkey. Implementing regulation in Turkey deems that a registered design shall be protected by the visual representations and descriptions filed at the application stage (TPI 2005 Article 9/1(a)). According to OHIM the description of the design cannot contain any reference to features that cannot be seen in the visual representation (OHIM 2012 Ch. 9.2), meaning that the features that cannot be seen in the visual representation will fall outside the scope of the protection.

If the visual representation does not fulfil the requirements specified in the legal texts, it may affect the application date or may be ground for the refusal of an

application. OHIM rules that an application date cannot be granted if the representation of the design:

- is not in jpeg data format in electronic filing applications,
- is submitted without a neutral background, or has been retouched using ink or correction fluid, or
- if the visual quality is not sufficient for displaying all of the details of the design for which protection is sought (OHIM 2007 CDIR Article 4(1)(d); Article 4(1)(e); Article 10(1)(c) and OHIM 2012 Ch. 4.4).

In the Turkish legislation visual representation(s) are a mandatory requirement for the application date to be granted. Decree Law Article 26/1(b) contains the following provision: “An application for registration of a design must be filed with a drawing, painting, graphic, photographic or similar representation of the design suitable for reproduction and reflecting all of its specific features”. KIPO also indicates the representation of the design must be submitted at the same time of filing the design application (KIPO 2011 under “Application Procedure for Designs”).

Contracting Parties of the Hague Agreement (1999 and 1960 Acts) have the right to refuse an international design registration application on the grounds that the reproductions of the design are not sufficient to disclose the industrial design fully (WIPO 2012b Rule 4). Additionally, corrections that change the representations are not permitted according to Community Design Regulations (OHIM 2007 CDIR Article 12(3) and OHIM 2012 Ch. 13.2). A description is also filed together with the visual representation, however, as stated by KIPO, “the description of a design is not as important as the specification of a patent or utility model application, so long as drawings of the design are correctly and properly prepared” (KIPO 2011 under the “Application Procedure for Design”). Therefore, it is very important to prepare and submit the correct representations of the design to be protected while filing the application.

It is very important to show all the new features of the design on the representation to ensure that they are enforceable in any legal dispute (IPO under Design practice notice (DPN) 6/06, 6/03). IPO emphasizes that the purpose of the representations and specimens is to present an accurate and complete picture of the design to be registered, and also to identify those features of the design which are novel and for which protection is sought (IPO under Design practice notice (DPN) 1/04).

The visual representation of the design plays a vital role, claims Elibol, for the assessment of protection conditions, novelty and distinctive character in design registration in Turkey; the examination to assess the novelty and distinctive character of the design is based on the features which can be clearly shown in the visual representation of the design (Elibol 2011, 44). It is the applicant's or the representative's obligation to submit or provide adequate and sufficient representations, which reflect and display all of the visual properties for which protection shall be sought at the application stage (TPI 2011 Article 2.9). During the registration stage, designs are published in order to permit third-party oppositions. Comparisons are based on the application's visual representations versus the earlier design. If the earlier design is also registered, then both visual representations shall be evaluated. Should an infringement action be filed against a product on the market, then the visual representation of the plaintiff's registered design shall be compared with the product of the defendant. Thereof, visual representations are a very important element affecting the scope of the protection in every stage, from the filing of a registered design to post-registration. It is also underlined by TPI that visual representations are the key element of the design right to be established, in that they constitute the expression for which protection is sought (TPI 2011 Ch. 2.9).

TPI has a formal procedure for the examination of visual representations at the application stage. Designs with inadequate visual representations should not be accepted at this formal examination stage, according to the implementing regulation Article 8/1(a) which rules that inadequate visual representations are a major deficiency that may affect the allocation of the application date. Furthermore, Turkish regulations do not allow for any amendments to visual representations *after* registration, as is the case with OHIM's implementation.⁴ Representations can only be amended if the examiner requests the remedying of a formal deficiency in the visual representation, which shall affect the allocation of the application date⁵.

2.6 Problems related to visual representation in industrial design registration applications

Hasdoğan claims that in the Turkish industrial design registration system there are four main problems related to the visual representations of registered designs: Firstly, photographic views do not reflect the exact size of the design; secondly,

⁴ Explained within OHIM 2007 CDIR Article 12(3)

⁵ Provisioned in Decree Law Article 26 and 33, Implementing Regulation Article 14, OHIM CDIR Article 10(1)(c) and OHIM 2010 Examination Guidelines Community Design Article. 5.3

submitting one photographic view and one technical representation (graphic representation) of the design prohibits an understanding of the three dimensional features of the design; thirdly, designs photographed in an embroiling composition, such as displaying all the elements of a set of furniture in one representation; and finally, partial disclaimer cases where the part(s) of the product for which protection are sought are not indicated or shown clearly (Hasdoğan 2005, 348).

Elibol also cites insufficient visual representations as one of the problems when making an assessment of the novelty and distinctive character of the design to be protected, stating “Good quality visual representation would facilitate the assessment” (Elibol 2011 144; 167).

Common problems at the application stage related to the visual representations in the UK are described in Design Practice Notice 1/04 as follows:

- More than one design is shown in the visual representations.
- Representations include dimensions and other technical drawing features, which obscure the design.
- The examiner is unable to identify the design from the representations given (IPO 2004 DPN 1/04).

CHAPTER 3

LITERATURE REVIEW PART II: FEATURES AND QUALITIES OF VISUAL REPRESENTATION AS DESCRIBED IN LEGAL TEXTS AND GUIDELINES

All of the legal text and guidelines of national, regional and international design registration systems cited in Table 1 are analysed by first selecting the parts related to the visual representations of design registrations for classifying the main features and qualities of the visual representations. Afterwards, each sentence within the surveyed parts that describes a feature of a visual representation is highlighted to allow an easy comparison of the common issues in different jurisdictions. The analysis continued by printing and cutting out the highlighted statements, and grouping them under potential topics in respect to the features and qualities covered. This categorization and grouping is done by preparing a board for each topic and mapping the highlighted parts according to each topic and sub-topic on a separate board. An example of one of the boards prepared for the “Physical quality” topic is given below.

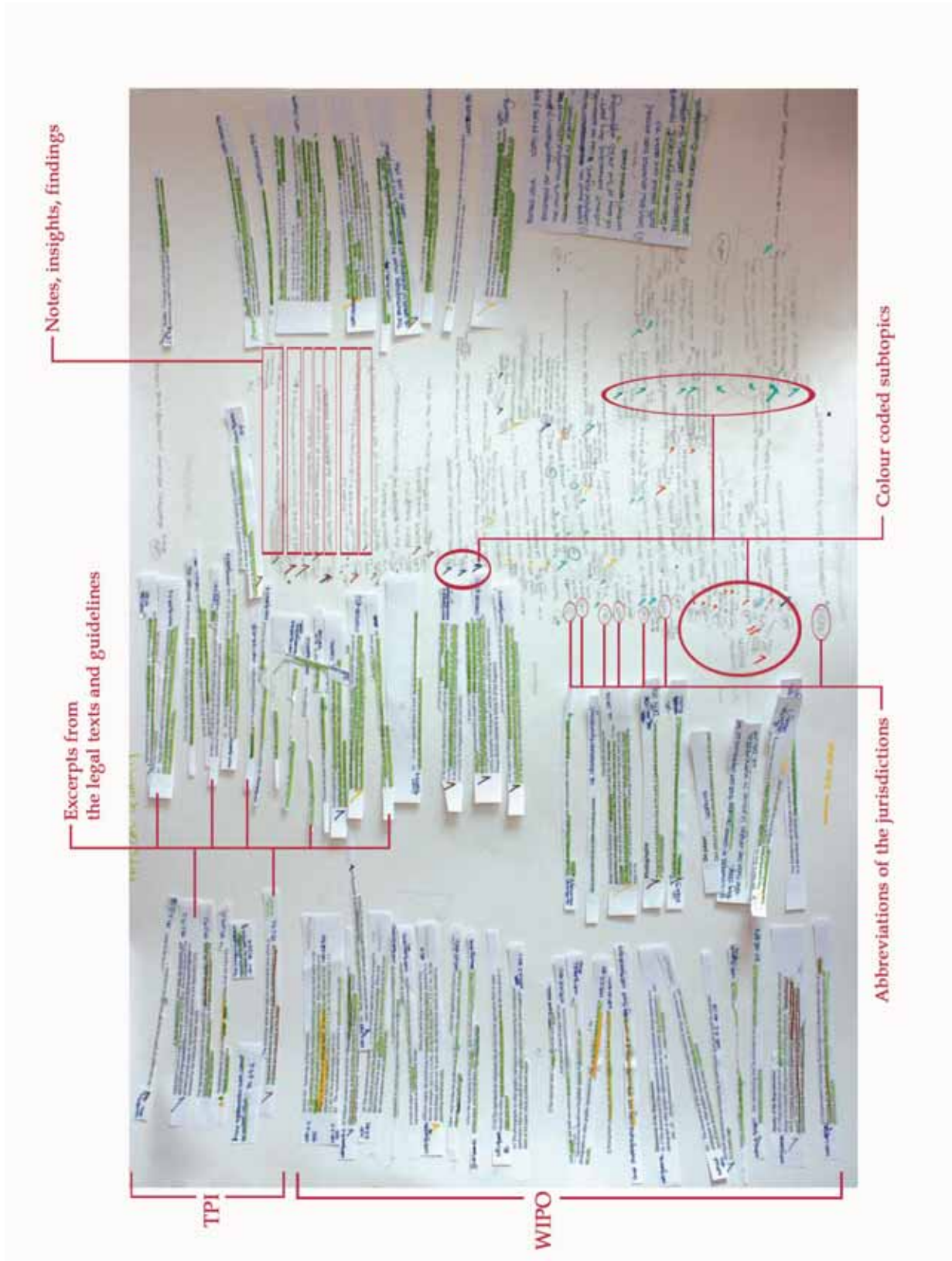


Figure 2 Categorization board for the "Physical quality" topic

As given in Figure 2, the findings, which explain the physical quality of the visual representations, are extracted from the document and pasted on the board, which the example is the board prepared for the “Physical quality” sub-topic under “Format and Quality of Visual Representation” topic. Colour codes were given for common features or qualities, i.e. green is used for the explanations on size and quality of the paper and blue is used for the clarifications on size of the representation.

Subsequently, after analysing the legal text and guidelines of the eight jurisdictions, including that of Turkey, six main topics were identified: types of representation, content of visual representation, views of the design, partial disclaimer, format and quality of visual representation and unacceptable visual representation. All the topics of features and qualities of visual representation are given in Figure 3 and each topic is explained in below.

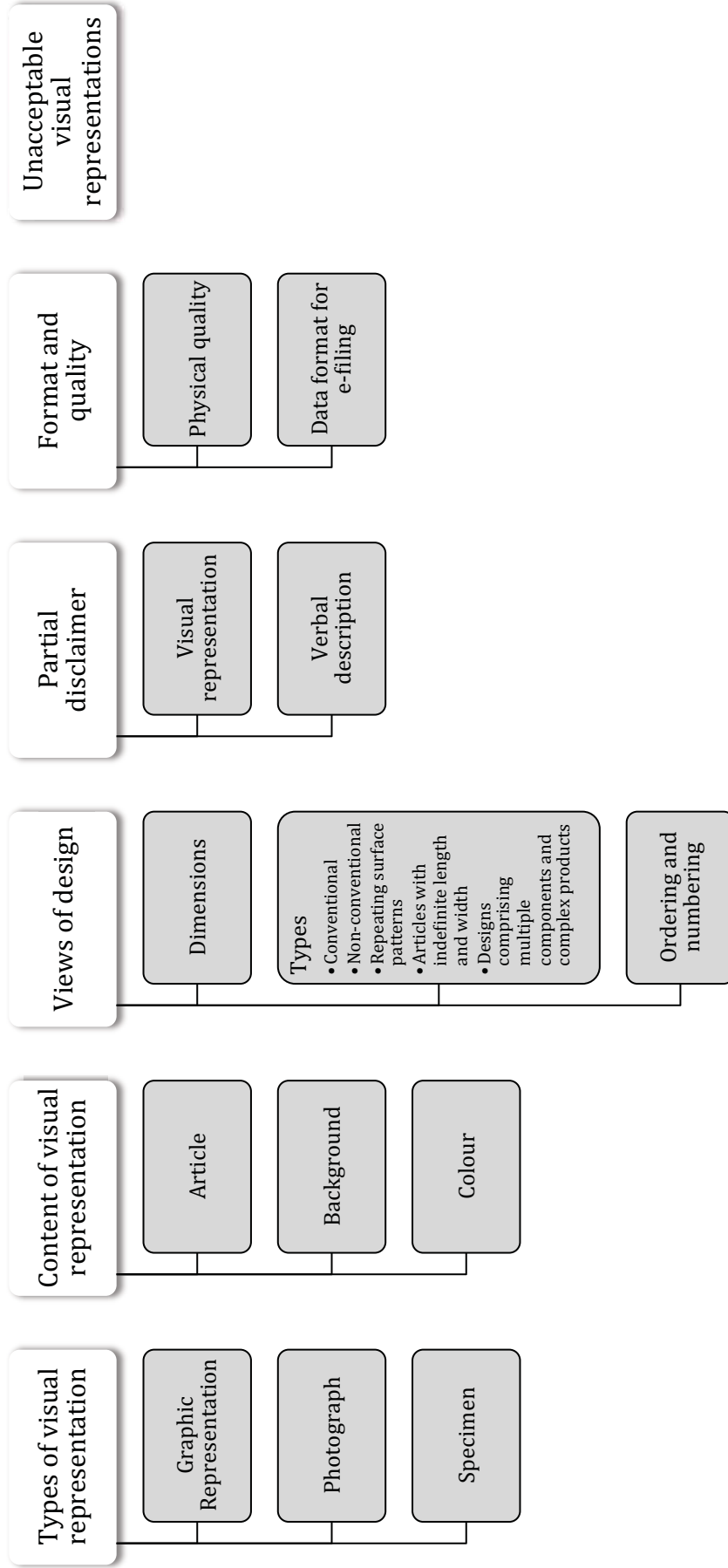


Figure 3 The list of topics and sub-topics of the features and qualities of visual representation

3.1 Types of Representation

Visual representations are categorized into three main groups: Graphic representations, photographs and specimen.

1. Graphic representation which includes drawings, ink drawings, and or similar ways of representation (TPI 2011 Article 2.2.2; WIPO 2012c Section 401(a); WIPO 2012b Article 9(1)a; OHIM 2007 CDIR Article 4(1); OHIM 2012 Article 11.4; IPO Design Practice Notice (DPN) 1/04; USPTO 2010 37 CFR § 1.84), and
2. Photography in colour or black and white (TPI 2011 Article 2.2.2, WIPO 2012c Section 4(a); WIPO 2012b Article 9(1) a; OHIM 2007 CDIR Article 4(1)), OHIM 2012 Article 11.4; IPO Design Practice Notice (DPN) 1/04). Only USPTO expresses the requirement of black and white photography (USPTO 2010 37 CFR § 1.152).
3. Specimen may be filed instead of visual representation during the filing the application for two-dimensional designs if a deferment of publication is requested (TPI 2011 Article 2.2.3). The study does not covers requirements or features and qualities of specimen of design applications.

TPI indicates that a visual representation can be prepared as a drawing, picture, graphic, photograph or similar media (TPI 2011 Article 2.2.2). TPI Examination Guidelines adds that there is no limitation on the form of representation (TPI 2011 Article 2.9.2), so long as they are suitable for reproduction in terms of publishing (TPI 2011 Article 2.2.2; OHIM 2012 Article 4.4).

WIPO and OHIM emphasize that both types of representations can be used for a single or multiple design application (OHIM 2012 Article 11.4 and WIPO 2012c Section 11.4); while USPTO, on the other hand, underlines that it is not permissible to use a combination of both ink drawings and photographs in one design application, giving the reason that a combination may result in inconsistencies between the two (USPTO 37 CFR § 1.152). USPTO permits colour drawings, if necessary, of sufficient quality for all detail in the drawings to be reproducible in black and white print (USPTO 2010 37 CFR § 1.84).

Visual representations can be submitted in black and white or in colour (TPI 2011 Article 2.9.2, WIPO 2012d Section 4(a), OHIM 2007 CDIR Article 4(1) and OHIM 2012 Article 11.4) except for USPTO (please see also section 3.1.2 Photography). Both types of graphic or photographic representations, either in black and white or in colour, must show clearly all characteristics of the design (TPI 2011 Article 2.2.2).

3.1.1 Graphic representation

How graphic representations should be prepared is defined by TPI, WIPO, IPO and USPTO. TPI states that graphic representations must be drawn using drafting tools or electronic means, and must be explicit and clear (TPI 2011 Article 2.9.2). Similarly, WIPO indicates that the graphic representation must be in a professional standard, produced by using drawing instruments or executed by electronic means (WIPO 2012c Section 404 (b) and WIPO 2012d BII. 22.05.08). IPO emphasizes the drawn views as ink drawings or, better still, good quality scans or copies of them (IPO 2012a under “Illustrating your design”). USPTO calls for normally black and white drawings, drawn with India ink or equivalent that secures solid black lines, and indicates that all drawings must have satisfactory reproduction characteristics, and states that it is not necessary to submit colour drawings (USPTO 2010 37 CFR § 1.84).

Types of line drawings. USPTO explains that there are two means of representing a design in drawing format: Ink drawings and coloured drawings (USPTO 2010 37 CFR § 1.84). On rare occasions, coloured drawings may be necessary such as in cases when they are the only practical medium to disclose the design (USPTO 2010 37 CFR § 1.84)

IPO also dictates the ink drawing format in Design Practice Notices of DPN 1/04, in which it is recommended to use plain black and white line drawings, so long as the design protection does not cover a particular colour (IPO 2012a under “Disclaiming other visual features”).

Quality of lines. USPTO points out that every lines within the representations must be durable, clean and black (except in colour drawings), sufficiently dense and dark, and uniformly thick and well-defined (USPTO 2010 37 CFR § 1.84). The weight of lines, including shading and lines representing cut surfaces of sectional views, must be heavy enough for reproduction (USPTO 2010 37 CFR § 1.84). Different thicknesses of lines and strokes in the same drawing may be used in the same drawing to denote different meanings (USPTO 2010 37 CFR § 1.84). That said, the thickness and density (as plain, dashed, stippled or dotted) of the lines in one representation may change, however, all different types of lines must be produced in sufficient quality to be reproducible in black and white on the printed patent document (USPTO 210 37 CFR § 1.84).

Broken lines or stippled lines. TPI, OHIM, CIPO and USPTO clarify the use and features of broken lines. OHIM and TPI indicates two use that dotted lines are used

either to show features that are not a part of the protection being sought (see section 3.4.1 Visual Means of Partial Disclaimer), or for indicating parts which are not visible in that particular view (TPI 2011 Article 2.9.2; OHIM 2012 Article 11.4). OHIM adds that dotted lines should be used to identify elements that are *not* part of that view (OHIM 2012 Article. 11.4). It is the applicant's responsibility to use such lines in a way to identify which features are requested for protection, as the examiner shall only conduct an examination to assess the suitability of the representation for publication (OHIM 2012 Article 11.4).

CIPO also explains that well-defined solid lines must illustrate the design portions, and that the non-design portions of the article may be shown in stippled lines (CIPO 2010a Article 6.5.3). According to USPTO, broken lines may be used to show the environmental structure or boundaries that form the non-design parts of the article for which protection is claimed (USPTO 2012 under "Drawing Examples"). Where the drawings are supplied in lieu of photographs as representations, the environmental structure must not be disclosed (USPTO 2010 37 CFR § 1.152); however there are exceptions when there is a need to show the environmental structure and the design together in one representation, in addition to other views that fully disclose the design itself (USPTO under "Broken Lines"). Similar to CIPO, USPTO also indicates that broken lines may be used to show structures that are not part of the design, but are necessary to show the visible environment in which design is used (USPTO 2010 37 CFR § 1.152; USPTO 2012 under "Broken Lines"). Where broken lines are used to show such an environmental structure, they must not intrude upon, or cross the claimed design, and should not prohibit a clear understanding of the design (USPTO under "Broken Lines"). Broken lines should be lighter than the lines indicating the parts of the design to be protected (USPTO 2011 under "Broken Lines").

USPTO states that broken lines may *not* be used to show hidden planes and surfaces that cannot be seen through an opaque material of the article (USPTO 2010 37 CFR § 1.152).

USPTO also indicates that it is not permitted to submit alternate position or a moved position of a design component illustrated by full and broken lines in the same view, which can be shown by a broken line superimposed upon a suitable view without crowding the representation (USPTO 2010 37 CFR § 1.152).

Shading. TPI, WIPO, CIPO and USPTO legislation covers shading techniques. TPI emphasizes that embossed parts of the design can be shown by shading or in the form of parallel lines (TPI 2011 Article 2.9.2). WIPO states that the design

representation may comprise shading in order to provide relief (WIPO 2012c Section 4(a); WIPO 2012d BIL.05.08). CIPO declares that visual representations may contain shading if the intention is to illustrate the shape of the design (CIPO 2010a Article 6.5.2). On the other hand, CIPO states that it is acceptable to use contrasting tones of shading, as shown in Figure 4.

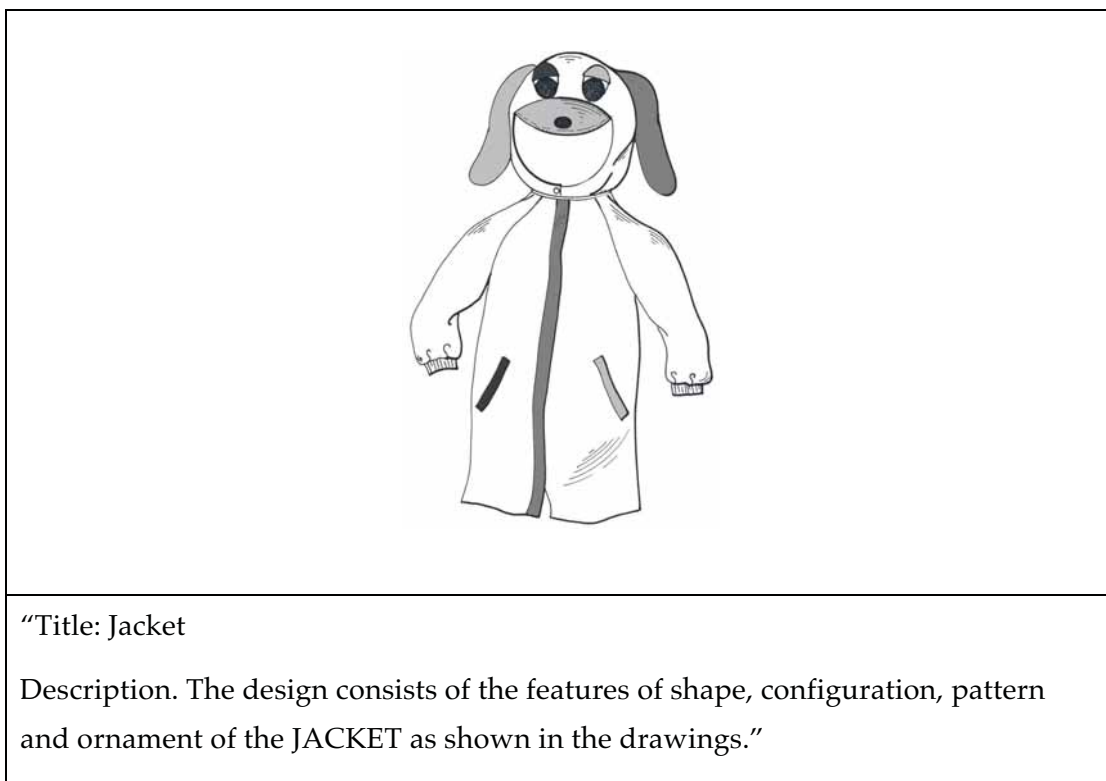


Figure 4 Shading sample given by CIPO (CIPO 2010b, 6)

USPTO states that shading is used to indicate the surface or shape of spherical, cylindrical and conical elements of an object (USPTO 2010 37 CFR § 1.84). Shading is also necessary to distinguish the open and closed solid areas of the article (USPTO 2012 under “Surface Shading”). USPTO explains appropriate and adequate surface shading as that which shows the character and contour of all surfaces of any three-dimensional aspects of the design being represented (USPTO 2010 37 CFR § 1.152; USPTO 2012 under “Surface Shading”). It is also emphasized by USPTO that surface delineation should preferably be shown using proper shading (USPTO 2010 37 CFR § 1.84).

USPTO refers to two types of shading for design patent representations; straight-line surface shading and stippling and adds that individually or in combination,

these can effectively represent the character and contour of most surfaces (USPTO 2012 under “Drawing Examples”). It is permitted to use a combination of both styles in the same article in order to show the surface contrast, but it is not permissible to use a combination on the same surface (USPTO 2012 “Drawing Examples”).

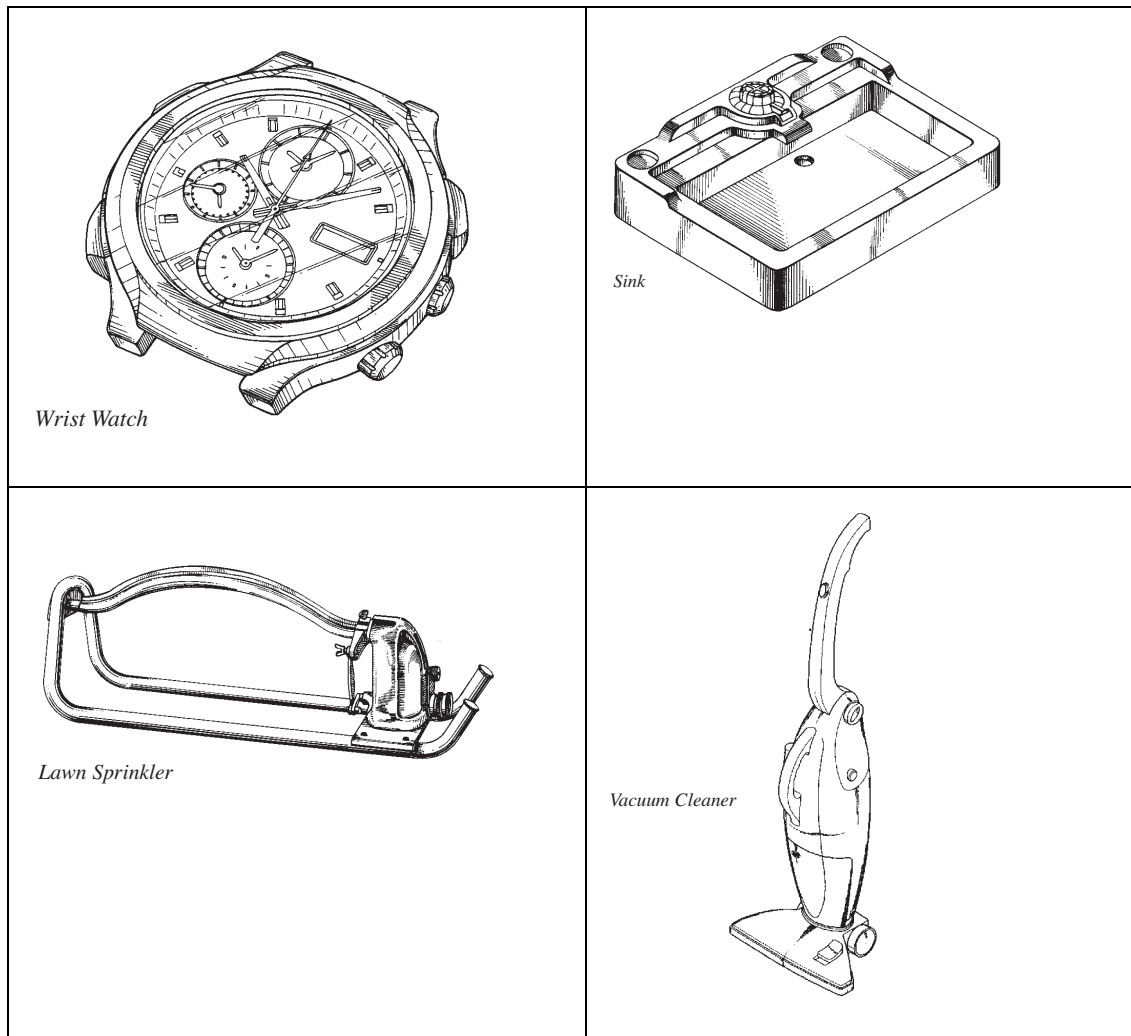


Figure 5 Straight-line surface shading samples (USPTO 2012, 12)

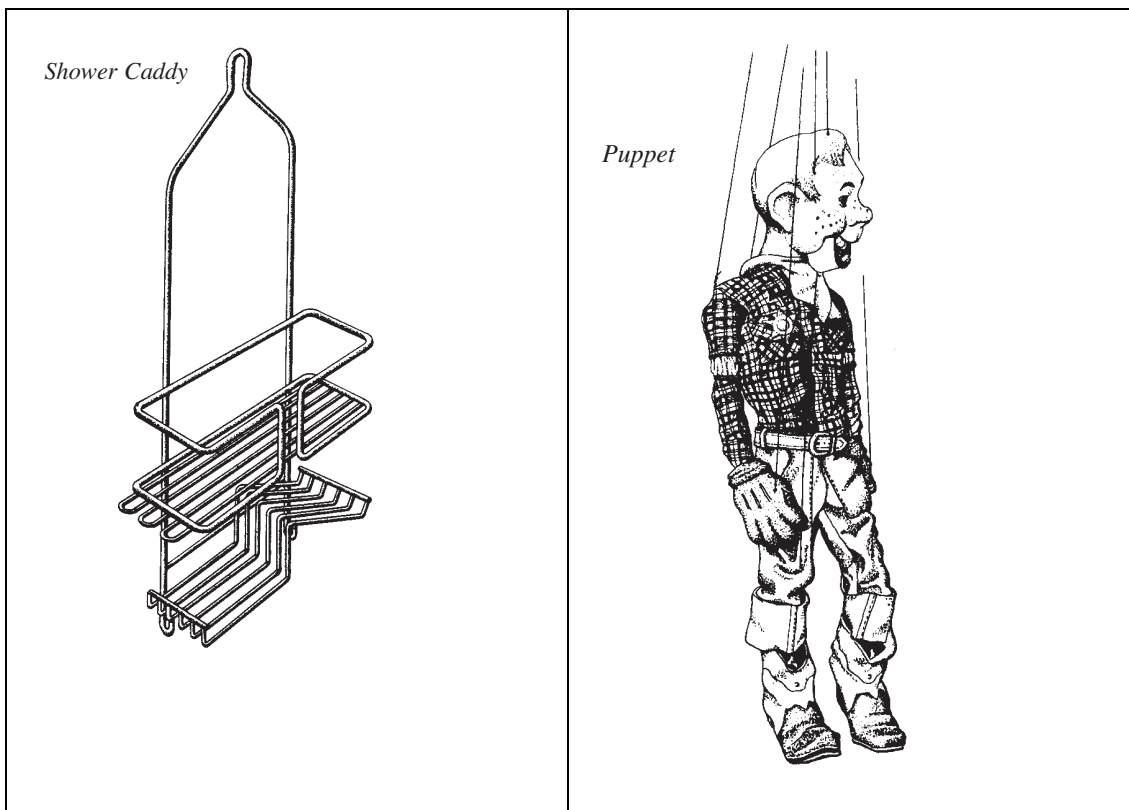


Figure 6 Samples of surface shading by stippling (USPTO 2012, 13)

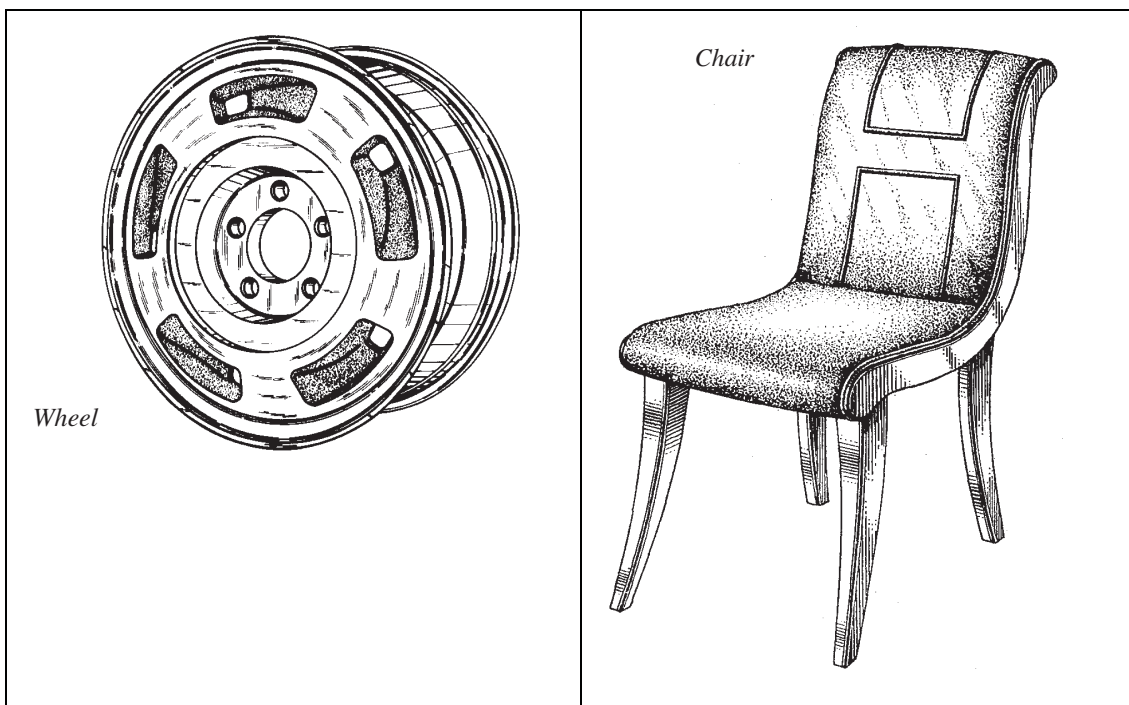


Figure 7 Combinations of straight line shading and stippling (USPTO 2012, 13)

CIPO offers few notes about the general characteristics of the representation and which shading techniques are to be applied. Shading should not distort or hide the design and should be shown consistently (CIPO 2010a Article 6.5.2). On the other hand, shading should not be made on the non-design portions, which are to be illustrated using stippled lines (CIPO 2010a Article 6.5.2). An example from the Office Practices Booklet of CIPO is given in Figure 8.

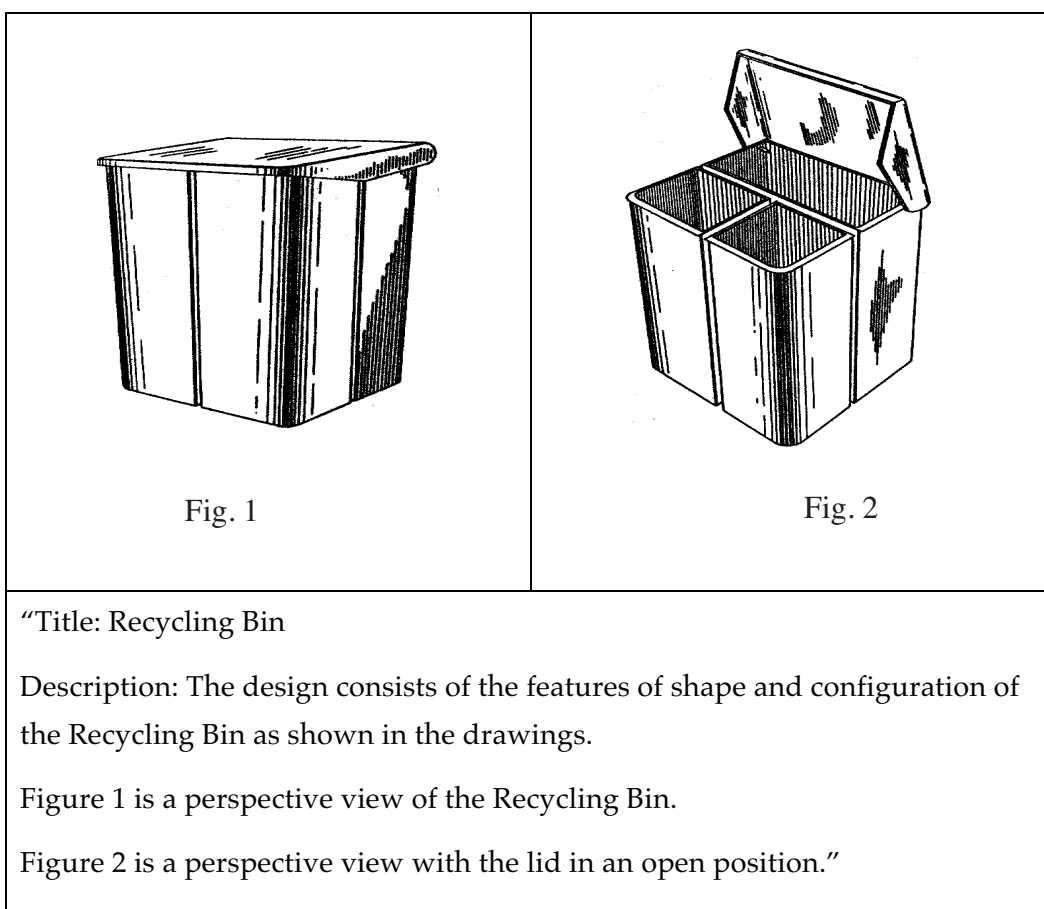


Figure 8 Surface shading samples on different views of a Recycle Bin design (CIPO 2010b, 5)

Solid black surface shading is not permitted, according to the USPTO design patent law, excluding the use of representing the colour black as well as the colour contrast (USPTO 2010 37 CFR § 1.152; USPTO 2012 under “Surface Shading”).

USPTO states flat parts must be lightly shaded, and adds that flat part shading is preferred for the parts showing perspective, but not for cross sections (USPTO 2010 37 CFR § 1.84). Thin, in contrast to the rest of the drawing, and spaced lines are

recommended for shading (USPTO 2010 37 CFR § 1.84.). USPTO adds, “As a substitute of shading, heavy lines on the shade side of the objects can be used” except where they superimpose on each other (USPTO 2010 37 CFR § 1.84). It is recommended by USPTO that during shading; the angle of light should be 45 degrees, coming from upper left corner (USPTO 2010 37 CFR § 1.84).

Transparency and translucency. CIPO says transparency may be illustrated by using thin lines of shading (CIPO 2010a Article 6.5.2). CIPO’s example is given in Figure 9.

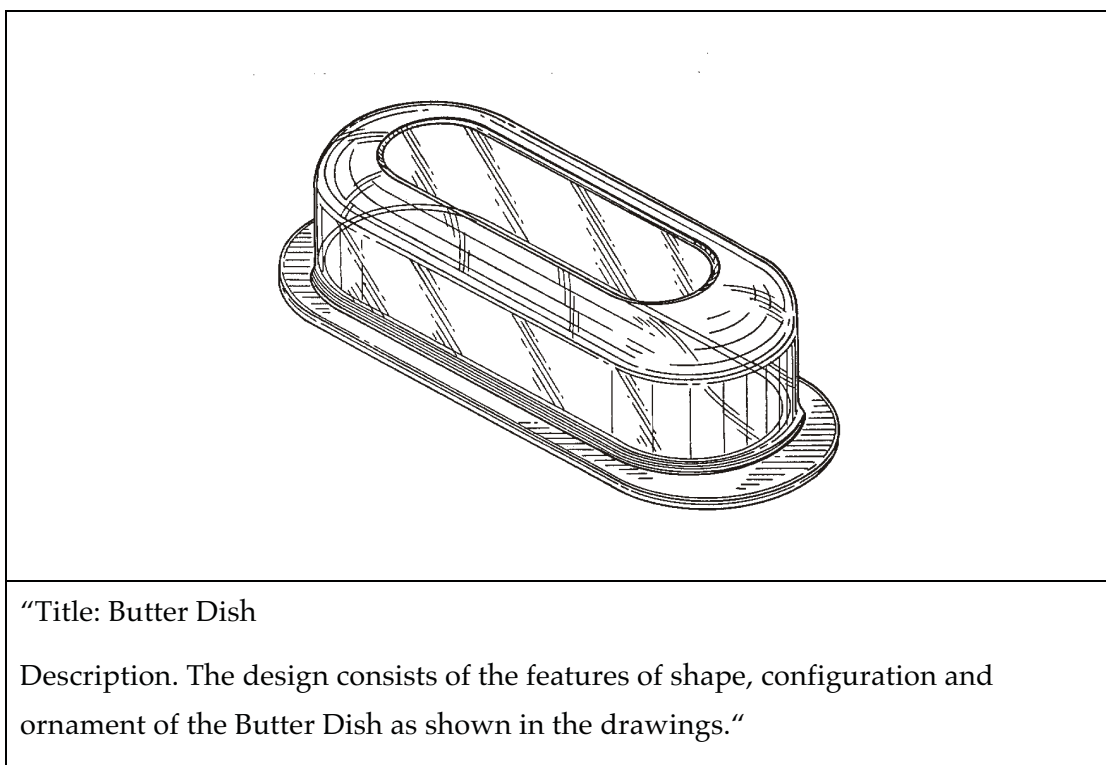


Figure 9 Representation of a butter dish design showing transparent parts (CIPO 2010b, 8). Transparency is represented by thin shading lines.

It is important to make visible portions of the design through its transparent parts, however transparency should not be shown using stippled lines on any non-designed portion of the article (CIPO 2010a Article 6.5.2). Similar to CIPO, USPTO emphasizes that transparent surfaces should be shown using light and full lines rather than broken lines (USPTO 2012 under “Drawing Examples”).

Translucency is another subject covered by CIPO, which can be shown with thin shade lines and overall shading throughout the translucent areas (CIPO 2010b, 9). An example of such representation is given in Figure 10.

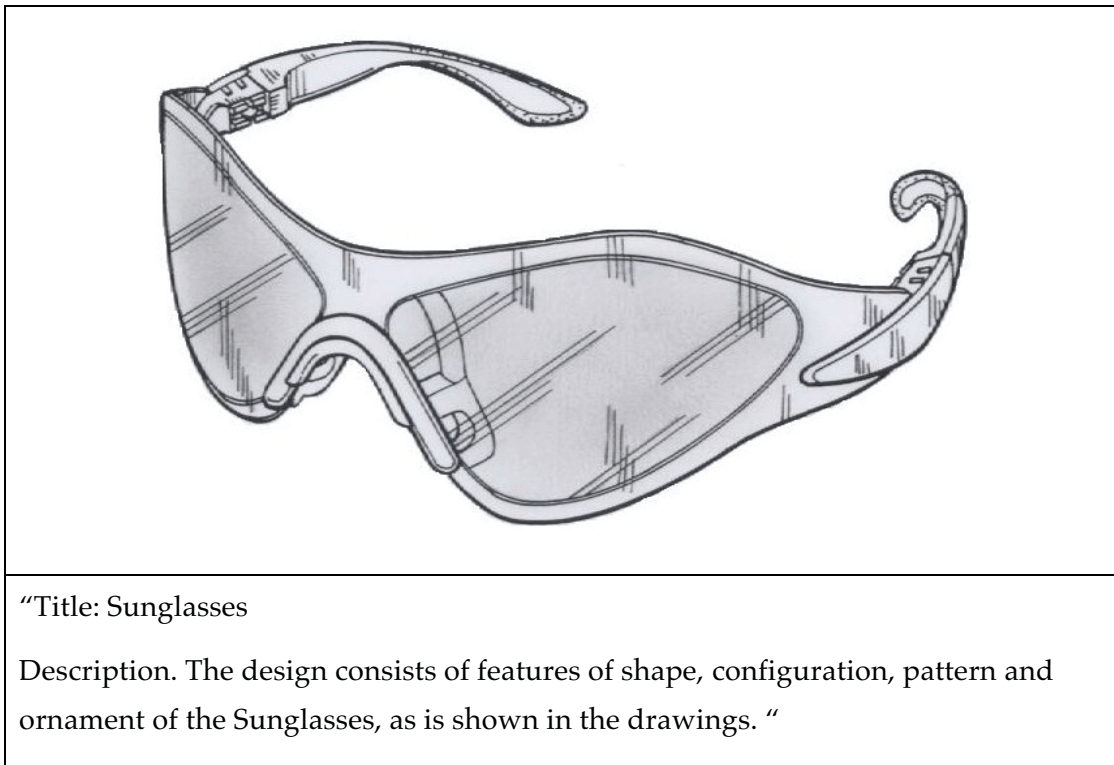


Figure 10 Sample shows denoting of translucency in drawings (CIPO 2010b, 9)

USPTO also states that elements behind the transparent surfaces of the design should be shown using light but full lines, and not broken lines (USPTO 2012 under “Drawing Examples”).

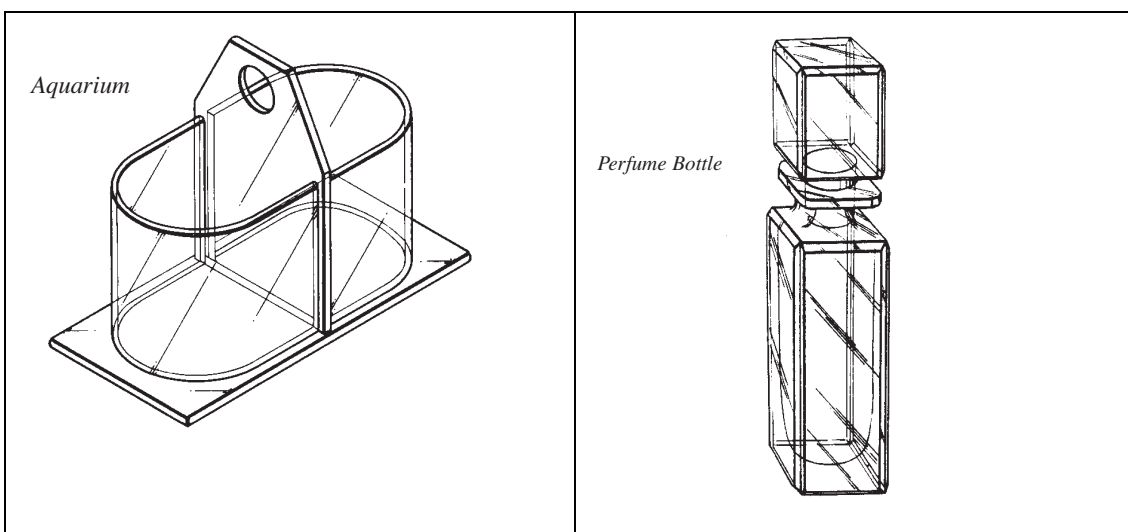


Figure 11 Samples showing transparent materials (USPTO 2012, 14)

Hatching. WIPO emphasizes that design representations may also draw upon hatching in order to provide relief (WIPO 2012c Section 4(a); WIPO 2012d BII.05.08). USPTO refers to hatching methods within the sectional view part of the legislation in 37 CFR § 1.84, which is explained in section 3.3.2.2 Non-conventional views.

Denoting materials, properties and colours. USPTO supplies a key of graphic symbols to be used in order to show the conventional elements of the design in a drawing format (USPTO 2012 under "Symbols for Draftsmen").

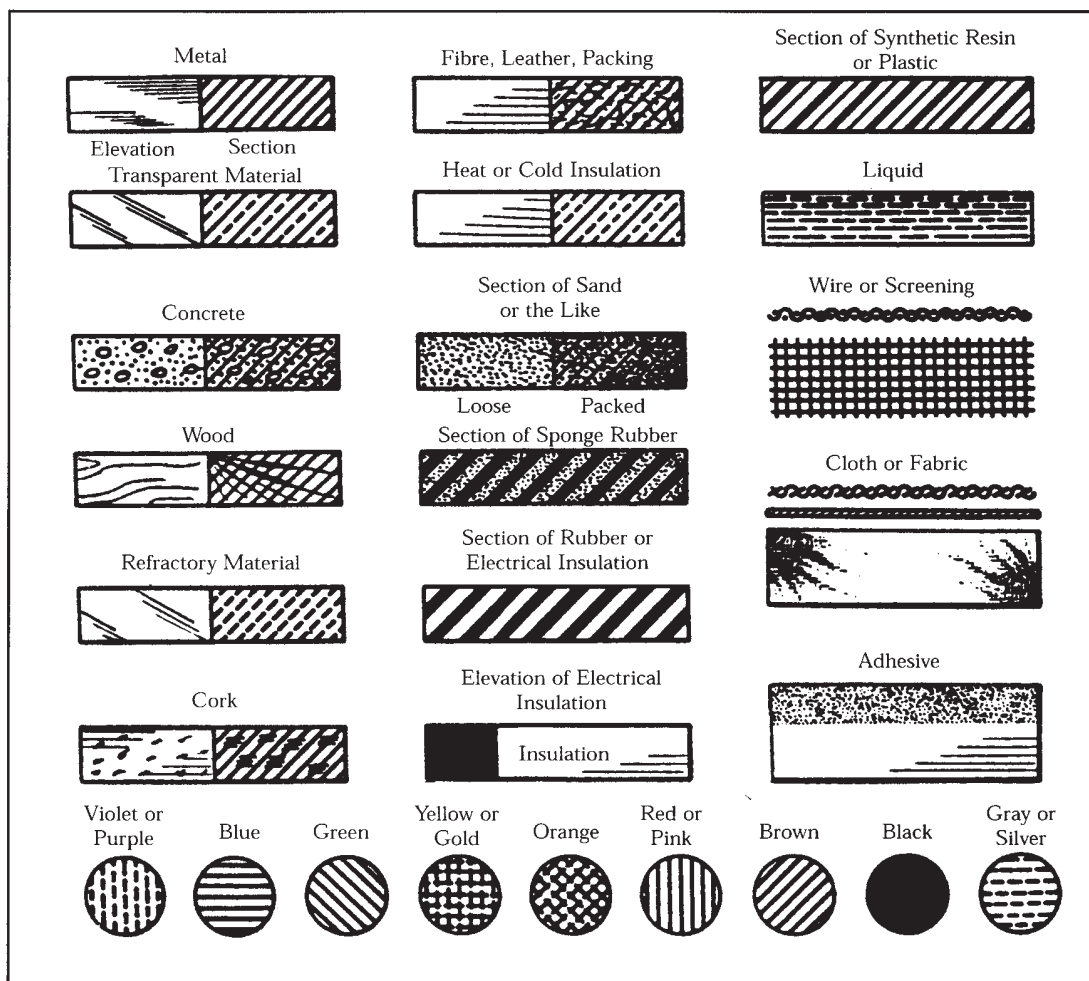


Figure 12 Symbols denoting materials, various properties and colours in design patent drawings, as given by USPTO (USPTO 2012, 18)

USPTO states that other standard or commonly used symbols other than those given above may be accepted by the office, so long as they provide a clear

understanding, adequate specification as filed and do not result in confusion with other symbols used in the drawings (USPTO 2012 under “Symbols of Draftsmen”).

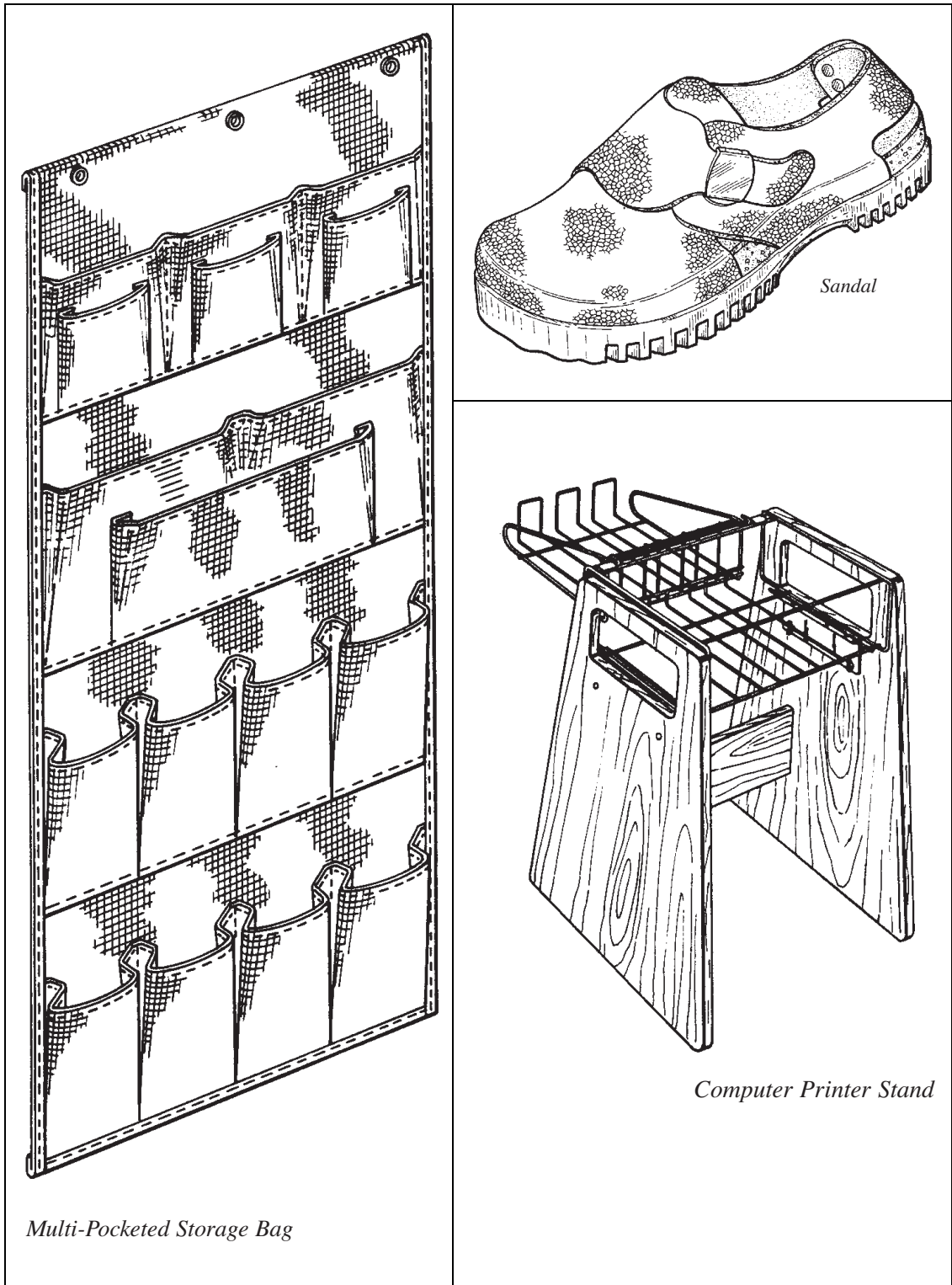


Figure 13 Representation of different materials on drawings (USPTO 2012, 17)

3.1.2 Photograph

WIPO indicates that the photographs submitted as visual representations must be to a professional standard (WIPO 2012c Section 404 (a); WIPO 2912 BII.05.07). The USPTO design patent system cites limitations on photographic representations, as it is not usually permitted to submit photographs for design patent applications (USPTO 2010 37 CFR § 1.84); if black and white photography is the only practicable medium for illustrating the claimed design, then it is permissible (USPTO 2010 37 CFR § 1.84). The examiner shall request a drawn illustration rather than a photograph if he or she considers the subject matter suitable for depiction by drawing (USPTO 2010 37 CFR § 1.84). Coloured photography will also be accepted by USPTO if it is the only practical medium for disclosing the design to be protected (USPTO 2010 37 CFR § 1.84).

IPO emphasizes that black and white photography will serve as well as coloured, unless the design protection does not cover a particular colour (Design Practice Notice (DPN) 1/04) (Please see section 3.2.3 Colour for details of colour as a part of the sought protection).

Photograph quality is mentioned by USPTO, stating that it must be of sufficient quality for all of the details in the photographs to be reproducible in the printed patent (USPTO 2010 37 CFR § 1.84) (See section 3.5 Format and quality for the physical quality and data format of the representations).

WIPO and IPO express clearly that the article should be photographed on a neutral, plain and clear background (WIPO 2912 BII.05.07; IPO 2012a under "Illustrations of your designs"). WIPO indicates that photographic representations may not be retouched with ink or correction fluid (WIPO 2012d BII.05.07).

IPO indicates that photographic representations should include no items other than the design itself (IPO 2012a under "Illustrations of your designs"); while USPTO also emphasizes that photographic images of designs should contain only the claimed design itself, and should not contain the environmental structure of the claimed design (USPTO 2011 under "The View"). The content of the photographic representations instead of drawings must not disclose the environmental structure (USPTO 2012 under "Drawings") (Please see section 2.7.2 Content of Visual Representation for the article and background details).

IPO expresses two other issues regarding photographic representations, which are:

- Avoiding confusing highlights, reflections and heavy shadows, and

- Preventing misleading distortion as a result of the camera being too close to the article (IPO Design Practice Notice (DPN) 1/04).

IPO indicates that tonal contrast is best shown using photographic representation (IPO Design Practice Notice (DPN) 1/04).

3.1.3 Specimen

Submitting a specimen of the design to the patent and trademark office is a way of allocating the application date should it not be possible to submit a visual representation of a two-dimensional design if deferment of publication is requested (TPI 2009 Article 9(f); 2011 Article 2.2, Article 2.2.3, Article 2.9); however specimens of designs do not fall within the scope of this study and so shall be disregarded.

3.2 Content of visual representation

Content of visual representation is explained within three main groups: Article, background and colour. IPO reveals that a common problem related to the content of representations at the application stage⁶ is the inability of the examiner to identify the design from the representations (IPO Design Practice Notice (DPN) 1/04). TPI says that the representation of the design must be explicit, clear, definite and complete, and must show clearly all of the special characteristics of the design and be suitable for publishing (TPI 2011 Article 2.2.2, 2.9.2). The representation of the design must not raise any doubts or misunderstandings about the design or product in which industrial design is incorporated, or how it is applied (TPI 2011 Article 2.2.2). This clarity of the representation of the design is also important for the granting or allocating of the application date (TPI 2011 Article 2.2.2). Similar to Turkey, USPTO indicates that representations must be clear and complete, with nothing regarding the design sought to be patented left to conjecture (USPTO 2012 under "Drawings").

3.2.1 Article

As mentioned previously, designs must be shown in complete isolation; however CIPO states that one of the views may show the environment and the design together in order to show the article in context, but it should comply with the following:

- the application must contain other views that show the article in isolation,

⁶ Application stage can also be named as filing stage.

- environment should be shown in stippled lines, indicating that they do not fall under the scope of protection,
- inclusion of the environment should help provide a better understanding of the features of the design and the finished article to which the design is applied,
- the drawings, the description and the title of the design must be in combination and indicate clearly the design features, and differentiate clearly between what is the finished article to which the design is applied and what is the environment for which protection is not sought (CIPO 2010a Article 6.5.1).

USPTO also states that photographs included with design patent applications must not include environmental structures and must be limited to the design for which protection is sought (USPTO 2010 37 CFR § 1.152).

In addition to the above mentioned environment inclusion in the representations, for three-dimensional designs, lines of the features which cannot be seen on that particular view of the article should not be displayed on the drawing representation (TPI 2011 Article 2.9.2).

3.2.2 Background

TPI, WIPO and OHIM mention that the design or the product into which the design is to be incorporated or applied should be visualized on a simple, plain and neutral background (TPI 2011 Article 2.9.2; WIPO 2012d BII.05.07; OHIM 2012 Article 4.4, Article 11.4) WIPO highlights that this neutral and plain background principle should also be implemented for representations executed by electronic means (WIPO 2012d BII.05.08). OHIM states that not having a neutral background is a formal deficiency, which may result in a refusal to grant an application date⁷ (OHIM 2007 CDIR Article 10(1)(c)). TPI adds that the background must be in contrasting colours to the design (TPI 2011 Article 2.9.2).

3.2.3 Colour

Concerning colour, IPO identifies two types of representations: Monochrome (black and white), and colour (IPO 2003 Design Practice Notices (DPN) 6/03).

⁷ Application date can also be named as filing date

Monochrome or black and white representations. Colour is mentioned specifically in the amended 1949 Registered Design Act⁸ in the United Kingdom, in which it is stated that it is important to decide whether or not colour is an element of the rights being claimed (IPO under “Design Practice Notice DPN 6/06). If the representation is monochrome, then it will be assumed that colour is not an element of that design, and if the representation is in colour, but the applicant is not seeking protection for colour, then indication under Registered Design Rules 6A may be applied (IPO under “Design Practice Notice DPN 6/06). Design registration requests for a single colour without being applied to a product is unlikely to be considered as “design” according to design law⁹ in UK law, however registering more than one colour might be possible (IPO under “Design Practice Notice DPN 6/06). IPO declares that if a single colour is being applied to a *known product*, the applicant will be requested to list the pantone number applicable to that colour (IPO under “Design Practice Notice DPN 6/06). In contrast, this may not be applied to typefaces and graphic symbols. IPO states “A single colour will not assist an ordinary typeface or typical graphic symbol to proceed to registration if it does not pass the examination of novelty and individual character” (IPO under “Design practice notice (DPN) 6/03). TPI indicates that the same design represented in a different colour shall be accepted as an additional view, not as an additional design (TPI Article 2.9.3).

If the design application filed in monochrome, then the examiner accepts that colour is not a part of the application (IPO 2003 Design Practice Notices (DPN) 6/03, DPN 06/06). IPO also indicates that statements about the design that are intended to cover different colour variations shall not add anything to the scope of protection (IPO 2003 Design Practice Notices (DPN) 6/03, 2006 DPN 6/06). If the applicant wishes to protect the shape of the design without limiting the protection to a particular colour, black and white drawings can be submitted (IPO 2012a under “Partial Disclaimer”).

Colour representations. OHIM emphasizes clearly that the Office accepts colour representations, adding that in the event of the representation being filed in colour, then the registration and the publication will also be in colour (OHIM 2012 Article 11.4). Only USPTO has limitations on the submission of coloured representations. According to design patent law, the reasons for submitting coloured drawings or photographs must be explained (USPTO 2012 under “Colour Drawings and Colour Photographs”).

⁸ 1949 Registered Designs Act as amended Section 1(1)

⁹ 1949 Registered Designs Act as amended Section 1(2)

If the application is filed in colour but it is not the intention of the applicant to include colour as a design feature to be protected, an indication may be used under Rule 17A, stating that colour does not form any part of the design (IPO 2003 Design Practice Notices (DPN) 6/03, 2006 DPN 6/06). For this reason, it is important at the time of making an application to decide whether or not colour is an element of the rights being claimed (IPO 2006 Design Practice Notices (DPN) 6/06). Disclaimers regarding the colours of the design must also be added for design patents in the United States of America. USPTO says that if colour photographs are submitted as representations and the colour is not a part of the design, a disclaimer should be added, i.e. "the colour shown on the claimed design forms no part thereof". In the absence of such disclaimer, colours shall be accepted as an integral part of the disclosed and claimed design (USPTO 2012 under "Black and white photographs"). Such disclaimers can only be used for coloured photographs as informal drawings; while other kinds of disclaimer in formal drawings must be limited to the design claimed (USPTO 2012 under "Black and white photographs") (Please see also section 3.4 Partial Disclaimer).

3.3 Views of design

Assessments of novelty and individual character are conducted through an analysis of the features shown in the representations of the design. TPI states that the features of the design, which are not clearly recognizable from the views, shall not be taken into consideration while assessing novelty and individual character (TPI 2011 Article 4.2.4).

TPI defines additional representations or additional views as views taken from different angles of the same design (TPI 2011 Article 2.9.3). TPI indicates that the additional views of the design must be as clear as the others, and adds that the views must reflect all aspects of the design in order to allow a clearer understanding of the design (TPI 2011 Article 2.9.3) IPO suggests that if the design is three-dimensional, then visual representations must consist of a series of views from different angles in order to show the overall appearance of the product to which the design is applied (IPO 2012a under "Illustrations of your designs"), and adds there should be sufficient different views to avoid any doubt of exactly what it is the applicant wants to register (IPO 2012a under "The Views").

WIPO indicates that if the applicant wishes to obtain a maximum protection through the registration, then the design should be fully represented, and adds that it is important to represent the design from several different angles to ensure the

design is fully represented, as only the visible aspects in the representation shall be protected by the registration (WIPO 2012d BII.22.05.10).

TPI and OHIM mention the importance of the unity of additional views. TPI explains that the examiner may ensure that the views belong to the same design at first sight, and adds that the additional views should not disturb the unity of the design (TPI 2011 Article 2.9.3). OHIM states that all views of a design must be of the same design for which protection is being requested; and representations and additional views of the design must be limited to the features of that design for which protection is sought (OHIM 2012 Article 11.4). OHIM also rules that the examiner shall ensure that all the views belong to same design as prima facie (OHIM 2012 Article 11.4).

OHIM warns applicants that once the application has been filed to the Office, the submission of additional views will be prohibited (OHIM 2012 Article 11.4).

TPI, WIPO and OHIM indicate that views of the design must be submitted separately. TPI expresses that more than one view of the design taken from different angles within one representation shall not be accepted, even if the views are clear and explicit (TPI 2011 Article 2.9.2). WIPO states that views of the design from different angles must be submitted in different photographs or in other graphic representations (WIPO 2012b Article 9(1)(a)), while OHIM states that any graphic or photographic representation must contain only one view (OHIM 2007 Article 4(2)).

About the descriptions of the additional views, as explained by TPI, it may be sufficient to describe from which angle the article is disclosed (TPI 2011 Article 2.7).

All the views must be designated properly, such as perspective view, front view, side view, etc., (IPO 2004) and all should be grouped together, avoiding wasted space (USPTO 2010 37 CFR § 1.84).

3.3.1 Dimensions of views

In the implementing regulations in Turkey, the dimensions of representations are indicated as minimum 8 cm x 8 cm and maximum 16 cm x 16 cm (TPI Article 9/1(a)). WIPO indicates that the representation of an international design cannot exceed 16 x 16 cm, and minimum 3 cm for one of those dimensions (WIPO 2012 Administrative Instructions Section 402 (a) and WIPO 2012D BII.22.05.13). It can be understood that a representation of an international design application must have minimum dimensions of 3 cm x 3 cm and maximum of 16 x 16 cm.

OHIM states that representations of the design should be no larger than 26.2 cm x 17 cm, and that a margin of at least 2.5 cm should be left on the left hand side of the representation sheet (OHIM 2007 Article 4(1)(c)). WIPO expresses that the representations of designs must fall within a right-angled quadrilateral, which means both squares and rectangles (WIPO 2012 Section 401(e) and WIPO 2012D BII.22.05.03). An adds that they should not contain any other representation or part of another representation or numbering and WIPO 2012D BII.22.05.03) with a margin of 5 mm around the representation (WIPO 2012 Section 401(e); WIPO 2012D BII.22.05.02; BII.22.05.03).

3.3.2 Types of views

Only CIPO differentiates between types of views, listing *conventional* views and *non-conventional* views (CIPO 2010b, 9). Other legal texts and guidelines made no such differentiation; however they did mention various types of views for special kinds of designs, such as repetitive surface patterns, typographic typeface designs or designs having multiple components, which are explained separately from the conventional and non-conventional views.

3.3.2.1 Conventional Views

Conventional views comprise perspective, front, back, top, bottom, right and left side (CIPO 2010b, 9). KIPO also cites that the representations may contain a perspective view, a front view, a rear view, a right side view, a left side view, a top view and a bottom view (KIPO 2012a under “Application Procedure for Designs”).

IPO, CIPO and USPTO recommend perspective view, with CIPO stating that this type of view discloses all three dimensions (CIPO 2010a Article 6.5.1). IPO indicates that a perspective view is the best option for showing the product from different angles, and can reveal important details of the design that cannot be displayed in a single view (IPO 2012a under “Views of the design”). USPTO suggests a perspective view for three-dimensional designs as well, and adds that if all the surfaces are clearly understood and fully disclosed in a perspective view, then those surfaces shown would not normally be required to be illustrated in other views (USPTO 2011 under “The Views”).

Concerning conventional views, KIPO expresses that if the article is flat in shape, then only the top and rear views need to be indicated (KIPO 2012a under “Application Procedure for Designs”). If the bottom side is flat or unornamented, this may be cited in the description according to US Design Patent Law (USPTO 2011 under “The View”). If two sides of the article are identical, a statement

indicating as such is sufficient in UK design law (IPO 2012a under “Labelling the views”). USPTO also indicates that if both sides of the design are identical or a mirror image, then one view should be provided with a statement in the description that the other side is identical or a mirror image (USPTO 2011 under “The View”).

3.3.2.2 Non-conventional views

Non-conventional views show features that cannot be seen in conventional views, such as views showing open and closed positions, cross-sectional views, fragmentary views and those showing indefinite length and repetitive patterns (CIPO 2010b, 9).

Sectional, cross-sectional or cut-through view. CIPO, IPO, USPTO and KIPO explain why sectional, cross-sectional or cut-through views can be used for visualizing the design to be protected. According to IPO, cross-sectional or cut-through views are essential to show the features of the design properly, and must *not* show internal features that are not normally seen in the finished product (IPO 2012a under “Illustrations of our designs”). IPO expresses that “sectional views should be used if it is absolutely necessary to demonstrate an aspect of an external shape which would not otherwise be clear in two-dimensional drawings or photographs” (IPO under Design Practice Notices (DPN) 1/04). CIPO also indicates that cross-sectional views can be used in order to better show the *exterior* features of the design (CIPO 2010a Article 6.5.2); the features shown in the cross-sectional view should be visible when the article is in use (CIPO 2010b, 20). USPTO indicates that cross-sectional views may be used to clarify the disclosure of the design and minimize the number of views (USPTO 2012 under “Drawing Examples”). USPTO expresses that sectional views which are clearly brings out the elements of the design are permissible as representations, however the sectional views must not show functional features or any interior structure that does not form part of the claimed design (USPTO 20102 under “The views”) (See also section 3.6 Unaccepted visual representations). KIPO exemplifies a sectional view within “other views” that can be used if deemed necessary or useful in describing the design (KIPO 2011 under “Application Procedure for Designs”).

Means of illustrating sectional views are explained by IPO, USPTO and CIPO. IPO mentions two issues that must clearly be shown within the representations of the design if a sectional view is submitted as an additional view. Firstly, where the section is taken on the article must be shown; and secondly, the direction from which it is being viewed must be clear: “The line should be indicated on one of the other views to show the line of the cut, and this line should be suitably labelled.”

IPO states that this cut should be marked as “X-X,” or any pair of letters or numerals, on an additional view accompanying the sectional view. The direction from which the article is being viewed can be best shown by arrows at the end of the cut line (IPO under Design Practice Notices (DPN) 1/04). USPTO indicates, “the plane upon which the sectional view is taken should be indicated on the view from which the section is cut by a broken line” (USPTO 2011 37 CFR § 1.84). CIPO underlines that the cross-section must be marked on one of the conventional views using arrows and letters (CIPO 2010a Article 6.5.2). From this it can be understood that the section must be indicated by a line or a broken line on one of the conventional views. The legislation in Turkey does not specify a labelling and marking technique for sectional views.

CIPO states “the cut surface of the article may be shown either as solid black or as alternating black and white diagonal lines” (CIPO 2010a Article 6.5.2). See the given example from the CIPO Office Practices Annex B for cross-sectional views in the Figure 14.

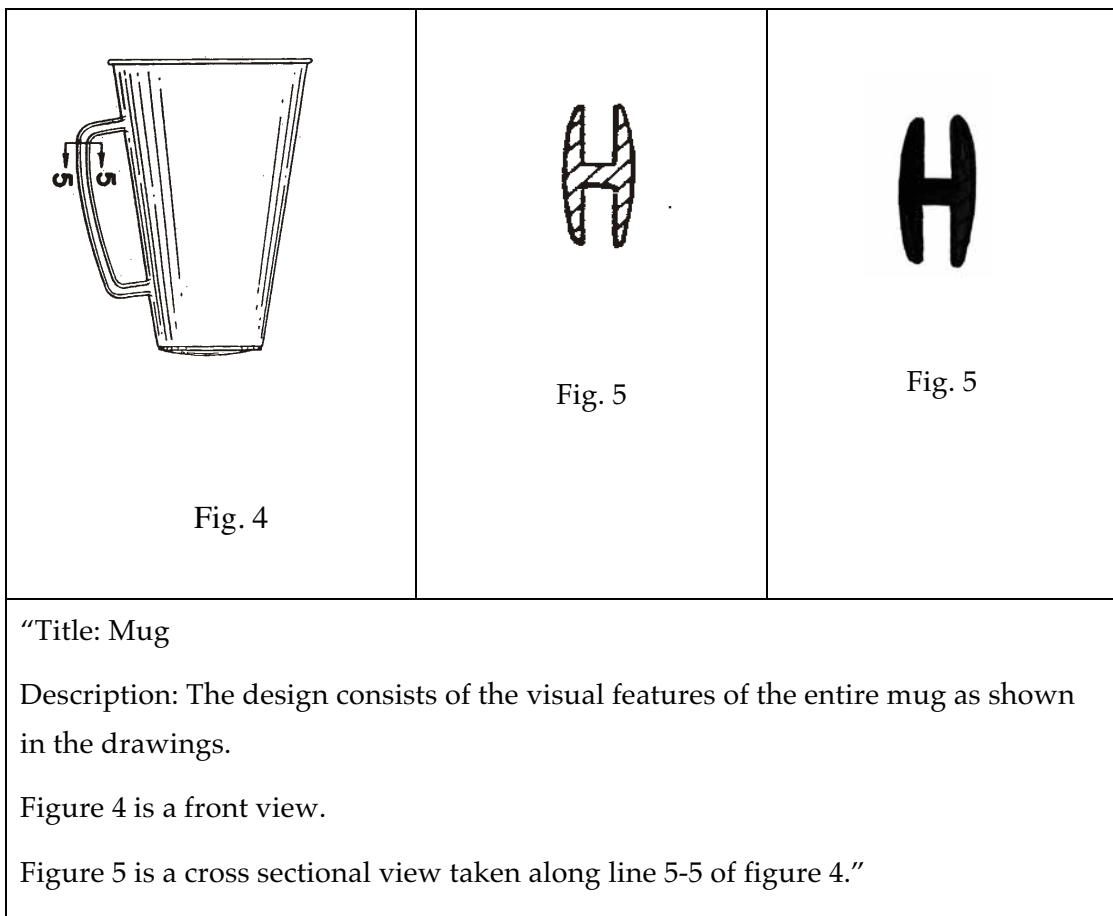


Figure 14 Cross-sectional view samples as given by CIPO (CIPO 2010b, 20)

USPTO suggests hatching methods to indicate section portions of an article (USPTO 2011 37 CFR § 1.84) USPTO emphasizes that “the cross-section must be set out and drawn to show all the materials as they are shown in the view from which the cross-section was taken” (USPTO 2011 37 CFR § 1.84). USPTO indicates that the parts within the cross-sectional view must show proper materials through hatching (see Figure 12) (USPTO 2011 37 CFR § 1.84). The hatching for the section portions of an object should be made with regularly spaced oblique parallel lines with a substantial angle to the surrounding axes or principle lines, preferably at 45 degrees and spaced sufficiently apart to enable the lines of the design to be distinguished without difficulty (USPTO 2011 37 CFR § 1.84). Since specific hatching methods are suggested to differentiate materials in the cross-sectional view, the same materials should be hatched in the same manner, and should accurately and graphically indicate the nature of that material(s) (USPTO 2011 37 CFR § 1.84). Different elements must be hatched at different angles, as different types of hatching should have different conventional meanings in the cross-section (USPTO 2011 37 CFR § 1.84).

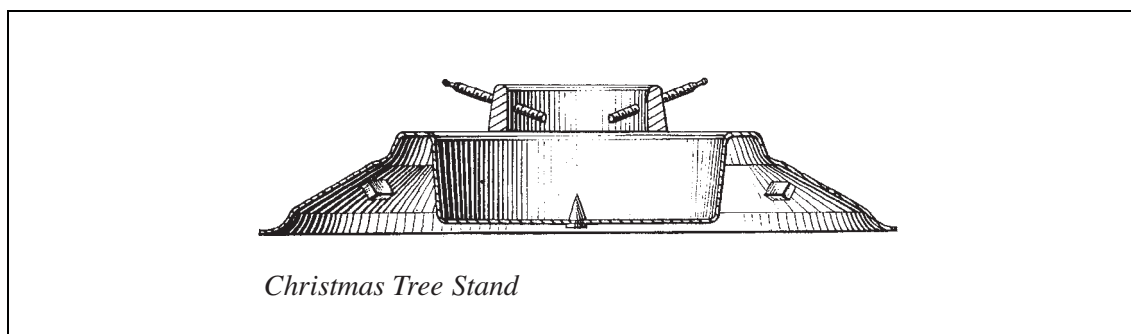


Figure 15 Cross-sectional view sample as given by USPTO (USPTO 2012, 16)

In cases where large areas are to be hatched, USPTO suggests that hatching may be confined to an edging drawn around the entire inside of the outline of the area to be hatched (USPTO 2011 37 CFR § 1.84).

Showing the design in use. In some cases the features of the design for which protection is sought may require it to be shown in practical use. TPI points out that images reflecting the utilizing features of the design are accepted as extra views for designs that become clear and meaningful in practical use (TPI 2011 Article 2.9.3).

According to CIPO, representations of open and closed positions or extended and retracted positions of the design may help reveal the design features of the article when in use in those positions (CIPO 2010a Article 6.5.2; 2010b 13). CIPO recommends that the figure reference should indicate the different positions (CIPO 2010b, 10).

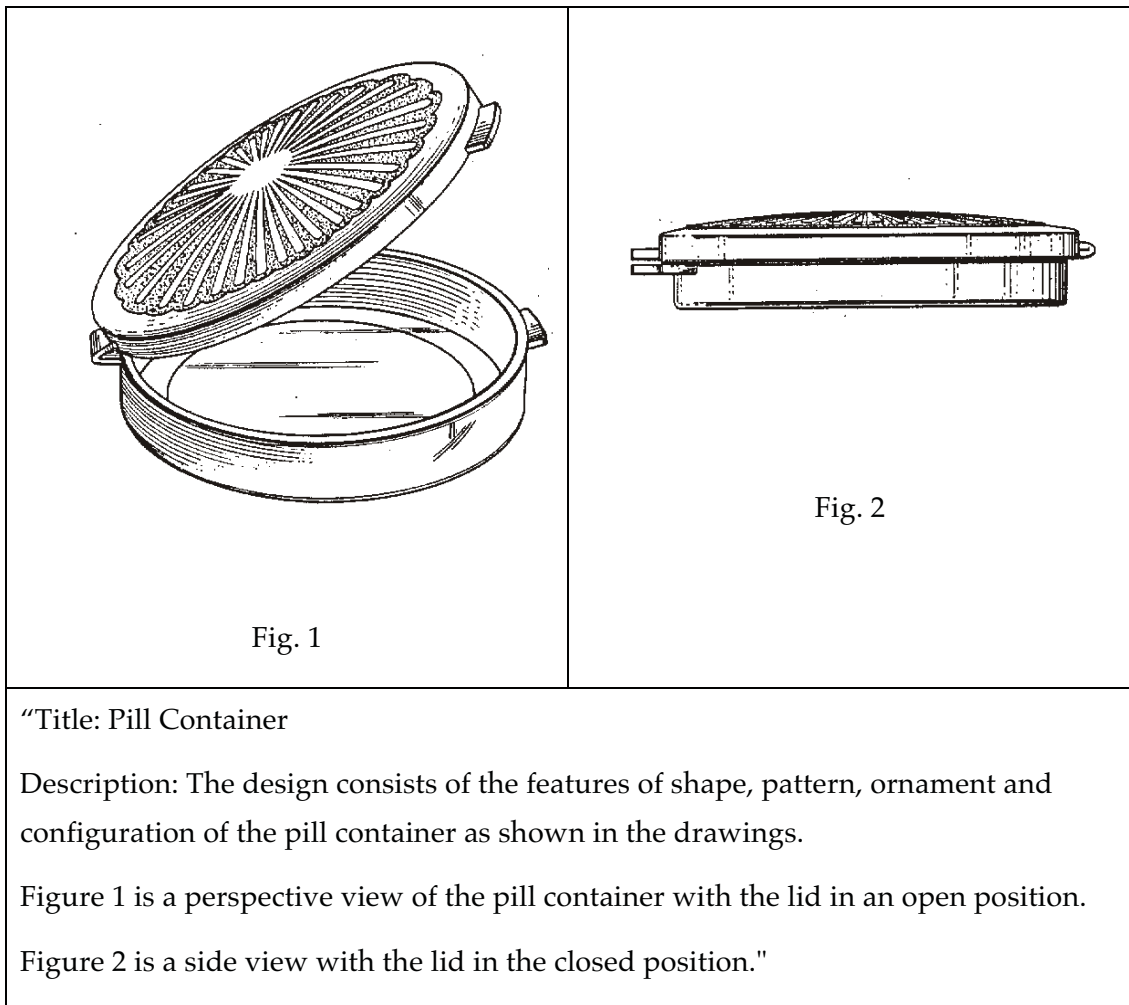


Figure 16 Open and closed positional view sample (CIPO 2010b, 10)

IPO states “an article with moveable parts needs to be shown in a sequence of views from the same angle in order to reveal the appearance of the product in different phases of its operation or cycle” (IPO under “Design Practice Notices (DPN) 1/04). IPO also indicates how such kinds of views can be described within the description with additional wording. For example “perspective view” may become “perspective view in first alternative position” and “perspective view in a second alternative

position,” and so on (IPO under Design Practice Notices (DPN) 1/04). USPTO expresses that illustrating alternating positions of a design component using full and broken lines in same view is not permitted (USPTO 2011 under “Drawing Examples”). USPTO refers to alternative positions likewise, and insists they be shown in separate views (USPTO 2012 under "Drawing Examples”).

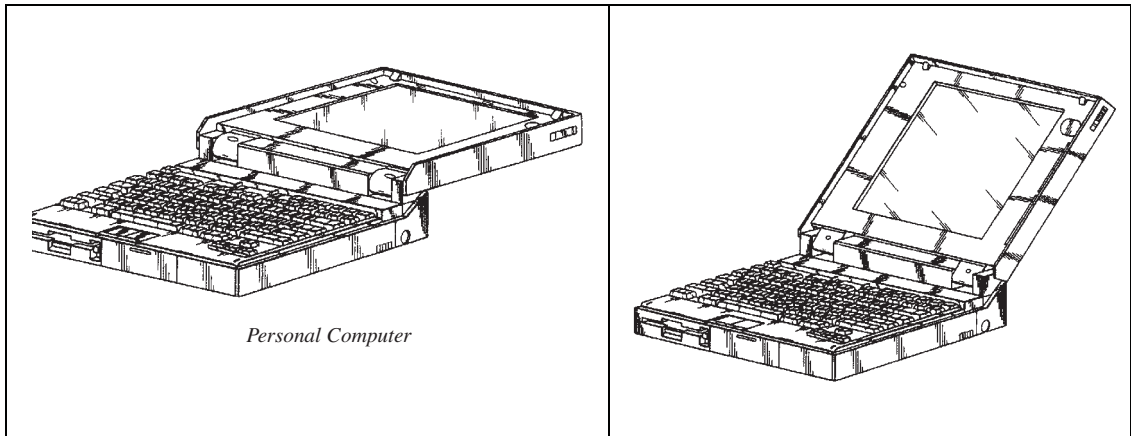


Figure 17 Alternative positional view sample (USPTO 2012, 16)

Views of the article in extended and retracted positions are given in Figure 18, taken from the CIPO Office Practices Annex B, which states that such views are acceptable when the article is normally seen and used in those positions (CIPO 2010b, 13).

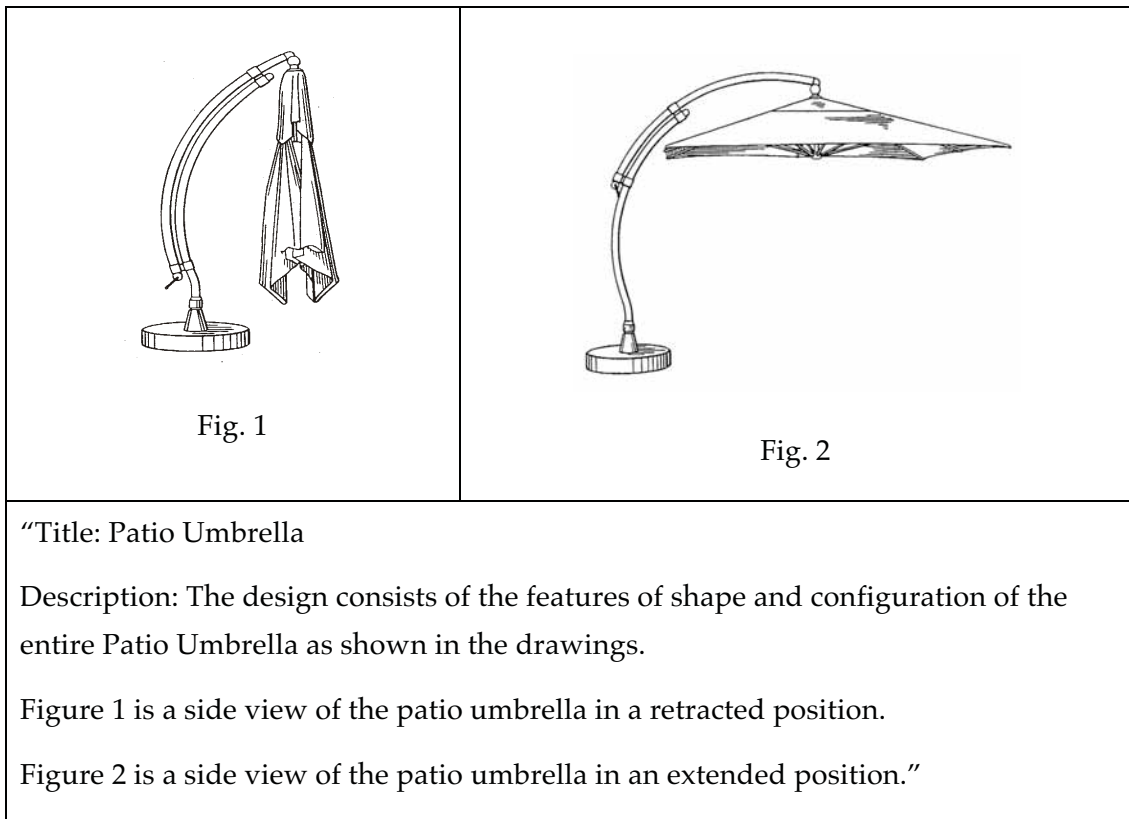


Figure 18 Extended and retracted positional view sample (CIPO 2010b, 13)

CIPO also mentions flexible flat articles such as clothing and cushions, the appearance of which may differ when laid flat or in use, and these should also be shown clearly and accurately (CIPO 2010a Article 6.5.1). CIPO gives an example for flexible articles within its Office Practices, which is given in Figure 19.

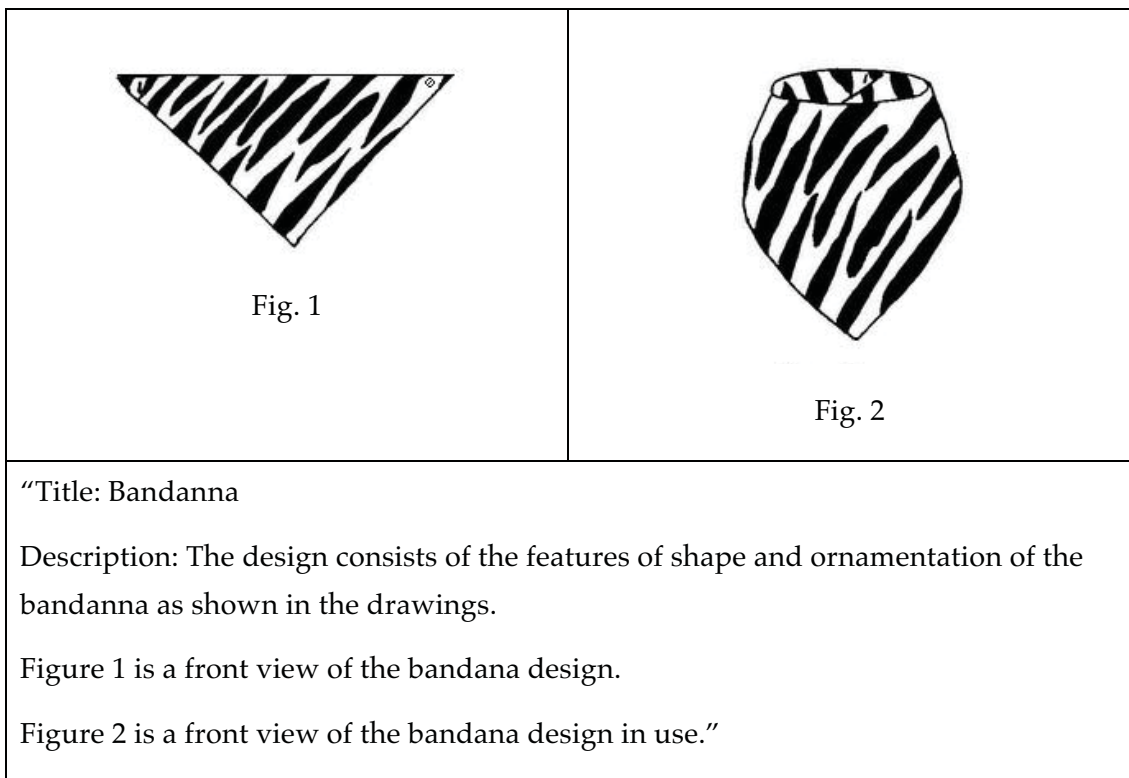


Figure 19 Positional view sample of a flexible article (CIPO 2012b, 11)

Detailed, fragmentary or partial view. A detailed view of the design, used to display parts of a design in detail, allowing an understanding of the details for which protection is sought, is considered an additional representation under Decree Law (TPI 2011 Article 2.9.3). TPI explains that the purpose of a detailed view is to focus and enlarge in order to display a part of a concerned design in detail (TPI 2011 Article 2.9.3). The submission of detailed views of portions of the design on an enlarged scale is also permitted by OHIM (OHIM 2012 Article 11.4).

Fragmentary views may be considered as detailed views, according to CIPO, which defines a fragmentary view as a portion of the design shown in a larger scale in order to better display small details of the design (CIPO 2010b, 19). The means of illustrating fragmentary view is explained by CIPO accordingly:

- marking with a circle on a conventional view the portion shown in the fragmentary view and numbering it with the same figure number as the figure showing the fragment view, or
- using an arrow near to a conventional view pointing to the area shown in the fragmentary view (CIPO 2010a Article 6.5.2).

An example of this from the CIPO Practice notes is given in Figure 20. Turkish design system does not allow indications or text on representations as arrows or letters (TPI 2011 2.9.2).

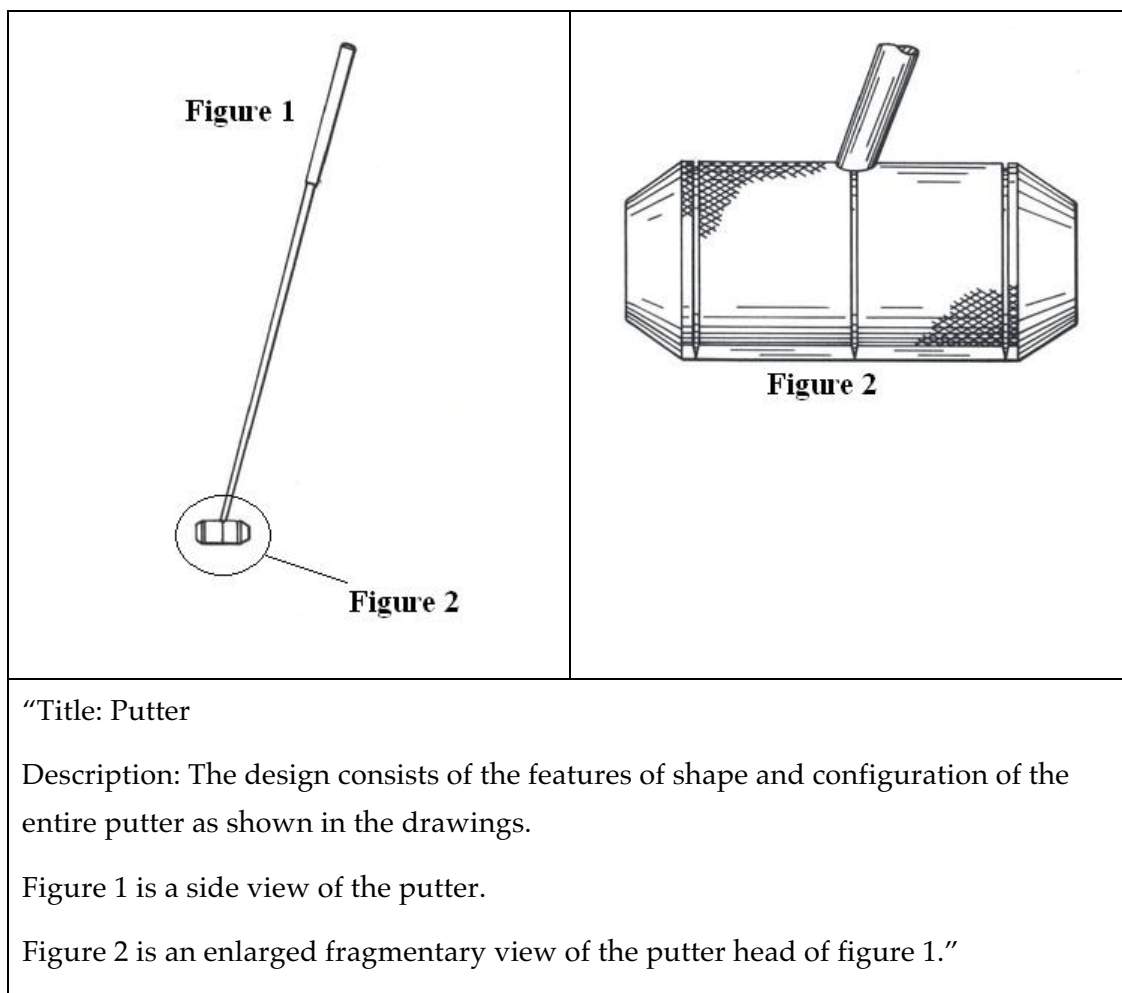


Figure 20 Enlarged fragmentary view sample (CIPO 2010b, 19)

USPTO explains the enlarged view, being the portion of the article used for the purpose of magnification within a partial view, in Article 37 CFR, and indicates that the smaller scale of the whole design view and the enlarged view must be labelled as separate views (USPTO 2010 37 CFR § 1.84). Therefore, it is recommended to show the whole design in one view and any details in a separate enlarged view. Smaller-scale views should be included in order to show the whole formed by the partial views, and should indicate the positions of the parts that are shown (USPTO 2010 37 CFR § 1.84).

Both the enlarged view and the partial view can be considered as detailed views, in that both views represent a portion of the design in detail. USPTO adds that partial views can be drawn on separate sheets, or a very long view may be divided into several parts, however they must be capable of being linked, and the relationship between the parts must be clear and unambiguous (USPTO 37 CFR § 1.84).

If individual protection is to be sought for a detailed image, it must be submitted as an additional design, not as an additional view. The examiner shall ask the applicant or his representative to provide a statement indicating whether further registrations related to the case are being requested or not, and will accept the detailed view as an additional view or design according to this statement (TPI 2011 Article 2.9.3).

Incomplete images of puzzles. Only TPI mentions incomplete images of puzzles; representations along with the completed images are accepted as extra views of the design (TPI 2011 Article 2.9.3).

Plan and elevation views. OHIM, CIPO and USPTO accept elevation views. CIPO and USPTO indicate that two-dimensional, plan and elevation views are acceptable (CIPO 2010a Article 6.5.2 and USPTO 37 CFR § 1.84), while OHIM and USPTO express that views of the design may be plans or elevations (OHIM 2012 Article 11.4).

Extended and exploded view. CIPO mentions *extended views* for multi-component articles that must be fully assembled (CIPO 2010b, 12). An extended view may be included in order to indicate that the article is seen and used in that state (CIPO 2010b, 12). The example given by CIPO in the Office Practice Notes is shown in Figure 21.

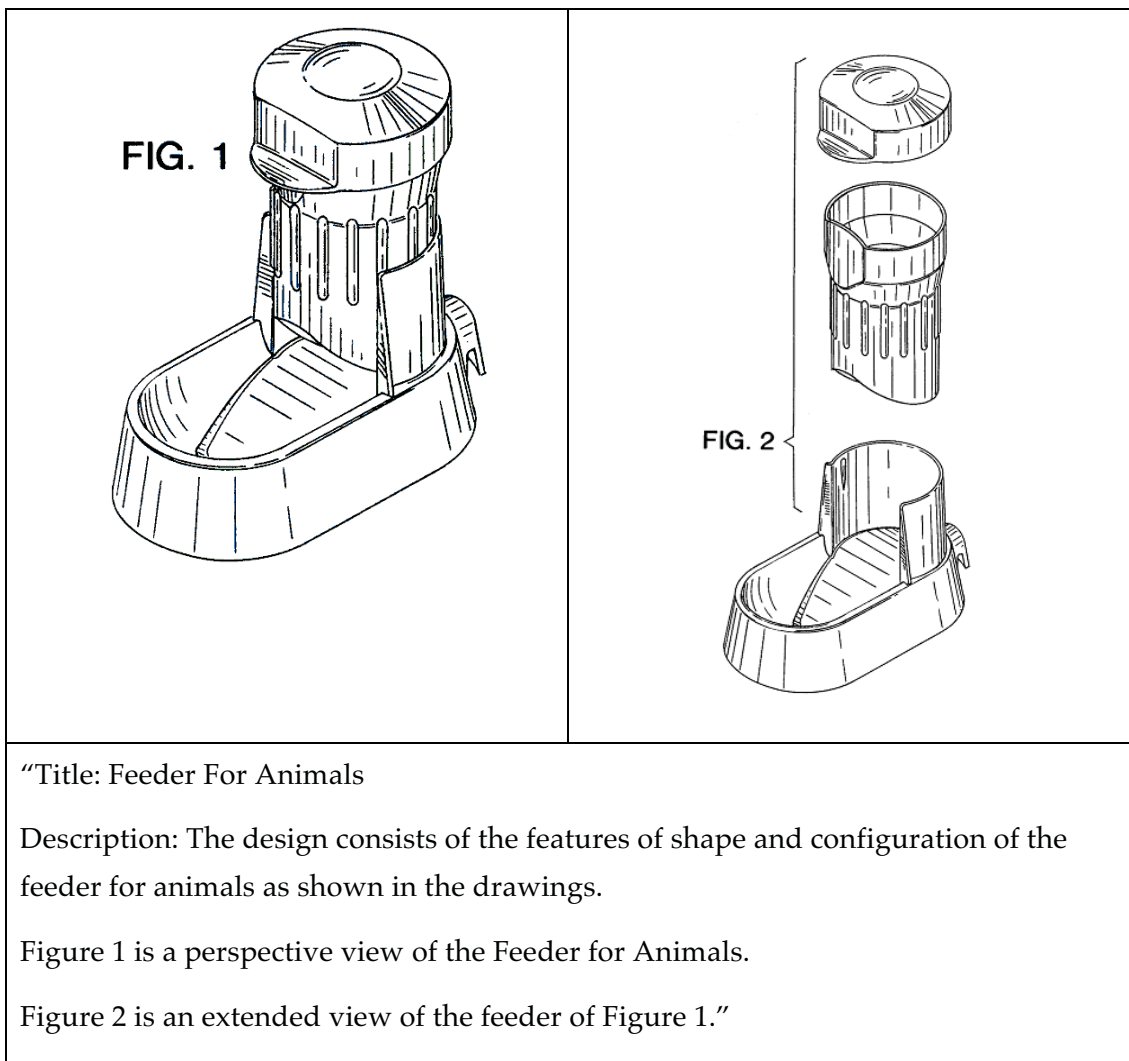


Figure 21 Extended view sample (CIPO 2010b, 12)

USPTO indicates that exploded views are permitted according to US Design Patent Law, but only if they are supplementary to a fully assembled view, and may employ a bracket to show the association of elements (USPTO 2011 under “Drawing Examples”).

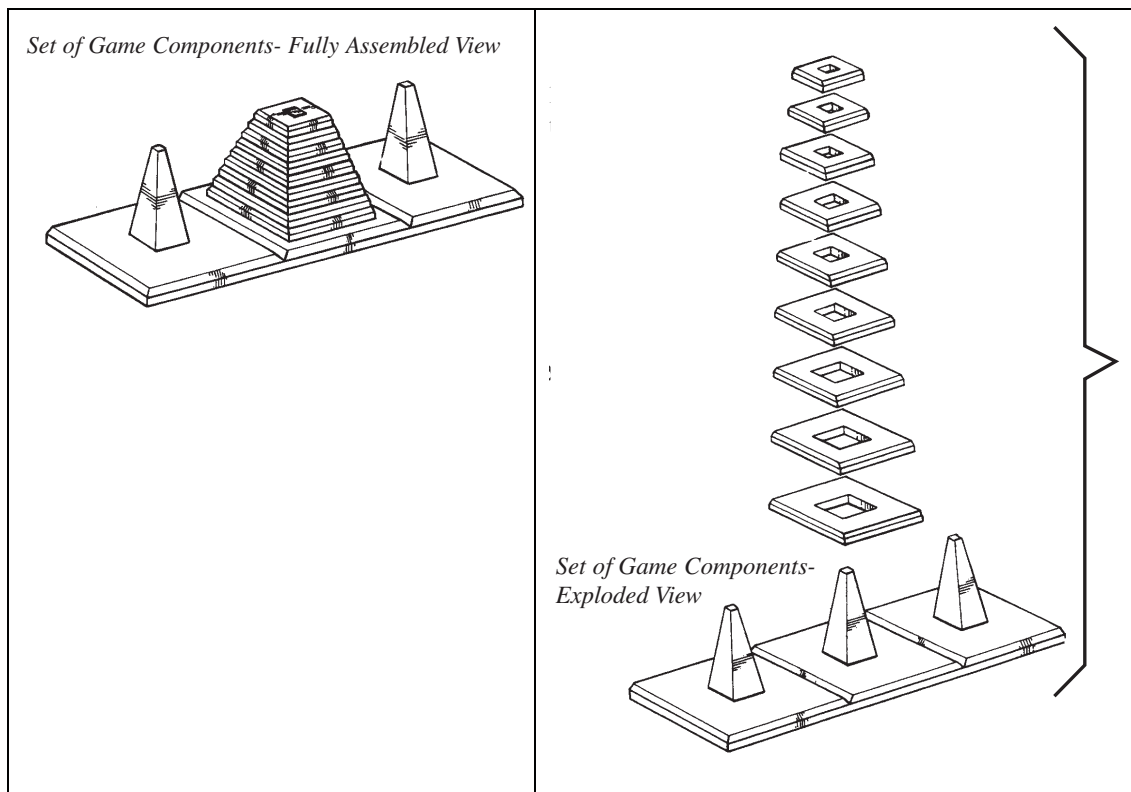


Figure 22 Exploded view sample (USPTO 2012, 12)

Modified forms of construction. Only USPTO expresses modified forms of construction, which must be illustrated in a separate view (USPTO 2010 37 CFR § 1.84).

3.3.2.3 Repeating surface patterns

TPI explains that patterns and ornamentation are used for the purpose of decoration, and can be applied to the surface of various types of products without affecting their three-dimensional forms or lines (TPI 2011 Article 2.5)

OHIM, IPO and UK state common criteria for representations of pattern designs. OHIM emphasises that a representation must include the complete pattern and a sufficient portion of the repeating surface (OHIM 2007 CDIR Article 4(3); 2012 Article 11.5). Likewise, IPO also indicates that the representation of the design must show the complete pattern, adding that it should be surrounded with enough of the repeated portion in order to show how pattern repeats, thus illustrating the entire pattern (IPO 2006b Rule 4/7; 2012 under “Illustrations of your Designs”).

TPI states that a pattern applied to a product may be accepted as an additional visual representation, and should be numbered as an additional view (TPI 2011

Article 2.6; 2.9.3). In addition, since patterns and ornamentations are considered within one class, even if the class of the product in which the design incorporated is different, the protection of the pattern or ornamentation covers all classes (TPI 2011 Article 2.6). IPO indicates that where the surface pattern is embodied within an article, the article must be shown in broken lines (USPTO 2012 under “Broken Lines”). The description of the additional representation, which includes the design applied to the product, must have the indication of “the pattern as being applied to the product” (TPI 2011 Article 2.9.3). CIPO indicates that if the design has repeating pattern on its surface, or repeating three-dimensional features, the depiction must indicate that such features repeat consistently and at regular intervals along the length of the portion (CIPO 2010a Article 6.5.2).

3.3.2.4 Articles with indefinite length and width

CIPO addresses the subject of articles with indefinite length and width in detail, and indicates two types: Articles, which have indefinite length and/or width, and articles, which have variable length on a portion of the article.

Articles with indefinite length and/or width. CIPO states that the broken lines are necessary to illustrate articles with indefinite length and/or width, being used to show the break in the article and the non-design portions of the submitted design (CIPO 2010a Article 6.5.2). CIPO also indicates that break lines may be shown with double sinusoidal lines, a sharp jagged line or a pair of angled straight parallel lines broken occasionally by a zig-zag line (CIPO 2010a Article 6.5.2). CIPO adds that the description should indicate that an indefinite length and/or width are depicted in the representation (CIPO 2010a Article 6.5.2). There is no reference in the legislation in Turkey to the specific use of lines for indicating indefinite length and/or width.

CIPO mentions four types of article to indicate indefinite length and/or width as follows:

- Articles with indefinite length with a constant cross-section, such as extrusions for mouldings, where you cut the article, the cross-section is identical and no surface pattern or three-dimensional features (CIPO 2010a Article 6.5.2).

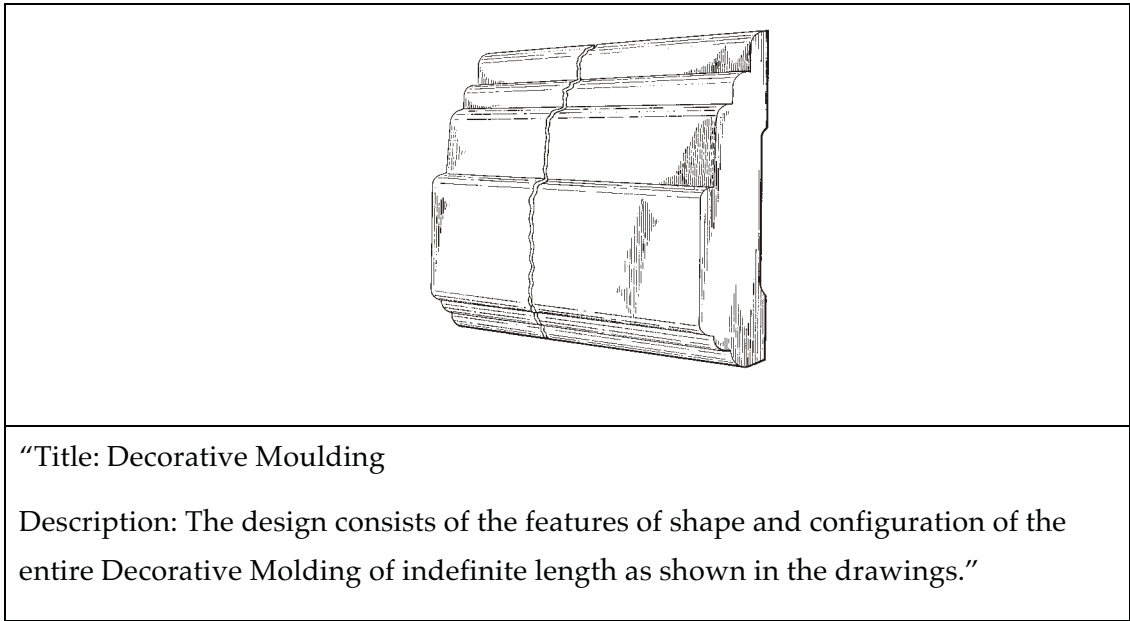
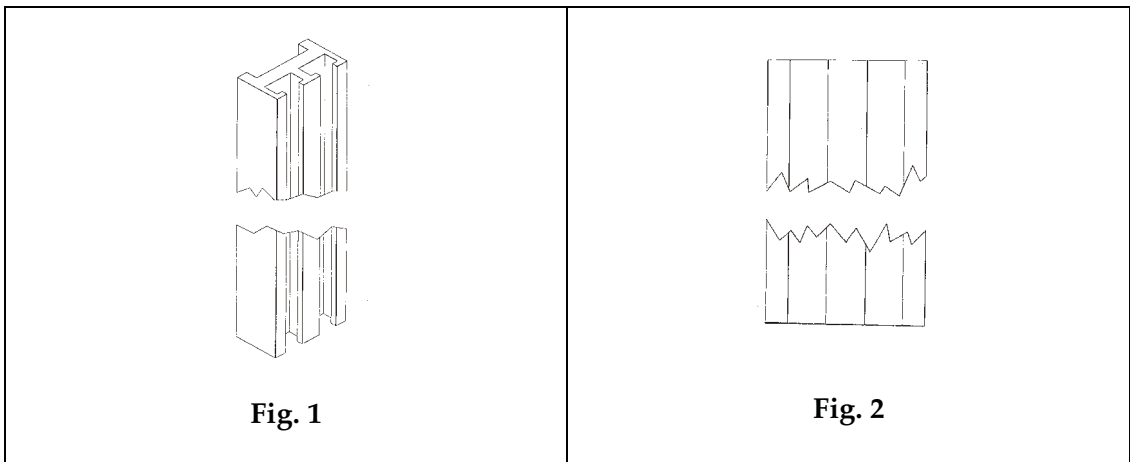


Figure 23 Sample showing an article with indefinite length of a constant cross-section (CIPO 2010b, 14). Indefinite length is indicated by sinusoidal lines.



“Title: Extrusion
 Description: The design consists of the features of shape and configuration of the entire Extrusion of indefinite length as shown in the drawings.
 Figure 1 is a perspective view.
 Figure 2 is a front view.”

Figure 24 Sample showing an article with indefinite length of a constant cross-section (CIPO 2010b, 15). Indefinite length is indicated by sharp jagged lines.

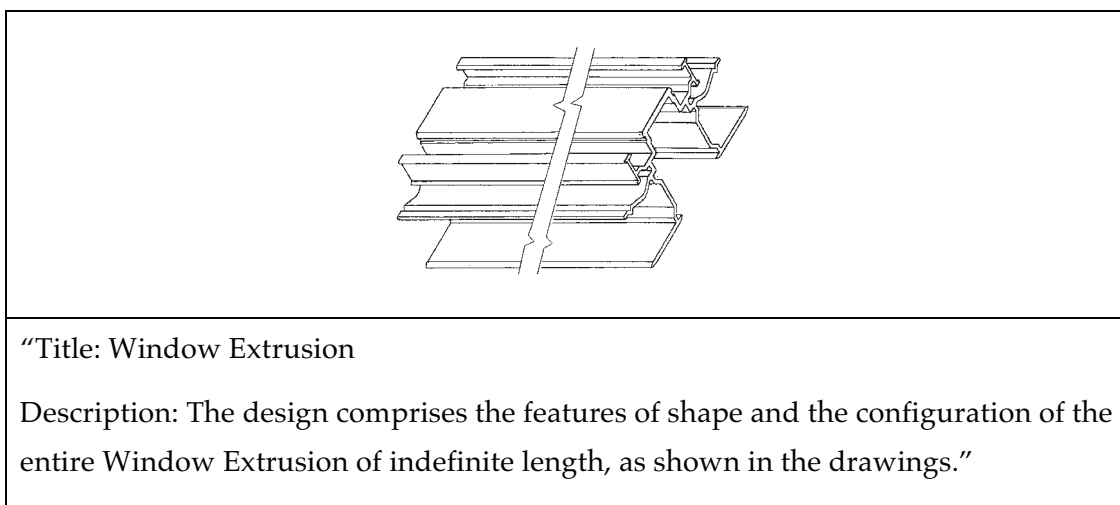


Figure 25 Sample showing an article with indefinite length of a constant cross-section (CIPO 2010b, 15). Indefinite length is indicated by parallel lines broken by a zig-zag line.

- Articles of indefinite length with a repeating surface pattern, such as ribbon, where the repeating pattern is located on the surface of the article, (CIPO 2010a Article 6.5.2).

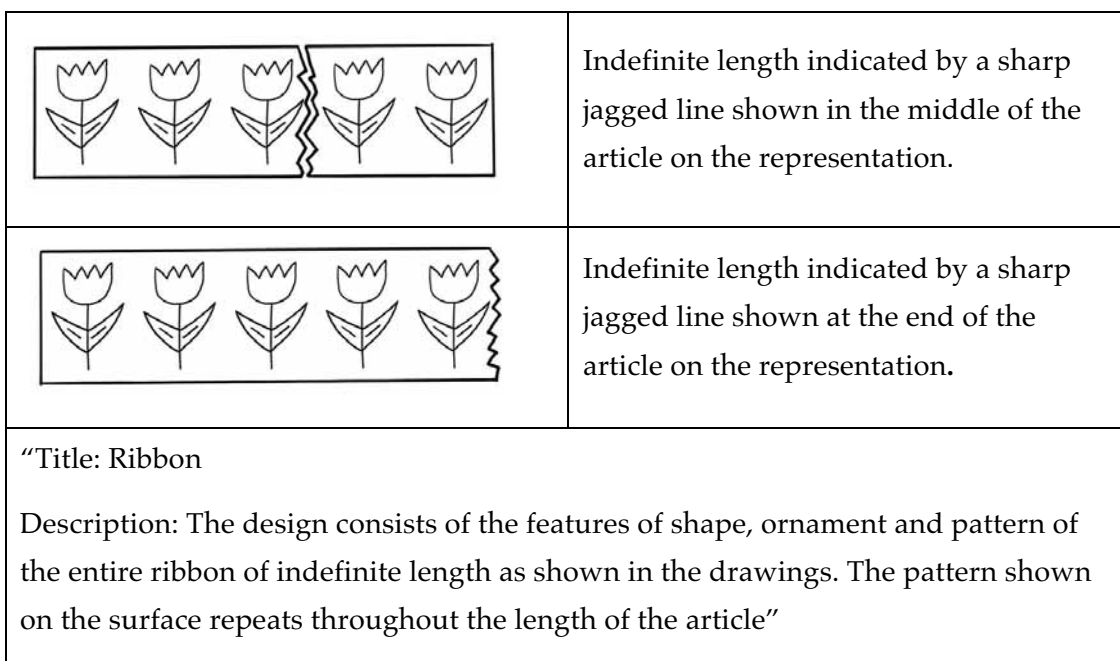


Figure 26 Two different ways of showing indefinite length of a surface pattern design (CIPO 2010b, 16). Indefinite length is indicated by sharp jagged line.

- Articles of indefinite length and width with a repeating surface pattern, such as fabric with a repeating pattern, where both the indefinite length and width may be shown with stippled line around the pattern to be repeated (CIPO 2010a Article 6.5.2).

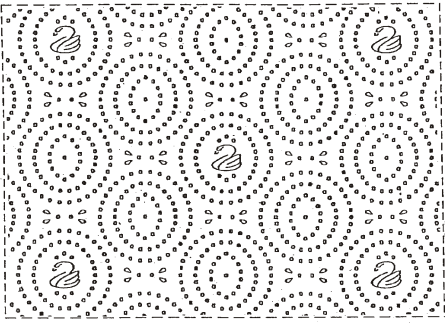
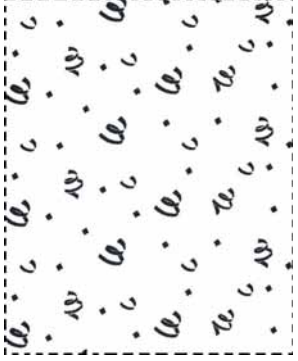
	
<p>“Title: Paper Towel</p> <p>Description: The design comprises the features of a Paper Towel of indefinite length and width, as shown in solid lines in the drawings. The pattern shown on the surface repeats throughout the length and width of the article.”</p>	<p>“Title: Fabric</p> <p>Description: The design comprises the features of a Fabric of indefinite length and width, as shown in solid lines in the drawings. The pattern shown on the surface repeats throughout the length and width of the article.”</p>

Figure 27 Two different ways of showing indefinite length and width of a repeating surface pattern design (CIPO 2010b, 18). Indefinite length and width is indicated by stippled line

- Articles of indefinite length with repeating three-dimensional features, such as a drainage track with repeating apertures, where the cross-section is *not* constant, yet the three dimensional features are repeated at regular intervals along the article’s length (CIPO 2010a Article 6.5.2).

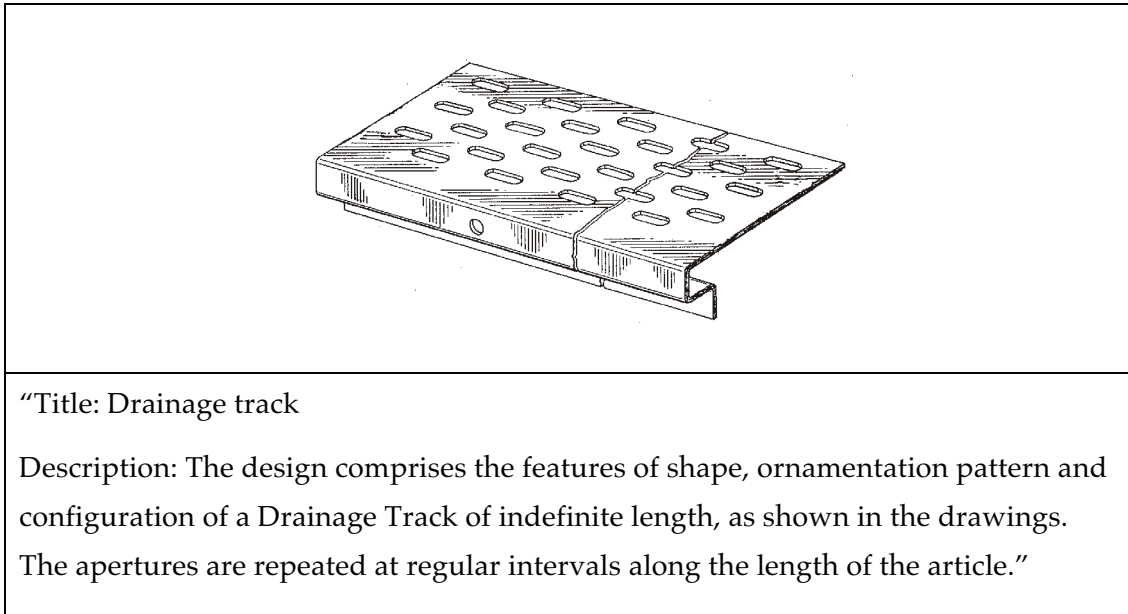


Figure 28 Sample showing an article with indefinite length of a repeating three-dimensional feature of the design (CIPO 2010b, 16). Indefinite length and width is indicated by sinusoidal lines.

Articles containing parts of variable length. CIPO explains this as a distinct portion of the article being of variable length, but adds that a portion that comes in more than one definite length differs from an article of indefinite length, such as an extrusion that is cut to measure. Break lines should be used to show the relevant portion, and the description must indicate that variable length is being shown in the representation (CIPO 2010a Article 26.5.2).

CIPO describes three types of design in which variable length may feature in a portion of the article:

- The relevant portion has a constant cross-section, such as a broom with a handle of variable length, which has no repeating surface pattern or repeating three dimensional features, and the cross-section is constant,

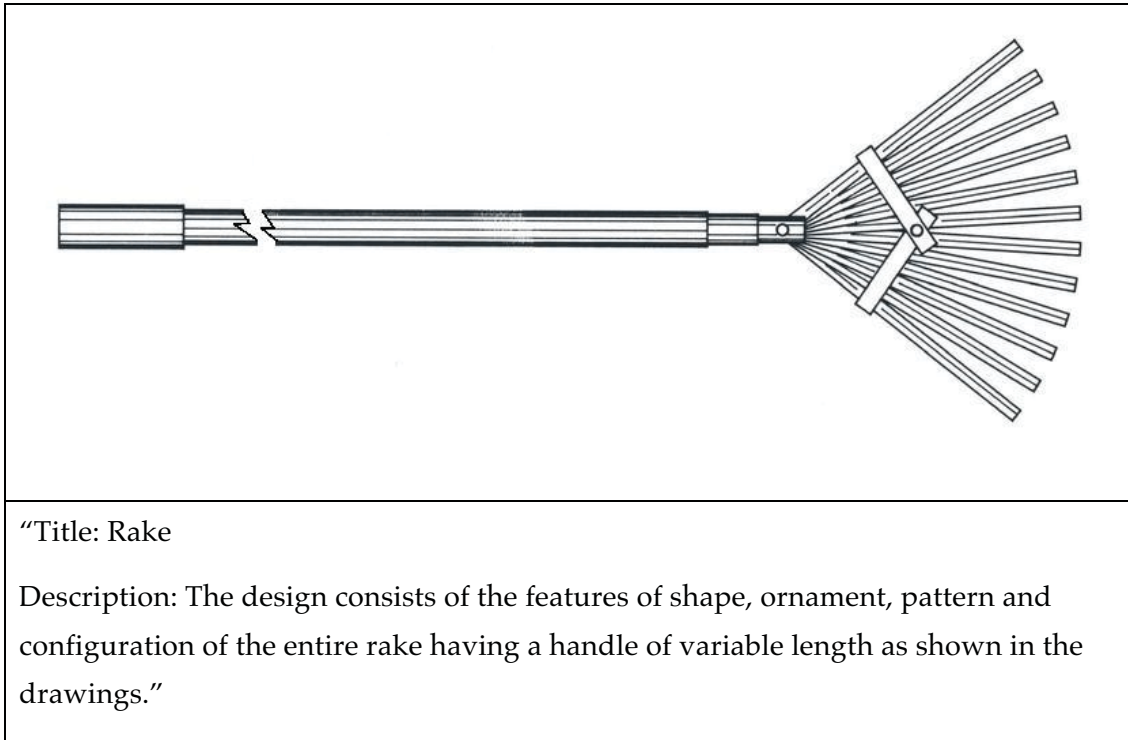


Figure 29 Sample showing variable length of a relevant portion of the design (CIPO 2010b, 17). Variable length is indicated by sharp jagged line.

- The relevant portion has a repeating surface pattern, such as a geometric pattern on a broom handle that is consistent across the surface of the relevant portion and a constant cross-section,
- The relevant portion has repeating three-dimensional features, such as a paint roller with protruding shapes repeats at regular intervals due to rolling surface which the cross-section of the relevant portion is not constant but the three dimensional features repeat at regular intervals throughout its length (CIPO 2010a Article 6.5.2)

USPTO indicates the use of brackets on the representation to indicate that the precise length of the article is not claimed (USPTO 2012 under “Drawing Examples” of “Indeterminate Length”).

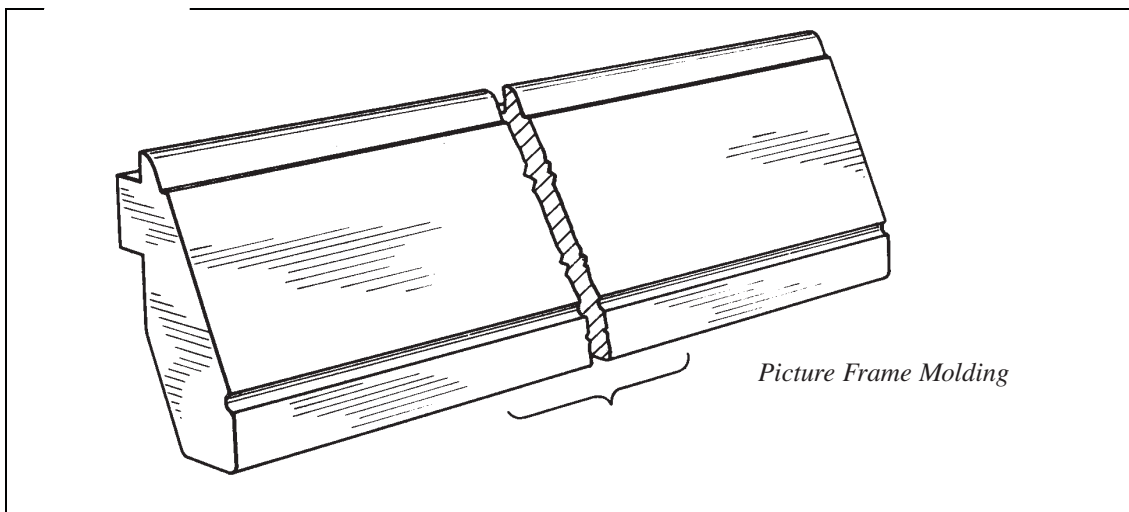


Figure 30 Article with an indeterminate length as given by USPTO (USPTO 2012, 16)

3.3.2.5 Typographic typeface designs

TPI and OHIM make clarifications on representations of typographic typeface designs. TPI indicates that at least four lines of text, comprising all typographic characters, must be submitted in such a way that all the features of the characters can be seen; and if possible, all the characters should be displayed (TPI 2011 Article 2.9.2, Article 2.7).

OHIM has more specific rules on representations of typographic characters:

- A line of all letters in the alphabet, both upper and lower cases
- A line of all Arabic numerals
- Together with a text of five lines produced using the typeface, including both letters and numerals of size pitch 16 (OHIM 2007 CDIR Article 4(4); 2012 Article 11.6).

A registered community design of a typographic typeface is given below.



Figure 31 Visual representation of a registered community design typeface at OHIM, with the number RCD 000041496-0001 in Locarno class 18-03

IPO includes an additional statement on typographic typeface design, stating colour as a feature for protection: “A single colour will not assist an ordinary typographic typeface or the graphic symbol to proceed to registration if it does not pass the novelty and individual characters tests set out in Section 1B(1)(2) and (3).” (IPO 2003 Design Practice Notices (DPN) 6/03).

3.3.2.6 Designs comprising multiple components and complex products

Regarding designs comprising multiple components, such as pots, pens or cups, TPI clarifies that the components forming the design must have same visual properties of the design that can be seen during normal use, *or* the indication of the product in which the main design is classified should be same (TPI 2011 Article 2.9.3). Otherwise, according to TPI such visual representations may be perceived as different designs, i.e. the representation of a pen *with* its cover or *without* its cover may be accepted as additional visual representations; however, an individual

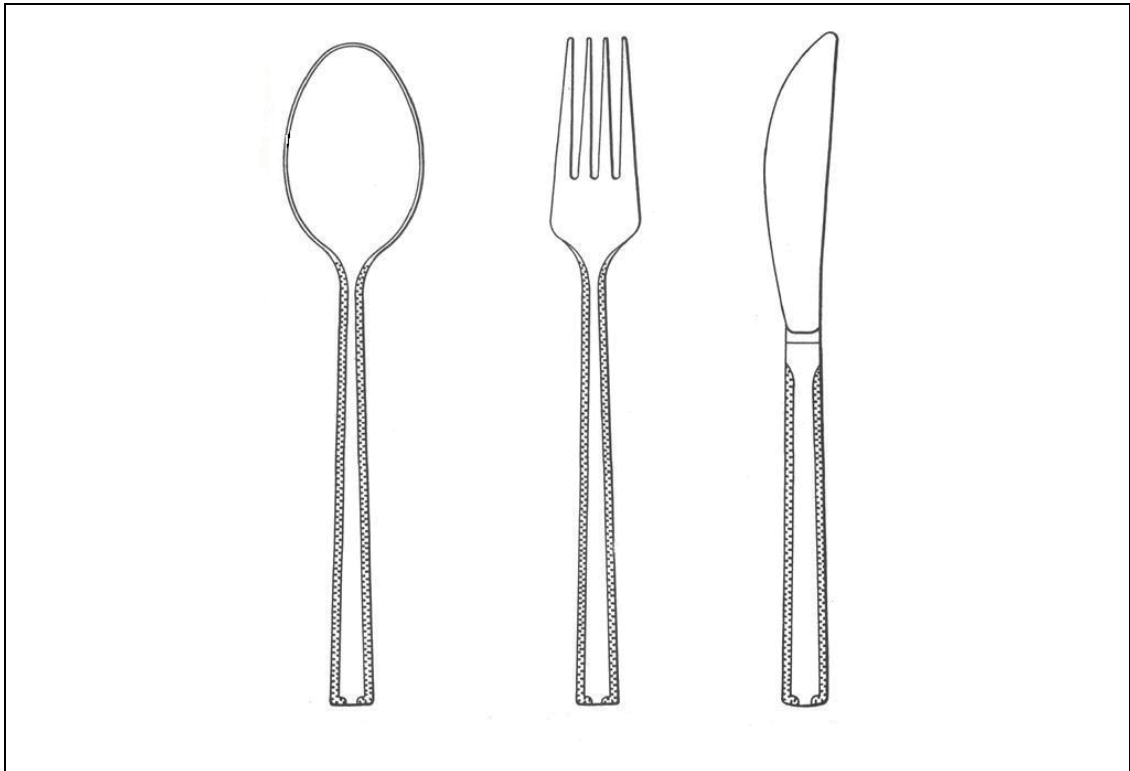
representation of the cover itself is considered as a different design¹⁰, not as an additional representation (TPI 2011 Article 2.9.3).

According to TPI trade dress, indoor or outdoor designs, layout and get-up designs *require* multiple views, and one of the views should be the top view in order to display the layout clearly (TPI 2011 Article 2.9.3). TPI also adds that description of a get-up should not indicate the individual features of all the components forming the design. However, the description must mention the matter for which the protection is sought and reflect the ambiance resulting from the overall appearance of the components (TPI 2011 Article 2.7).

OHIM mentions two types of design: Designs comprising a set of articles, and designs comprising multiple components (OHIM 2012 Article 5.1). OHIM indicates it must be clearly understandable from the representation exactly which elements protection is sought for in designs made up of a combination of the features of the articles and adds "such combinations may arise e.g. where the articles of the set are so closely related that they can be considered as forming a single product," for example forks, spoons and knives (OHIM 2012 Article 5.1). It is important to include at least one view that shows the product as a whole in representations of designs comprising multiple components, such as with all the components assembled, otherwise the design representations are perceived as multiple design applications, not as a single design application with multiple components (OHIM 2012 Article 5.1). A single application comprising multiple designs may result in a formal deficiency (OHIM 2012 5.1 and 11.4).

CIPO indicates that all of the pieces of the set of articles must be shown within the drawings and photographs (CIPO 2010a Article 6.5.1).

¹⁰ According to Turkish legislation Decree Law Article 28 it may be possible to file several designs in one application, so long as they all belong to the same sub-class, the same set or are parts of the same item.



“Title: Set of flatware

Description: Design comprises features of ornamentation applied to the outer portion of the handles of the set of flatware, as shown in the drawings.

Fig. 1 is a front view of the spoon, fork and knife of the set of flatware”

Figure 32 Representation sample of a set of flatware design (CIPO 2010b, 23).

USPTO states that designs with multiple embodiments of a single concept can be filed in a single design patent application, so long as they are similar in appearance and shape, as given in the example below (USPTO 2012 under “Multiple Embodiments”).

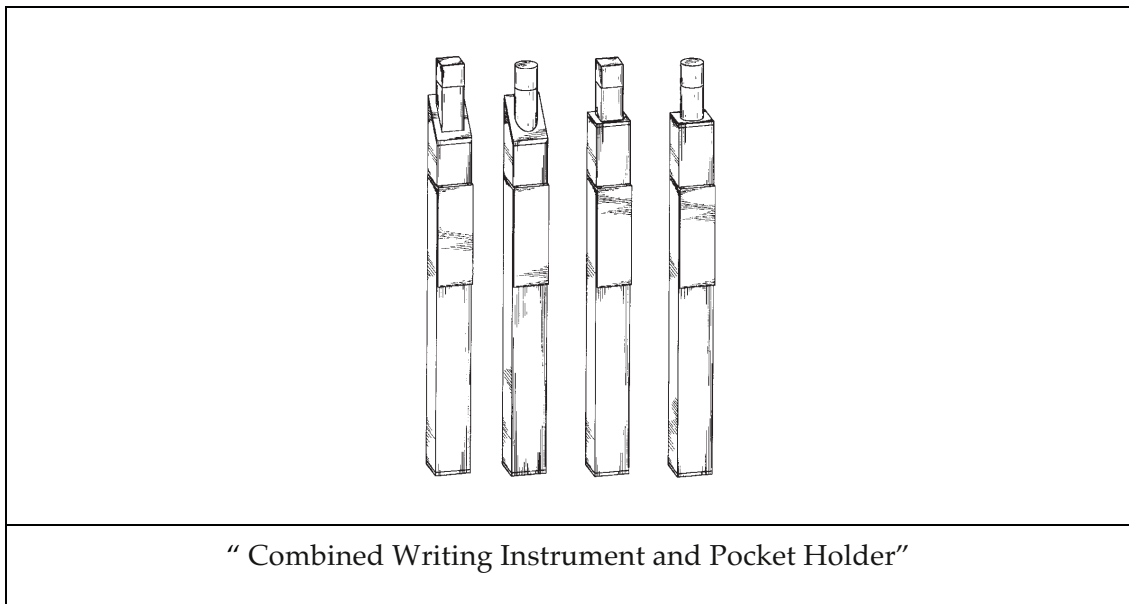


Figure 33 Visual representation sample of a design with multiple embodiments of a single concept (USPTO 2012, 16)

Representation of a complex product. In cases where the applicant would like to register a component part of a complex product¹¹ it is important to submit views of the product incorporated into a complex product in such a way that those parts which are novel and have individual character remain visible in the *normal use*¹² of that complex product (IPO 2003 Design Practice Notices (DPN) 1/03). All of the internally visible features, such as steering wheel, seats and dashboard, shall be visible in normal use, as well as the externally visible features of the complex product, such as the overall contours, ornamentation of grille badges, door handle, wheel trims etc. (IPO 2003 Design Practice Notices (DPN) 1/03).

Only USPTO emphasizes that when the protection claim is for the entire article, but when all sides of the entire article are *not* visible in normal use, it is not necessary to disclose all of them (USPTO 2012 under “The Views”).

¹¹ Definitions of product and complex product is given in section 2.3

¹² Normal use is defined as *use by the end user* by the IPO Registered Designs Act 1949 (c.88) as amended Section 1B(9). The Design Practice Notes exemplified the end user of a motor car as being the owner or the driver rather than the service mechanic (IPO 2003 Design Practice Notices (DPN) 1/03).

3.3.3 Ordering and numbering the views

Total number of views. TPI, WIPO and KIPO declare that there is no limitation on the number of submitted views (TPI 2011 Article 2.9.3; WIPO 2012d BII.05.10; KIPO 2011 under “Overview of the design system in Korea”).

WIPO states that no contracting party may require *more than* one view of a design where the design or the product is two dimensional, and *more than* six views where the design or the product is three-dimensional (WIPO 2012b Rule 9/3(b)). CIPO indicates “at least one drawing or photograph is required that is of sufficient clarity to see the article and the design” (CIPO 2010a Article 2.4) KIPO says it is up to the applicant how many views they submit with a design application, although it is suggested to submit a perspective and a set of six views (KIPO 2011 under the “Overview of the Design System in Korea”). OHIM, on the other hand, sets a limit of *seven* views for each design, and adds that submissions of extra views that exceed this limit will be disregarded by the Office (OHIM 2003 Article 4; 2007 CDIR Article 4(2); 2012 Article 11.4).

TPI applies no limitation to the number of representations, however the examiner shall ensure that the submitted representations display clearly all the distinctive visual features of the design for which protection is sought (TPI 2011 Article 2.9.3). OHIM emphasizes that there must be a sufficient number of views submitted to specify all the features of the design for which protection is sought, as the examiner will not check whether the design has features other than those shown in the submitted views (OHIM 2012 Article 11.4). IPO states that if the design is three-dimensional, then the representations should include a series of views from different angles to show the overall appearance of the design (IPO 2012a under “Illustrations of your designs”). CIPO and IPO also mentions that there must be sufficient number of views, which shows the article clearly and accurately, so as to leave no doubt when understanding the design features for which protection is sought (CIPO 2010a Article 6.5.1; IPO 2004 Design Practice Notices (DPN) 1/04). CIPO indicates that the number of views must be sufficient to show clearly and accurately the features of the design (CIPO 2010a Article 6.5.1).

USPTO indicates that the number of views must be sufficient to facilitate complete disclosure of the appearance of the claimed design (USPTO 2010 37 CFR § 1.152; 2012 under “The Views”). USPTO’s “A Guide to Filing a Design Patent Application” explains that “The drawings or photographs should contain a sufficient number of views to completely disclose the appearance of the claimed design, i.e., front, rear, right and left sides, top and bottom. While not compulsory, it

is suggested that perspective views be submitted to clearly show the appearance and shape of three-dimensional designs. If a perspective view is submitted, the surfaces shown would normally not be required to be illustrated in other views if these surfaces are clearly understood and fully disclosed in the perspective.”(USPTO 2011 under “The View”).

Arrangement of the views. WIPO, CIPO and USPTO clarify how the views should be arranged in the design application. WIPO states that representations must be arranged in the order that the applicant wishes them to be published (WIPO 2012c Section 401(d)); while CIPO states that grouping views according to each variant¹³ is preferred (CIPO 2010a Article 6.5.1).

USPTO requests the physical arrangement of the views on sheets be made as follows:

- One view must not be placed upon another, or within the outline of another,
- All views on the same sheet should stand in the same direction, preferably in an upright position (USPTO 2010 37 CFR § 1.84) (See section 3.5.1 Physical quality for details of the quality of the representations).

USPTO indicates that it is preferable for the order of the views to be as they appear on the drawing sheet(s) (USPTO 2010 37 CFR § 1.84).

Numbering and labelling the views. WIPO emphasizes that for non-electronic filing (i.e. paper submission applications), each design must be identified by an individual number, appearing in the margin of each representation, and states that the electronic filing interface adds numbering automatically (WIPO 2012d BII.05.11); it is also important that representations contain no numbering (WIPO 2012d BII.05.03).

The numbering of the additional views is similarly specified by OHIM and WIPO. All additional views for each design are numbered with two digits separated by a dot. The first indicates the design, and the second indicates the number of the view (e.g. the 7th view of a design numbered 3 shall be numbered 3.7) (OHIM 2007 CDIR Article 4(2) and OHIM 2012 Article 11.4). WIPO states that the design represented from different angles must be numbered with two digit numbers, i.e. 1.1, 1.2, 1.3 ... etc., for the first design; and 2.1, 2.2, 2.3... etc., for the second design (WIPO 2010 BII.22.05.11).

¹³ “Variant: An application must relate to one design or to designs that constitute variants. To be accepted as variants, the designs must be very similar and possess the described features without substantial variation.” (CIPO 2011a Article 6.4.5 (e))

USPTO says that views must be numbered in consecutive order with simple and clear Arabic numerals, starting from one, and without brackets, circles or inverted commas (USPTO 2010 37 CFR § 1.84). Regarding photographic representations, CIPO suggests that the numbers of views should be in sequence, and should be written, stamped or typed on the rear of the photograph using permanent ink (CIPO 2010a Article 6.5.1).

IPO indicates that views should be labelled and exemplifies the labelling of views as “front view”, “view on one side” and “perspective view from front, above and one side” (IPO 2012a under “Labelling the views”).

3.4 Partial Disclaimer

A design registration is not always requested for the whole article or product, as in some cases the applicant is seeking to limit or extent the scope of protection of a design. For this reason, protection can be also requested for only a part of a design (TPI 2011 Article 2.9.2).

IPO states that a design registration may be accompanied by a disclaimer that:

- limits or extent the scope of protection being applied for in relation to the design, or
- indicates that the application for registration relates to a design that forms only a part of the appearance of a product (IPO 2006b Rule 6).

If the applicant wishes to protect the design of only a part of a product, or to disclaim visual features such as colours or materials, a partial disclaimer must be used (IPO 2012 “Partial disclaimers”). A partial disclaimer can also be used in cases where the applicant wishes to protect a specific feature of the design, such as the three-dimensional shape but not the surface decoration (IPO 2012a under “Partial Disclaimer”).

WIPO expresses that the disclaimer must be indicated within the description and/or within the representation by means of dotted or broken lines (WIPO 2012c Section 403; 2012d BII.05.09). Partial disclaimers shall be evaluated by the examiner from two parts of the application: visual materials, showing the disclaimer on the representation; and written statements, indicated in the description. There are three features of the application cited by TPI that must comply with each other:¹⁴

¹⁴ It is the examiner’s responsibility to ensure the conformity of these three features of the design with each other in relation to the element for which protection is being sought (TPI 20122 Article 2.9.2).

Indication of the product, representation, and written description (TPI 2011 Article 2.9.2). Those three features must be in combination in the applications where the partial disclaimer is requested as well.

3.4.1 Visual representation of a partial disclaimer

TPI states that the parts for which protection is requested shall be clearly marked on photographic representations (TPI 2009 Article 9/1(a); 2011 Article 2.9.2).

The design and the part or parts for which protection is sought must be clearly identified (IPO 2012a under "Partial Disclaimer"). OHIM and IPO suggest three ways of identifying and showing clearly the part or parts of the design for which protection is sought, to be applied to all views of the design:

- Colouring the part or parts in question,
- Drawing the part or parts in question in solid lines and the part for which protection is not sought in dotted lines,
- Carefully outlining the part or parts in coloured ink, referred to as boundaries (OHIM 2012 Article 11.4; IPO 2012a under "Partial Disclaimers").

In addition to the above, OHIM advises that *colouring* may also be used on black and white drawings in order to highlight the features of the design for which protection is sought (OHIM 2012 Article 11.4).

IPO defines three ways to indicate the features for which protection is not sought:

- Dotted lines,
- Blue wash, or
- Circled in red ink (IPO 2004 DPN 1/04).

OHIM indicates that it is the applicant's responsibility to use such lines in a way that identifies clearly for which features protection is sought, as the examiner shall only assess the suitability of the representation for publication (OHIM 2012 Ch. 11.4).

Stippled, dotted, dashed or broken lines in a partial disclaimer. TPI and WIPO advises the use of dotted, dashed or broken lines to show the parts of the design for which protection is not sought, especially on graphic representations (TPI 2009 Article 9/1(a); 2011 Article 2.9.2; WIPO 2012d 05.09). IPO makes a similar request, advising the use of broken or dotted lines to show the parts for which protection is not sought, but adding that as yet there is no formal requirement to do this (IPO

2003 DPN 2/03; 2004 DPN 1/04). USPTO indicates that only broken lines will be used to indicate the features that are not part of the design (USPTO 2012 under “Broken Lines”).

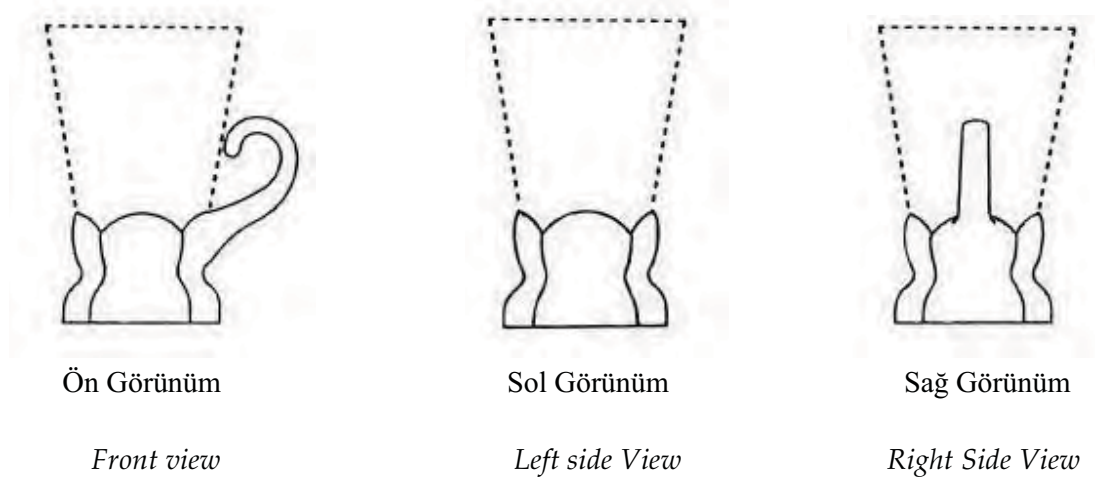


Figure 34 Representation of a design with a partial disclaimer (TPI 2012, 12).

Disclaimed features of the design are shown in dashed lines.

Similar to TPI and WIPO, CIPO explains that the article can be illustrated by either showing the whole article in solid lines and specifying the design and non-design features or parts claimed or disclaimed within the description, or by showing the design in solid lines and the portions of the article that are not part of the design in stippled lines, formed by evenly spaced short dashes, evenly spaced short dots, or evenly spaced and alternating short dashes and dots (CIPO 2010a Article 6.5.2).


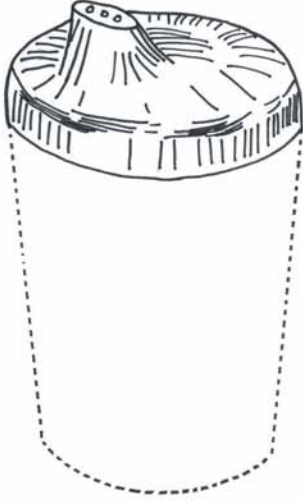
1. Solid Lines	2. Solid and Stippled Lines
	
<p>“Title: Training cup”</p>	
<p>“Description: The design consists of the features of shape and configuration of the lid of the training cup as shown in the drawings.”</p>	<p>“Description: The design consists of the features of shape and configuration of the portion of the training cup as shown in solid lines in the drawings. The stippled line portions do not form part of the design.”</p>

Figure 35 Partial disclaimer shown in solid and stippled lines (CIPO 2010b, 3)

USPTO indicates that a broken line is to be used in illustrations only to show the non-design features of the design, and adds that it may also be used to indicate structures that are not part of the design, but show the environment in which the design is used (USPTO 2012 “Broken Lines”; “Drawing Examples”).

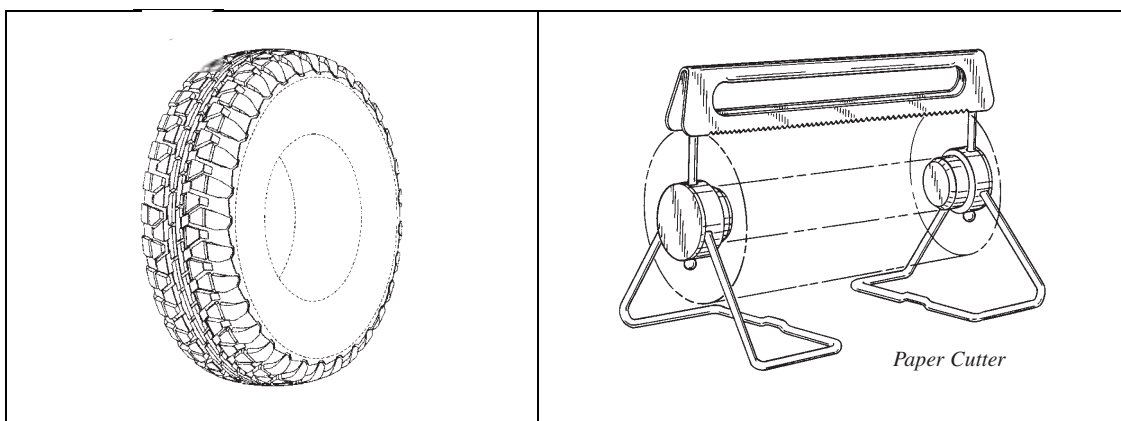


Figure 36 Partial disclaimer samples, where non-design portions of the design are shown in broken lines (USPTO 2012, 16)

CIPO indicates that the non-design features of the article must be shown as opaque, and non-transparent, unless they are actually transparent (CIPO 2010b, 4)

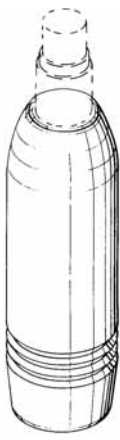

Not Acceptable	Acceptable
	
<p>“Title: Spray bottle</p> <p>Description: The design consists of the features of the shape and ornamentation of a Spray Bottle, as shown in solid lines in the drawings. The portions shown in stippled lines do not form part of the design.”</p>	

Figure 37 Partial disclaimer sample, showing the opaque non-design portions of the design (CIPO 2010b, 4)

CIPO indicates that there are additional means of showing the design and the non-design portions of the article in the visual representation in combination with the use of solid and stippled lines: the use of bold and wavy lines (CIPO 2010a Article 6.5.3): “As a matter of office practice, the Office will accept the use of bold wavy lines in exceptional cases to define a boundary between the design and non-design portions of the article where the use of solid and stippled lines alone does not clearly show the design as applied to the article” (CIPO 2010a Article 6.5.3). CIPO explains the requirements with which the applicant must comply for using bold and wavy lines:

- “1. It must be clear what the bold wavy lines are illustrating, such that the description and drawings clearly indicate what are the design features and what are the portions of the article where the design resides.
2. Such lines in the drawings must clearly be bold and wavy, i.e. so that they are not confused with ordinary solid lines, stippled lines or with break lines.
3. The description must include a statement clearly indicating that the bold wavy lines are not part of the design (CIPO 2010a Article 6.5.3).

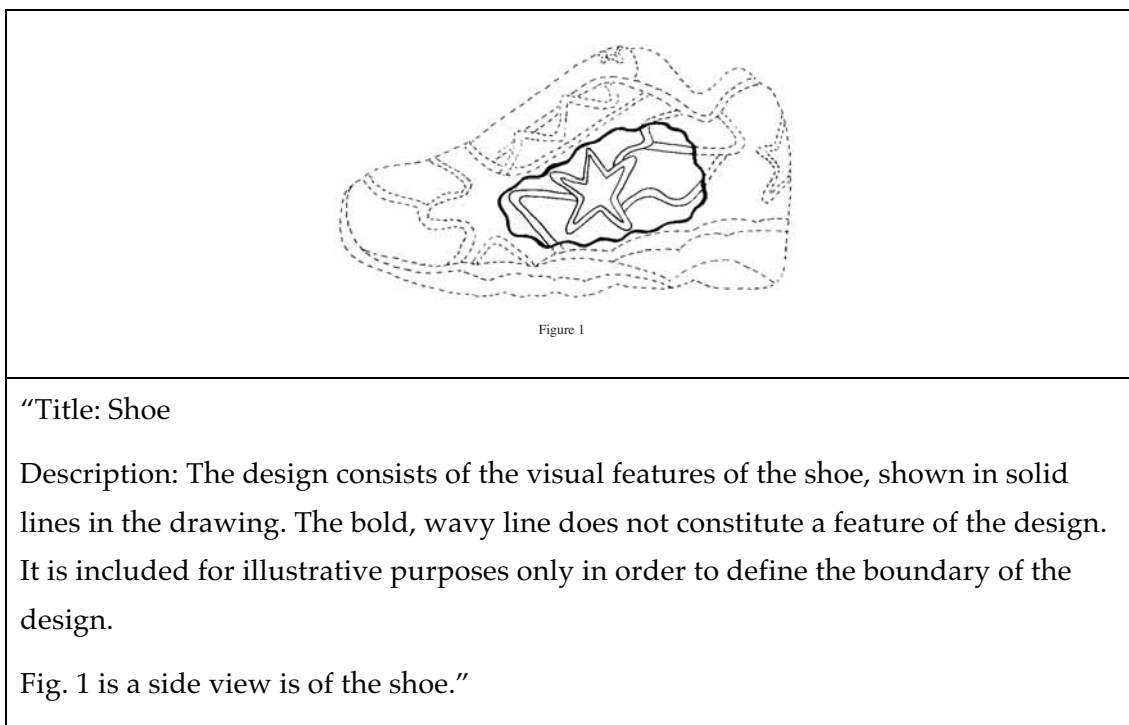


Figure 38 Partial disclaimer sample showing the use of bold and wavy lines to indicate the design portions of a shoe design (CIPO 2010b, 23)

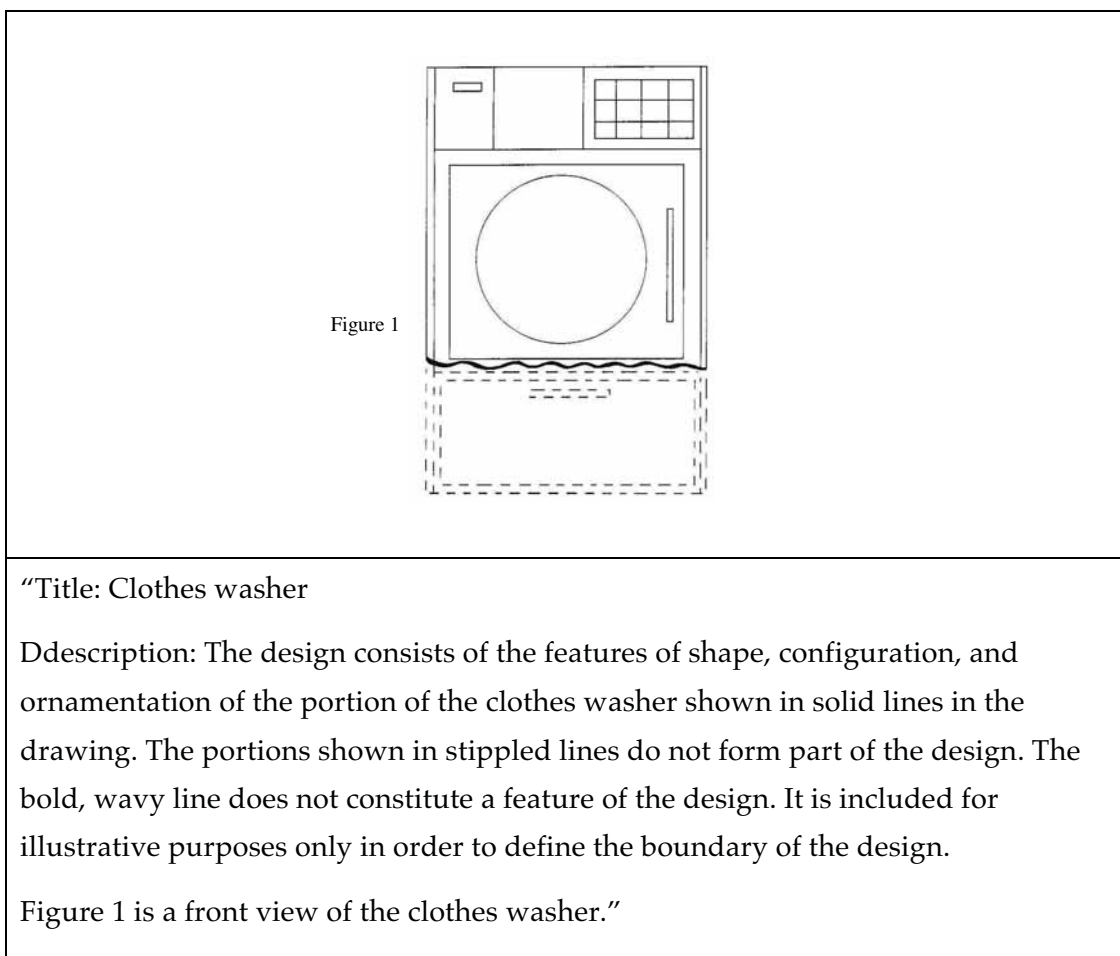


Figure 39 Partial disclaimer sample showing the use of bold and wavy lines together with stippled lines to indicate the non-design portions of a clothes washer design (CIPO 2010b, 23)

3.4.2 Verbal description of partial disclaimer

WIPO states that the description may also serve for disclaiming protection in respect of some features of the design (WIPO 2012d BII.04.39). TPI indicates that if protection is sought for only a part of a product, then the expression of “a part of a product” must be indicated in the description and shown on the representation (TPI 2011 Article 2.9.2).

IPO emphasizes that if the application contains a partial disclaimer, then it should be indicated in the relevant section of the application form and at the bottom of the illustration pages (IPO 2012a under “Partial Disclaimer”). IPO suggests that if protection is sought for only a part of a product, such as the handle of a cup, or limited to such a part, the partial disclaimer is to be worded as “The design is that applied to the handle of the cup, as shown in the representations,” or “The

protection to be conferred by the registration is limited to the handle of the cup as shown in the representations.” (IPO 2003 DPN 2/03). IPO also suggests wording in the case of protection being sought for the whole product only, as “the design is limited to the shape and configuration of the whole product. Protection is not sought for the separate parts of the design.” (IPO 2004 DPN 1/04).

IPO gives additional examples for the wording to be used in the case of partial disclaimers:

“Protection is sought for the shape and configuration of the design only.”

“No claim is made for the colour or colours shown.”

“Protection is sought for the two-dimensional surface decoration only” (IPO 2012a under “Partial Disclaimer”).

IPO also gives a sample description: “The features of the design for which protection is sought are the part or parts of the design shaded in blue in the illustrations” (IPO 2012a under “Partial Disclaimer”).

IPO provides an example of wording to highlight additional items that do not form part of the design: “Protection is sought for the garment only. The mannequin does not form part of the design and is shown only for illustrative purposes only” (IPO 2012a under “Partial Disclaimer”).

3.5 Format and Quality of Visual Representation

3.5.1 Physical quality

WIPO states that representations must be of the highest possible quality, in that the scope of protection depends upon the content and the quality of the reproductions (WIPO 2012d BIL.05.15). The visual quality of representations shall distinguish all details of the design clearly and permit publication (WIPO 2012b Rule 9(2)(a)).

OHIM also states that the quality of the representation must distinguish clearly all the details of the design for which protection is claimed (OHIM 2012 Article 4.4) when the reproduction is reduced or enlarged to a size of not more than 8 cm x 16 cm per view (OHIM 2007 Article 4(1)(e); 2012 Article 4.4; 11.4). OHIM indicates that it is the responsibility of the applicant, not the examiner, to ensure that the quality of the representation is suitable for publication (OHIM 2012 Article 4.4; 11.4).

TPI states that representations must be suitable for duplication by scanning and reproduction through publication (TPI 2011 Article 2.9.2). IPO explains that “suitable representation” means representation of the design suitable for publication (IPO 2006b Rule (5)). For graphic representations, IPO states that the

quality of the ink-drawings should be of good enough quality for scans or photocopies (IPO 2012a under “Illustrations of your designs”). CIPO states that all drawings must be sufficiently large in order to show all features of the design “clear and apparent” (CIPO 2012a under “Drawings and Photographs”), and must also be legible and reproducible in black and white by the Office (CIPO 2010a Article 6.5.1). For photographic representations, IPO indicates that photographs must be capable of being reproduced using the IT scanning equipment of the Office (IPO 2004). USPTO expresses that photographic representations must be of sufficient quality for all the details of the article in the photograph to be reproducible in print (USPTO 2010 37 CFR § 1.84).

TPI and OHIM state that it is more appropriate to submit visual representations on the application form prepared by the Office (TPI 2011 Article 2.9.2; OHIM 2007 Article 4(1)(a)).

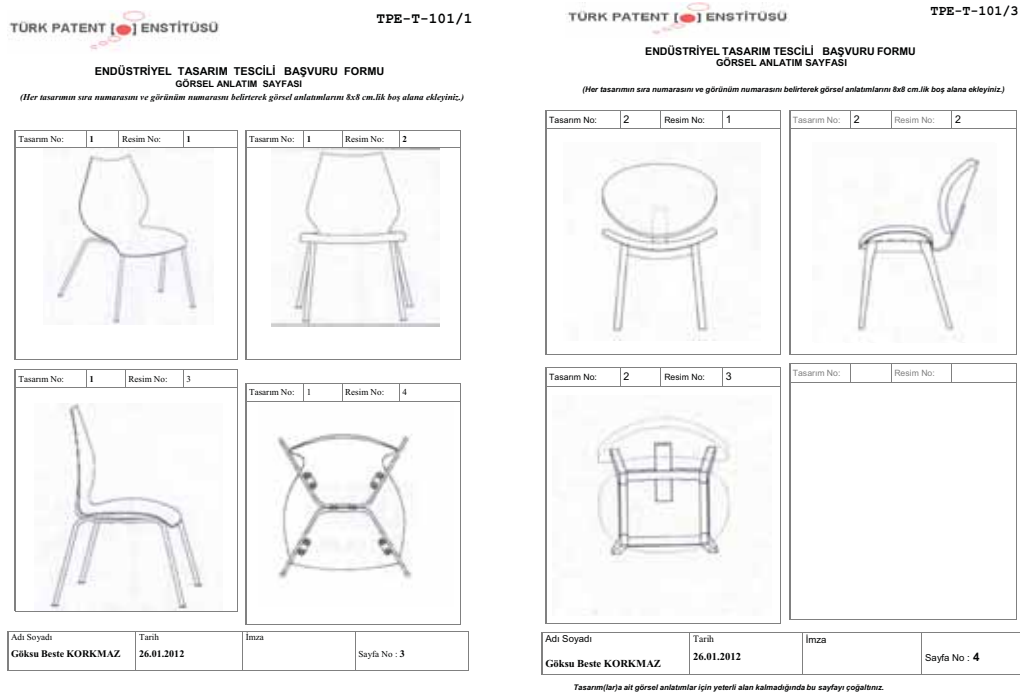


Figure 40 Visual representation pages from a multiple design application in A4 format (TPI 2012, 19)

Other than the visual representation, TPI states that the page must contain the name, surname, title and signature of the applicant or his representative (TPI 2011 Article 2.9.2). The visual representation itself should not contain any other representation or part of another representation or numbering (TPI 2011 2.9.2WIPO 2012c Section 401(e); 2012d BII.05.03). Similar to TPI, OHIM also indicates that there

should be no explanatory text, wording or symbols, or anything other than the consecutive number of the design, an indication of the view such as “top,” and the name or address of the applicant, which may be displayed on the representation page (OHIM 2007 Article 4(1)(c)).

Both drawings and photographs must be submitted in the form of *right-angled quadrilaterals*, which means squares and rectangles, with all their edges cut at right angles (WIPO 2012c 401(e); 404(b); 2012d BII.22.05.03; 05.07; BII.05.08). The reproduction area must not contain any other or part of another reproduction, even in the case of a multiple design application (TPI 2011 2.9.2; WIPO 2012c Section 401(e); 2012d BII.05.03). The details of the dimensions of the views are given in section 3.3.1.

Numbering the views. Numbering techniques of the views given by the Offices are discussed in section 3.3.3. Ordering and numbering the views. The numbering of the representation pages, the placing of the representation numbers and the numbering of the representations of each design in multiple design applications will be discussed within this section.

IPO states that each page must be numbered in consecutive order, indicating the total number of pages, such as “1 of 3”, “2 of 3” and “3 of 3” (IPO 2008 Rule 9(5)). Page numbers must be placed in the top right hand corner (IPO 2012a under “The Views of the Design”). Illustration page example of IPO is given in Figure 41.

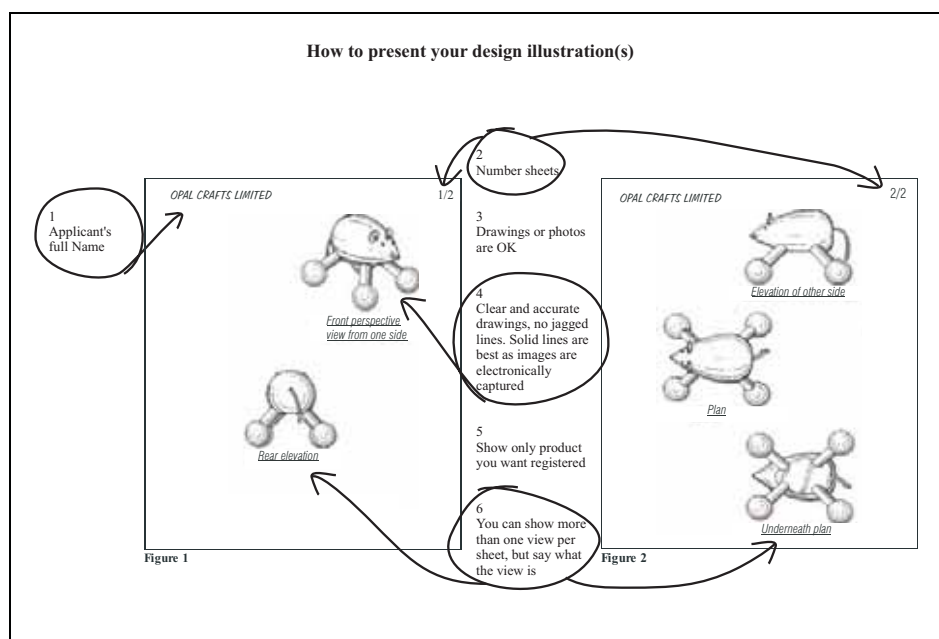


Figure 41 Sample of an illustration page given by IPO (IPO 2012b, 8)

USPTO states that the figure number should be entered on the face of the representation (USPTO 2012 under “Drawings or Black and White Photographs”).

The representation number should be placed in the margin of each representation, with the first digit indicating the number of the design and the second digit, separated by a dot, indicating the number of the view when the design is represented from different angles, such as 2.1, 2.2 and 2.3 (WIPO 2012c Section 405 (a); 2012d BII.05.11; OHIM 2007 Article 4(2)). All representation must be submitted in ascending numerical order (WIPO 2012c Section 405 (b); 2012d BII.05.11).

IPO emphasizes a different method to be used if the application is a multiple design application. The design should be marked, “This is the first of the three designs” (IPO 2012a under “The Views of the Design”).

Size and quality of paper. TPI states that visual representations must be submitted on 21.0 cm x 29.7 cm DIN size A4 format paper (TPI 2011 Article 2.9.2; WIPO 2012c Section 401(c); OHIM 2007 Article 4(1)(c); 2012 Article 11.4 IPO 2012a under “The Photographic Views”; “Views of the Design”; 2004). Only USPTO refers to both DIN size A4 and 21.6 cm x 27.9 cm (8½ x 11 inches) paper format (USPTO 2010 37 CFR § 1.84). All drawing sheets must be the same size (USPTO 2010 37 CFR 37 § 1.84)

Paper quality is defined by TPI, WIPO and OHIM as plain, white, good quality and opaque (TPI 2011 Article 2.9.2; WIPO 2012c Section 401(c); 2012d BII.22.05.02; BII.05.08; OHIM 2007 Rule 4(1)(b); 2012 Article 11.4)

USPTO states that the paper must be flexible, strong, white, smooth, non-shiny and durable (USPTO 2010 37 CFR 37 § 1.84), and requests that photographs be submitted on double weight photographic paper (USPTO 2012 under “Drawings or Black and White Photographs”). IPO and USPTO state that only one side of the paper must be used (IPO 2004; 2012 under “The Views of the Design”; USPTO 2010 37 CFR 37 § 1.84)

TPI, WIPO and OHIM indicate that the representation and the page should not be folded or stapled (TPI 2009 Article 9/1(a); 2011 Article 2.9.2; WIPO 2012c Section 401(e); 2012d BII.05.03; OHIM 2007 Rule 4(1)(b); 2012 Article 11.4); while TPI adds that the representation must also not be erased or scratched, and WIPO adds that it should not be marked (TPI 2011 Article 2.9.2; WIPO 2012c Section 401(e); 2012d BII.05.03).

It is also important, particularly for photographic representations, that they shall not be retouched with ink or correction fluid (WIPO 2012c Section 401(a); 2012d

BII.02.07; OHIM 2007 CDIR Article 4(1)(e)). If the representation has been retouched, then it will be accepted as a formal deficiency, which will affect the allocation of the application date by the Office (OHIM 2007 Article 4(1)(e); 2012 Article 4(4)). USPTO states that the sheets bearing representations must be free from cracks, creases, folds, erasures, alterations, overwritings and interlineations (USPTO 2010 37 CFR 37 § 1.84).

TPI, WIPO and OHIM state that the representation must be either printed or pasted on the representation page (TPI 2011 Article 2.9.2; WIPO 2012c Section 401(c); 2012d BII.05.02; OHIM 2007 Rule 4(1)(b); 2012 Article 11.4).

Size of the representation. The permissible dimensions of views are discussed in section 3.3.1. Dimensions of visual representations, however the size limits of the representations will be discussed within this section. The dimensions of each representation are given by TPI as at least 8 cm x 8 cm, and at most, 16 cm x 16 cm (TPI 2009 Article 9/2(a); 2011 Article 2.9.2). Similar to Turkish implementations, WIPO sets the maximum dimensions of representations at 16 cm x 16 cm, and adds that one of these dimensions must be at least 3 cm (WIPO 2012c Section 402(b); 2012d BII.05.13). OHIM says that the space used for representations cannot be larger than 26.2 cm x 17 cm (OHIM 2012 Article 11.4). USPTO sets the size limits of the representation at 17 cm x 26.2 cm on DIN size A4 page, and 17.6 cm x 24.4 cm (6 15/16 x 9 5/8 inches) on 21.6 cm x 27.9 cm (8 ½ x 11 inch) page (USPTO 2010 37 CFR 37 § 1.84). USPTO stated that representations must be submitted on one side of the representation page and must not contain a frame (USPTO 2010 37 CFR 37 § 1.84).

Margins. WIPO emphasizes there should be at least a 5 mm margin around the representation (WIPO 2012c Section 01(d); 2012d BII.05.02).

OHIM sets the left and right side margins of the representation page as at least 2.5 cm (OHIM 2007 Rule 4(1)(c)); while USPTO sets the minimum margins of the representation page at 2.5 cm for the top, 2.5 cm for the left, 1.5 cm for the right and 1 cm for the bottom (USPTO 2010 37 CFR 37 § 1.84).

3.5.2 Data format for e-filing

WIPO states that international design applications must be filed on the official form or through WIPO's electronic filing (e-filing) interface, including the representation(s) of the design to be protected and the designation of the contracting parties where the protection is sought (WIPO 2012d 02.10).

WIPO clarifies that the file format for representations submitted using the WIPO e-filing should be as follows:

Data format: jpeg or tiff

File size: Not exceeding 2 megabytes

Colour mode: RGB mode, not CMYK (WIPO 2012d BII.22.05.05)

The combination of pixel number and resolution must be sufficient to ensure that, when the representation is printed, the dimensions of the graphic or photographic representation do not exceed 16 cm x 16 cm, and one dimension must be at least 3 cm (WIPO 2012d BII.05.14).

For electronic filing cases, the OHIM Regulations and Guidelines refer to the President of the Office Decision No. EK-03-8 dated June 25, 2003, which states that the data format of the representations in e-filing applications must be in jpeg format (OHIM 2003 Article 3(1)). OHIM states that different designs in multiple design applications or different views must be identified in the manner noted on the electronic filing application form (OHIM 2003 Article 3(1)).

3.6 Unacceptable visual representations

The following representations are deemed unacceptable:

- Representations that include objects other than the design itself (TPI 2011 Article 2.9.2).
- Representations that include multiple views or contain other representations or parts of other representations ((TPI 2011 2.9.2; WIPO 2012c Section 401(e); 2012d BII.05.03).
- Representations, which include accessories that do not fall under the scope of the design protection (TPI 2011 Article 2.9.2).
- Representations that include measurement indications and technical drawings, particularly with axis or dimensions (TPI 2011 Article 2.9.2; IPO 2004 IPO in DPN 1/04 and explained in WIPO 2012c Section 402(c)(i)).
- Displaying the products in sections or plans, especially together with axis and dimensions (TPI 2011 Article 2.9.2).
- Representations that include explanatory text or legends or numbering or wording and symbols or indications other than the consecutive numbering of the design on the representation (TPI 2011 Article 2.9.2; WIPO 2012c

Section 401(e); Section 402(c)(ii)); 2012d BII.05.03; BII.05.06; OHIM 2006 Article 4(1)(c)).

IPO suggests that applicants should avoid including additional items that are not a part of the design for which protection is sought in representations; however if their inclusion is unavoidable, then the applicant should disclaim these features (IPO 2012a under “Disclaiming other items present in illustrations”).

WIPO indicates that the representation must include only the design itself, or its relation to an object with which it is to be used, and must not feature any other object, accessory, person or animal (WIPO 2012 Section 402 (a)).

As explained before, the representations, which are folded, stapled, retouched with ink or correction fluid or marked in any such way, are unacceptable (WIPO 2012 Section 401 (e); OHIM 2007 CDIR Article 4(1)(e)). If the representation has been retouched, then it will be accepted as a formal deficiency by the Office, which, until remedied, will affect the determination of the application date (OHIM 2007 CDIR Article 10(1)(c)).

OHIM also states that a non-neutral background is considered a formal deficiency, and will result in the examiner not granting the application filing date (OHIM 2007 CDIR Article 10(1)(c)).

CIPO exemplifies acceptable ways of showing complete finished articles. Figure 42 shows a game board.



Not Acceptable	Acceptable
	
<p>“Title: Game Board Description: The design consists of the features of the shape, pattern, ornamentation and configuration of the game board, as shown in the drawings.”</p>	

Figure 42 Acceptable and unacceptable ways of representing a complete finished article (CIPO 2010b, 2)

Another example by CIPO for showing an electronic icon is shown in Figure 43.


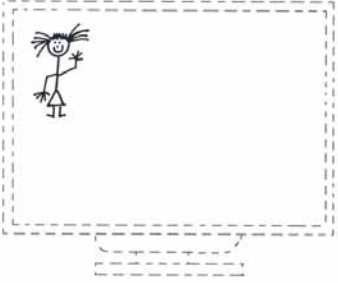
Not Acceptable	Acceptable
	
<p>“Title: Electronic Icon”</p>	<p>“Title: Computer Monitor”</p>
<p>“Description: The design consists of the ornamentation of the electronic icon as shown in the drawings.”</p>	<p>“Description: The design consists of the ornamentation of the computer monitor as shown in solid lines in the drawings. The stippled line portions do not form part of the design.”</p>

Figure 43 Acceptable and unacceptable ways of representing a complete finished article. The acceptable version identifies the finished article to which the electronic icon is applied (CIPO 2010b, 22)

CIPO indicates that explanatory text and other indications are not acceptable (as shown in Figure 44) and adds that the article must be shown in complete isolation (CIPO 2010b, 7).

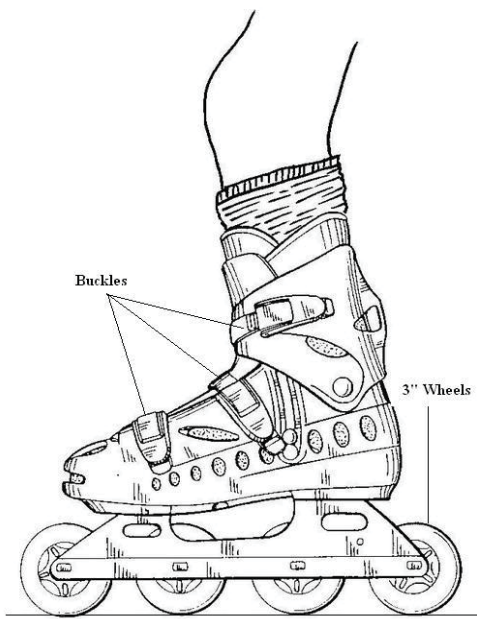

Not Acceptable	Acceptable
	
<p>“Title: In-line skate</p> <p>Description: The design consists of the features of shape, configuration and ornament of the in-line skate as shown in the drawings.”</p>	

Figure 44 Acceptable and unacceptable representation examples showing the article in isolation (CIPO 2010b, 7)

CHAPTER 4

FIELD STUDY

4.1 Background of the field study

After identifying and categorizing the main features and qualities of visual representations required by different jurisdictions in the literature survey, the field study focuses on the implementation in Turkey.

The main actors of the industrial design registration system in Turkey are:

- Applicants,
- Attorneys (both patent and trademark attorneys and attorneys at law),
- TPI examiners,
- Judges and court experts.

The aim of the field study is to investigate critical and problematic issues related to the features and qualities of visual representation in industrial design registration applications in Turkey. In line with the aim of the study, the target population was defined as the Turkish Patent Institute examiners who are responsible from the formal examination of industrial design registration applications. For the field study, the most appropriate method for data gathering was considered to be in-depth interviews with the examiners at the Industrial Designs Department of TPI.

The head of the Industrial Designs Department of TPI was approached to introduce the researcher, the research topic, the content of the study and the content of the interview. The letter to the head of Industrial Designs Department of TPI is presented in Turkish in Appendix B and in English in Appendix C.

During the meeting with the head of the Industrial Designs Department, it was learned that three examiners are responsible for examining design applications at TPI. Each examiner was contacted by telephone and given brief information about the research topic and study, and an appointment date and time for an interview

was requested. After confirmation of the date and time, brief information was sent to each interviewee regarding the content of the interview via e-mail, along with a copy of a shortened interview schedule, and each examiner was asked, if possible, to prepare acceptable and unacceptable examples from actual design registration applications with their visual representations, before our meeting. The e-mail sample is presented in Turkish in Appendix D and in English in Appendix E.

4.2 Interview schedule and data collection

The interview schedule was developed by taking into account the final topics and sub-topics concerning the features and qualities of visual representation identified in the literature survey.

At the beginning of the interview, the interviewees were thanked for their assistance and given brief information about the study, and they were asked for their permission to video record the interview. The first part of the interview comprised general questions on the formal examination, and more specifically on the formal examination of visual representations. The second part focused on problems encountered by the interviewees in their assessments of visual representations. The third part included questions on types of visual representation, while the fourth part comprised questions on the article, background and colour. The fifth part was the most comprehensive section, focusing on types of views, such as conventional views, non-conventional views; views of designs of indeterminate length and/or width, typographic character designs, etc. including ordering and numbering the views. The sixth part was related to both visual and verbal partial disclaimers. The seventh part included questions on format and quality for both electronic filing and paper applications. Questions on unacceptable visual representations were rendered in the eighth part of the interview, while the interviewees were asked to provide examples of acceptable visual representations in the ninth part. In the tenth part the interviewees were asked for any additional comments or remarks. The interview ended with questions on the professional details of the interviewees, such as years of expertise and previous duties at TPI. The main topics of the interview schedule are given in Table 5; the interview schedule is given in Turkish in Appendix E and in English in Appendix F.

Table 5 Interview schedule parts, and number of main questions

Part no.	Title	Number of main questions
I	Formal examination of visual representations	2
II	Problems encountered in visual representations	1
III	Types of visual representations	3
IV	Article, background and colour in visual representations	3
V	Views	8
VI	Partial disclaimer	2
VII	Format and quality of visual representations	3
VIII	Unaccepted visual representations	1
IX	Examples of acceptable visual representations	4
X	Final Questions	3
Total number of questions		30

All three examiners in the Industrial Designs Department of TPI, who are responsible from conducting formal examinations, agreed to take part in the study. Two of the interviewees were female, one interviewee was male; the average age of the interviewees were 46; the average experience at TPI was 16, and the average experience in formal examination the Industrial Designs Department of TPI was 11. Both video and audio recordings were made of the interviews as a precaution against loss of data through technical error. The video recordings alone were suitable for the final analysis. Information on the interviewees and the interview durations are given in Table 6.

Table 6 Information on interviewees

	Age	Years at TPI	Current department	Years at the current department	Duration
Interviewee 1	44	18	Industrial Designs	15	1 hr 22 min
Interviewee 2	46	18	Industrial Designs	3	35 min
Interviewee 3	48	15	Industrial Designs	15	58 min

During the interviews, all three interviewees received the same information from the researcher (Appendix C and D) and had the same questions addressed to them in the same order (Appendix E and F). Only slight changes were made during the interview in the wording of the questions.

4.3 Data analysis

The video recordings were transcribed verbatim (i.e. word for word) during two viewings of the recordings. The examples of visual representations given by the examiners were inserted into the transcribed data.

The interviewees provided two types of examples of visual representations during the interviews: Problematic examples that contained formal deficiencies, and acceptable examples. The acceptable examples, which have already been published in the TPI Official Industrial Designs Bulletin, are available for publication. Those published examples are cited within the findings of the field survey by their application numbers, and the visual representations are presented herein. The visual representation examples containing formal deficiencies have not yet been remedied, and to date have not been published in the TPI Official Industrial Designs Bulletin, and therefore, cannot be used in this study.

All the interviews were transcribed by the researcher for an in-depth analysis. The analysis of the data was carried out through a rereading of the transcripts and a re-listening to the recordings at the same time. The parts deemed significant for the study were highlighted on the transcribed document. In the second part of the data

analysis, those highlighted parts of the transcribed document were organized according to the topics and sub-topics defined in the literature survey.

As seen in Figure 45 each sub-topic was given a colour code, and each highlighted phrase was underlined following that code, together with the name of the category noted in the right margin of the transcribed document.

30 CHEMICAL VE... (CHEM) 123
 12 FORMAL EVALUATION
 3

LITERATURE REVIEW ON FEATURES AND QUALITIES OF THE VISUAL REPRESENTATION AS DESCRIBED IN GUIDELINES.....13

3.1	Types of visual representation.....	19	
5	3.1.1 <u>Graphic representation</u>	20	1 2 3
4	3.1.2 <u>Photograph</u>	33	1 2 3
6	3.1.3 <u>Specimen</u>	34	1 2 3
3.2	Content of visual representation.....	34	
8	3.2.1 <u>Article</u>	35	1 2 3
7	3.2.2 <u>Background</u>	36	1 2 3
9	3.2.3 <u>Colour</u>	37	1 2 3
3.3	<u>Views of design</u>	39	1 2 3
10	3.3.1 <u>Dimensions of views</u>	41	1 2 3
3.3.2	<u>Types of views</u>	41	
11	3.3.2.1 <u>Conventional views</u>	41	1 2 3
12	3.3.2.2 <u>Non-conventional views</u>	42	1 2 3
13	3.3.2.3 <u>Repeating surface patterns</u>	51	1 2 3
14	3.3.2.4 <u>Articles with indefinite length and width</u>	52	1 2 3
15	3.3.2.5 <u>Typographic typeface designs</u>	58	1 2 3
16	3.3.2.6 <u>Multiple Components or Multiple Embodiments and Complex Products</u>	60	1 2 3
17	3.3.3 <u>Ordering and numbering the views</u>	63	1 2 3
3.4	<u>Partial disclaimer</u>	65	
18	3.4.1 <u>Visual means of partial disclaimer</u>	66	1 2 3
19	3.4.2 <u>Verbal means of partial disclaimer</u>	72	1 2 3
20	3.5 <u>Format and quality of visual representation</u>	73	1 2 3
21	3.5.1 <u>Physical quality</u>	73	1 2 3
22	3.5.2 <u>Data format for e-filing</u>	78	1 2 3
23	3.5.3 <u>Unacceptable visual representations</u>	79	1 2 3

24 ACCEPTED FURTHER COMMENTS ?
 25 26 27 37 ~~THE~~ SUGGESTIONS BY THE TA EXPERTS
 28 29 30 LAST QUESTIONS

Figure 45 Colour coding for topics and sub-topics

The schematic table of the guide page given in Figure 45 including the colour codes which was identified through literature survey is also represented in the Table 7.

Table 7 Final coding scheme for topics and sub-topics

Category No.	Topic or Sub-topic	Question No.	Colour Code
1	Importance of the visual representation and formal examination		
1.1	Importance	3	Green
1.2	Formal Examination	1, 2	Green
3	Types of visual representation		
3.1	Graphic representation	5	Pink
3.2	Photograph	4	Light blue
3.3	Specimen	6	Black
4	Content of visual representation		
4.1	Article	8	Brown
4.2	Background	7	Blue
4.3	Colour	9	Dark green
5	Views of design		Light green
5.1	Dimensions of views	10	Dark pink
5.2	Types of views		
5.2.1	Conventional views	11	Dark blue
5.2.2	Non-conventional views	12	Violet
5.2.3	Repeating surface patterns	13	Violet
5.2.4	Articles with indefinite length and width	14	Violet
5.2.5	Typographic typeface designs	15	Violet

Table 7 (Continued)

5.2.6	Multiple Components or Multiple Embodiments and Complex Products	16	Violet
5.3	Ordering and numbering the views	17	Yellow
6.	Partial disclaimer		
6.1	Visual means of partial disclaimer	18	Red
6.2	Verbal means of partial disclaimer	19	Red
7.	Format and quality of visual representation	20	
7.1	Physical quality	21	Orange
7.2	Data format for e-filing	22	Orange
8	Unacceptable visual representations	23	Dark blue
	Accepted visual representation	24	Dark blue
9	Further comments and suggestions by the TPI experts	25, 26, 27	Blue pen
	Last questions	28, 29, 30	Blue pen

The left margin of the transcribed interview document contained line numbers for ease of reference. Three digits, 1, 2 and 3, in the left margin identify which of the interviewees' data was being analysed and interpreted into the field survey findings for that specific topic. A sample page from a transcribed document is given in Figure 46.


<p>Interviewee 1</p>  <p>481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500</p>	<p>Interviewee 2</p> <p>107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135</p>	<p>Interviewee 3</p> <p>24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>
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Figure 46 Sample pages from transcribed interviews

4.4 Findings of the field study

4.4.1 Importance of visual representation and formal examination

Interviewee 1 explained the importance of visual representation in design registration as the backbone of a design registration. Interviewee 1 also expressed that she had become aware of the importance of the visual representation during her work as an expert witness in intellectual property courts. She added that merely understandable visual representations are not enough, as they need to be *very* understandable.

Interviewees 1 and 2 both expressed at the end of their interviews that the most important part of a design registration was the visual representation. Interviewee 2 added that a failure to remedy formal deficiencies in visual representations would invalidate the application. Interviewee 1 emphasized the importance of the visual representation with a comparison of other industrial property rights: the scope of protection is limited to the list of goods and services in trademarks, claims in patents and utility models, and visual representation in designs.

All of the interviewees expressed that the visual representation is important after registration of the design. Interviewee 1 indicated that the clarity of the visual representation was important if the applicant ever needed to claim protection after registration. Moreover, she added, clarity is also important for comparison in an opposition phase at the Re-Examination and Re-Evaluation Board [*Yeniden İnceleme ve Değerlendirme Kurulu*] of TPI. If the visual representation is not clear, or there are no additional representation showing the design from different angles, it might confuse the Board members during the evaluation of novelty and distinctive character of that design in an opposition phase. Interviewee 2 also underlined that views of design from different angles help the comparison at the opposition phase. Interviewee 3 also mentioned that visual representations should allow for comparison with earlier dated designs, such as in opposition cases. Interviewee 3 indicated that visual representations are checked for their suitability for comparison.

Interviewee 1 expressed that visual representations should be prepared to show the features that are to be protected, and should be based on the aim of the protection. She explained that it should be easily understood what features of the design are claimed for protection from the visual representation. Another approach Interviewee 1 recommended was for the visual representation to be prepared based on the features that the applicant would like to prevent third parties from

producing. Interviewee 1 specifically expressed that descriptions are important and useful.

Interviewee 3 said that the most common problem encountered in design registrations was the visual representation. He added that protection is claimed for only the appearance of the design, meaning that the scope of protection is limited to that shown in the visual representation, and therefore visual representations need to be very good.

Interviewees 1 and 2 declared that the most common problem encountered in visual representations was related to clarity. Interviewee 1 added that a further problem that was encountered often in visual representations was the reluctance of applicants to submit additional views due to monetary reasons. Interviewee 2 cited the intelligibility of the visual representation as another problem.

Formal examination. Interviewees 1 and 2 both expressed that they began the formal examination procedure from the visual representation of the design registration application. Interviewee 1 explained that after receiving an application file for formal examination, she first checks the visual representation before checking the applicant or other information, as the visual representation is very important. She stated that the visual representation must be clear if third parties are to understand what is protected and are able to determine the scope of the protection of the registered design. Interviewee 2 said that she ensures that the design represented in the visual representation is in the scope of “design” defined in Decree Law Article 3 (b).

Formal examination checklist. All of the interviewees mentioned an internal checklist, which is applied during the formal examination of every industrial design application. Interviewee 1 presented the checklist, which is printed inside the front cover of the physical application file, and Interviewee 3 presented the same list on the computer data system of TPI. Interviewee 1 said that the formal examination checklist had been prepared in respect to the trademarks’ formal examination list.

Interviewees 1 and 2 said that there are three important questions to be answered when allocating a application date to an application in respect to the Decree-Law and the Regulation:

- Is the application form signed?
- Has visual representation been submitted?
- Has the application fee been paid?

If the answer to any of the above is no, then the application date cannot be allocated.

Within the formal examination checklist, there are three questions relating to the visual representation of the design:

- Has a visual representation been submitted? (*essential¹⁵)
- Is the visual representation complete and suitable for publication?
- Are any additional views necessary?

Formal deficiencies related to visual representation. Interviewee 1 said that 50% of design applications have formal deficiencies, with monetary deficiencies taking first place, followed by deficiencies related to visual representation.

Interviewee 1 claimed that formal deficiencies in the visual representations were mostly encountered in the three-dimensional designs, and that deficiencies in representations of two-dimensional designs, such as ornamentations or patterns, are rare. Interviewee 2 agreed that most formal deficiencies of applications were encountered in the submitted visual representations, but in contrast to Interviewee 1, she claimed that two-dimensional design applications were hard to examine because they were mainly filed as multiple design applications, including more than 50 or 100 designs in one application. Such a large amount of designs in a multiple design application creates problems when attempting to check the compatibility of all the visual representations on the data system (on the monitor) or submitted application form.

Interviewees 1 and 3 indicated that the visual representations of the international design applications conducted through the Hague Agreement were usually very clear.

4.4.2 Types of visual representation

4.4.2.1 Graphic representation

Interviewee 1 suggested using graphic representations rather than photographs, claiming that graphic representations were easier to perceive, stating that there were never any major problems with visual representations in graphic format. She went on to state that 99% of the visual representations contained within international design applications filed through the Hague Agreement were in graphic format.

Interviewee 3 indicated that visual representations submitted in a black and white line drawing format rarely contained major problems; however interviewees 2 and 3 both indicated that some line drawings were submitted containing explanatory texts or measurements, which was unacceptable. In such cases, the examiners ask for the

¹⁵ Essential for the allocation of a application date

texts to be removed from the visual representation, which should contain only a visualisation of the design to be protected.

4.4.2.2 Photograph

Interviewee 1 indicated two common problems with photographic representations: blurred photos; and photos not coming up to professional standards having been taken using a mobile phone, or a regular camera rather than a professional camera. She also mentioned that flashlight reflections from the article were also a problem affecting the legibility of the article in photographic representations, especially articles made of aluminium or shiny plastic materials. She suggested using graphic representations rather than photography for articles that are not suitable for photographic representation.

Interviewees 1 and 3 indicated that photographic representations usually had problems with their background, indicating that black articles should not be photographed on a black background. In other words, the article and the background need to be in contrasting colours. Interviewee 3 stated that photographic representations were sometimes submitted other than a plain background. A further analysis and findings related to the background configuration is given in section 4.4.3.2 Background.

4.4.2.3 Specimen

Interviewee 3 mentioned that applications containing specimens were rare; and Interviewees 1 and 2 expressed that they had never received such a design application, and therefore had never had to make a formal examination of a specimen.

4.4.3 Content of visual representation

In respect to the content of the visual representation, Interviewee 1 expressed that the visual representation should not contain measurements or explanatory notes, such as indications in letters, "A" or "B".

4.4.3.1 Article

Interviewee 2 expressed that the visual representation should contain only the article, which the design is applied and its visual features to be protected, adding that the visual representation should not include any non-design elements. Interviewee 1 gave the example of a tribune design application, in which the design was shown together with non-design elements such as buildings, trees and a trowel. Interviewee 2 indicated that the visual representation should contain the design as a

whole; without cropping the article from the outside of the frame of the visual representation. Interviewee 3 emphasized that the title of the design and the article displayed in the visual representation should be consistent.

Interviewee 1 indicated that some applicants believe that the design registration protects the way a design is made, giving the example of a design application made for a stand that included three visual representations of the design: the first showing one part of the stand, the second showing another part, and the third showing how the user should assemble the two parts, with a representation of a person holding a screwdriver. Such representations cannot be accepted as visual representations of a design registration.

Interviewee 3 expressed that if representations contain additional articles that may come under the description of “design” described within the Decree Law, then the examiners may ask for the removal of those parts from the representation. He gave the example a bedstead design that contains also such non-design elements such as a mattress, bedspread, pillow, etc. The examiners may request the non-design elements to be removed from the main visual representation.

Interviewees 1 and 2 mentioned that visual representation of the articles coloured black are particularly challenging. Interviewee 2 explained that applicants should avoid submitting representations of white or black articles, due to very light and dark colours may obscure the understanding of the features of the design to be protected. Interviewee 2 suggested displaying articles in “middle colours,” such as blue or green, are more suitable for displaying the visual features of a design.

Interviewee 2 emphasized that problems were often encountered with articles made of glass, and that no matter how hard they tried, there was always a loss of displaying of the features on the visual representations. As mentioned previously, Interviewee 1 indicated that reflections from the flashlight of the camera should be taken into consideration when taking photos, especially of articles made of aluminium or other shiny plastics or glass. Articles made of such materials may not be suitable for photographic representation, and should be represented in graphic format.

Interviewee 3 stated that different sizes of the same article could be protected within one design application, and so there is no need to file multiple applications for the same design in different sizes. Interviewee 2 indicated if the proportions of the article changes as a result of such size changes, then another application should be filed for each different size. She gave the example of a mug design, in which the size

of the body of the mug changes, but the handle remains the same size. In this case, there are two different designs due to the changed proportions, thereof, a further application should be filed.

4.4.3.2 Background

Interviewee 3 explained that the background and the article should be in contrasting colours when taking photographs. Interviewees 1 and 2 stated that in cases where the article and the background are in same colour; such as black article on a black background or white article on a white background, the design features to be protected often cannot be understood, and lead the application receiving a formal deficiency. Interviewee 2 mentioned the examiners preferred to see a colour difference between the article and the background. Interviewee 2 added that a light coloured background should not be used for articles made of transparent materials.

Interviewees 1 and 3 indicated that the background must be clear and smooth, while Interviewee 3 said there should be no non-design objects in the background of the visual representation. Interviewee 1 added that when explaining clarity regarding the background, she usually told applicants “the photograph must be clear, like a head shot or a passport photo”.

4.4.3.3 Colour

All of the interviewees indicated that even if the design is filed in one colour, the scope of protection covers the same design in different colours as well. Interviewee 1 indicated that colour was distinctive in ornamentation or pattern designs, such as the harmonization between colours, which gives the distinctive character to the design. Such designs should be filed in colour, she said. She clarified, however, that this does not mean that the scope of protection of black and white visual representations is limited to articles in black and white. A visual representation of an ornamentation or a pattern design may be submitted in black and white, however the applicant may use his or her design in different colours. In other words, scope of protection of the design registration includes the design in different colours. She gave an example for clarification of colour protection: a pattern design, which is made up of a composition of three different colours, should be submitted in colour. However, in such case as a hosepipe design, if the applicant submits the same design in blue as a first design, in yellow as a second design and in green as a third design, this will be perceived as a repeated registration of the design [*mükerrer tescil*]; in other words same protection will be sought for more than one design application. Interviewee 1 said that in this case, they would usually warn the

applicant or their representative that the second and the third design is same as the first, and as such would be repeated registrations.

Likewise, Interviewee 2 also indicated that there is no specific colour protection in design registration, unless there is a colour combination on the design, in which case it may be subject to design protection. If the visual features of the design do not change due to the change in colour, then the design can be applied for in one colour, but protected in different colours.

Similar to the other interviewees, Interviewee 3 mentioned that the same article in different colours does not extend the scope of protection. The design in different colours falls within the same scope of protection. Colours may be distinctive for graphic designs or logo designs, however this does not provide additional protection separately for the same design in each different colours. Interviewee 3 added that if there are more visual representations of the design in different colours, those representations should be additional views, not additional designs.

4.4.4 Views of design

Interviewee 1 explained additional views as “views of the design from different angles,” and added such views of the design are necessary in design registrations. Interviewee 1 also indicated if the design is not shown from different angles or if unclear representations are submitted, it may cause problems during the examination. Interviewee 3 noted that the formal examination includes a check of whether the design is shown in its entirety or not in the views.

About the post-registration phase, Interviewee 2 indicated that filing a design application with only one view may result in problems. Views from different angles of the design help giving better decisions by the Re-examination and Re-evaluation Board at the opposition phase at TPI. Design registrations with a visual representation containing a single view from one angle prevent comparisons with other designs after registration.

Interviewee 1 suggested filing additional views for three-dimensional designs, recommending that two or three views should be submitted, of which one of them should be a perspective view. Interviewee 3 recommended a minimum of three views of the design from different angles. Interviewee 1 stated that visual representation should not include more than one view within the same frame.

Interviewee 1 stated that a view shall be accepted as an additional *design* (not as an additional view) if the visual features of that article change, even if the title or the design itself stays the same. She gave the example of a “bicycle design for multiple

drivers". The first view of that design is the final version of the article, in which all the external aspects of the design, such as seats, shade, tyres are visible. However, the second view shows only the structure of the same bicycle. In this example, even though the title of the design and the article are same, the second view displays a different appearance, which means the second view is another design to be protected. In this case, the second view should be filed as an additional design, not as an additional view.

Interviewees 1 and 3 suggested that the views should not interfere with, or distract from the entirety of the design. Interviewee 3 added that views showing the individual parts of the design shall not be accepted as additional views, because additional views should rather display the design from different angles. Interviewee 1 gave the example of a design for a wheelbarrow, in which two disassembled handles were shown in an additional view. The view of the handles distorts the entirety of the wheelbarrow design, and would be considered as another design, namely "handles for wheelbarrow", which belongs to another Locarno class and another scope of protection should be sought. Interviewee 1 showed another example, a couch design, in which one of the views of the design was submitted showing the couch with cushions in place, and the second one without cushions. She suggested that the applicant should file two separate design applications for each view rather than filing as additional views (i.e. a couch with cushions as the first design, and a couch without cushions as the second in a multiple design application). Interviewee 1 suggested filing the visual representation of a nest of tables as follows: The view showing all the tables individually as the first view, and the view showing all the tables telescoped as the additional view. Interviewee 1 indicated that individual views of the parts of an ordinary design cannot be accepted as additional views, that is, the foot of a table design cannot be accepted as an additional view of a table design, as the foot is another design itself and belongs to a different Locarno class.

Interviewee 1 stated that in the past they had not accepted multiple design applications containing designs from different Locarno sub-classes¹⁶, however she informed that the implementation had changed. For only articles with their ornamentations, multiple design applications are accepted, even when the Locarno classes are different. She gave the example of a furniture design and its ornamentation, stating that the furniture design should be in class 06-06 and the

¹⁶ Second two digit is the sub-class in Locarno classification; i.e. Locarno class 06-07, "07" refers the sub class of the 6th Locarno class.

ornament in 32-00. She cited such two designs with different Locarno classes are accepted in one multiple design application due the term of “except ornaments” within Regulation Article 9/1 (g).

Interviewee 1 gave the example of a yarn design, which may have different details such as beads or pompoms, and for which the visual representation is submitted as a skein. In such cases, Interviewee 1 said they would ask for a new visual representation displaying the design as a line, not as a skein, in order to allow an understanding of all the details of the design.

4.4.4.1 Dimensions of views

All the interviewees emphasized that having to represent an article in a very small area within the defined frame (i.e. minimum 8 cm x 8 cm and maximum 16 cm x 16 cm) led to problems. Interviewee 2 expressed that applicants and attorneys did not pay enough attention to the dimensions of views, which must conform to the cited measurements.

Interviewee 1 indicated that the size of the frame should be chosen in such a way that all of the details of the design should be clear and visible. She explained the importance of the dimensions of views through the example of a design registration application for a toothbrush. If the visual representation is large in size, the visual features of the design, such as the structure of the brush, the curve of the handle and the body of the design can be understood clearly. She showed an example of a visual representation of a bike for multiple users, which was submitted in an 8 cm x 8 cm frame. She indicated that such a large article should have been submitted in a 16 cm x 16 cm frame, since the design and its features cannot be clearly understood in such an inadequately small frame, and as such it would be considered as a formal deficiency. She gave another example in which three different building designs were placed in a single frame, emphasizing that the visual features of the designs cannot be seen since the frame is too small.

All of the interviewees said that when they received visual representations that do not fill the frame, but are placed in the middle of the frame, small in size, they would request a larger image of the article that fills the frame. Interviewee 2 showed an example of such a problem. The representation of the article was submitted in an 8 cm x 8 cm frame, however the actual size of the article was only 1 cm x 1 cm within that frame. She described such visual representations as being “like a dot within the 8 cm x 8 cm frame,” by which neither the visual features nor the design can be understood. The examiners expect the article to fill the whole frame. She also

indicated that they would request articles larger scale, which fills the frame having 8 cm x 8 cm minimum, 16 cm x 16 cm maximum dimensions. The schematic description of the example given by Interviewee 2 is given in Figure 47.

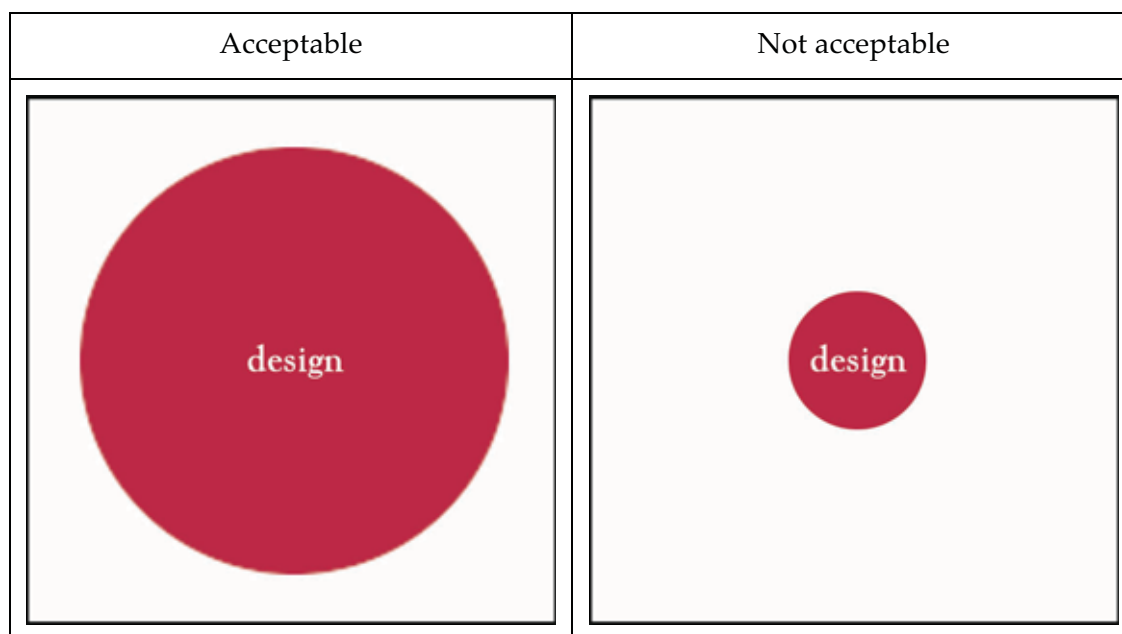


Figure 47 The size of the article in relation to the size of the frame

Interviewee 3 expressed that a small frame size is particularly problematic in carpet and other pattern designs, for which 8 cm x 8 cm may not be sufficient in order to disclose features of the design. In addition, if the pattern is in light colours, it is more difficult to understand the design. He indicated that the frame size is important, and if necessary, the visual representation should be submitted in a 16 cm x 16 cm format. If the applicant submits visual representations that are too small, the examiner may ask for a larger representation.

4.4.4.2 Types of views

4.4.4.2.1 Conventional views

Interviewee 1 explained the importance of submitting all conventional views, provided the example of a wheelbarrow design. The design was shown in five different views: right side, bottom, back, front and top. She indicated that if the applicant had not filed the bottom view and a third party produced a wheelbarrow with a similar bottom view, then the applicant cannot claim infringement concerning the bottom of the registered design. In other words, the scope of protection is limited to the views given in the visual representation.

During the interview, the researcher used the term “technical views” for front, back, top, bottom, left, and right side views. Interviewee 1 warned that the use of the term “technical view” should not be confused with “technical drawings,” which may contain measurements, and which are not acceptable in visual representations. She suggested the phrase “views from different angles” instead of “technical views”.

Interviewee 3 suggested that for effective protection, all views should be submitted, adding that they usually asked for a perspective view in order to be able to see at least a side and front view of the article. Interviewee 1 also suggested that at least one perspective view should be submitted for three-dimensional articles.

4.4.4.2.2 Non-conventional views

Sectional, cross-sectional or cut-through view. Interviewee 1, referring to Implementing Regulation Article 9, stated that cross-sectional views are not accepted *individually* as a visual representation in a design registration application, as most cross-sectional views do not reflect the external appearance of the design, and only visual properties, in other words, the appearance of the object during normal use can be protected. On the other hand, Interviewee 2 indicated that cross-sectional views are still problematic, and are not acceptable according to the Implementing Regulation.

All of the interviewees indicated that cross-sectional views are acceptable as additional views to the perspective view of a design. Interviewee 3 noted that TPI accepts cross-sectional views for profile designs only as an additional view. Interviewee 1 gave the example of the sliding system profile design (Registration No. TR 2012 02861) as an acceptable visual representation which includes a cross-sectional view (Figure 48).


Registration No. TR 2012 02861	Registration No. TR 2012 02861
Design No. 1.1	Design No. 1.2
Title of the design: Sliding system profile (for furniture)	Title of the design: Sliding system profile (for furniture)
	

Figure 48 Visual representation of a sliding system profile design for furniture

Interviewee 3 stated that according to the latest court decisions, cross-sectional views are not accepted in court procedures if the product is a complex product. He cited that a court has decided that invisible parts of complex products, such as profiles of window or balcony systems, cannot be protected. However, he added that TPI accepts such cross-sectional views as additional views to a three-dimensional view of the design. He gave the example of a tyre design, and indicated that the tyre treads can be understood from their cross-sectional views, which are mainly filed by foreign applicants.

Interviewee 3 stated that cross-sectional views, except for profile designs, are not acceptable. He indicated that the design registration system protects only the appearance of the design, and gave the example of foodstuff designs, which may be filed by cross sectional view in order to show the inner structure of the food as an additional view. Cross-sectional views of such foodstuff designs are not acceptable.

Views showing the design in use. Interviewees 1 and 3 indicated that views showing the design in use are acceptable. When the researcher gave the example of a design for a sofa, which can be converted to a bed, Interviewees 1 and 3 indicated that the view of the sofa as converted to bed is an additional view, showing the design in use. Interviewee 3 underlined that there is only one article, a sofa, which can be converted to a bed, and so the sofa configuration and the bed configuration views of the same article should not be filed as additional designs. However, Interviewee 1

added, if there is a sofa with cushions submitted as the first view, and without cushions submitted as the second view, the second view cannot be accepted as an additional view showing the design in use. Contrary to the comments of Interviewees 1 and 3, Interviewee 2 stated that the sofa design which can be converted to a bed has two positions: The sofa position and the bed position, which means two different appearances. She stated that each position of the design includes different designs: a sofa design and a bed design. For this reason, she said, two different design applications should be filed for each position of the article. Moreover, if the Locarno sub-classes of these designs are different from each other, then they cannot be filed as a multiple design registration application; they should be filed as two separate design registration applications.

Interviewee 2 said that the view that shows the design in use should be given as an additional view; the first view should show the design solely, and the additional view should show the design in use. Interviewee 2 explained that the additional view, submitted to show the design in use, should include a physical connection. She gave the example of a container design. If the container has a lid, which is connected to the body, then a view with the lid in an open position can be accepted as an additional view of the container design. On the other hand, if the lid and the body are not connected, then the lid in an open position will be perceived as an extended or exploded view, and could not be accepted as an additional view. Interviewee 2 stated that the views given by CIPO in Figure 16 and in Figure 18 are acceptable.

Detailed, fragmentary or partial view. Interviewee 1 indicated that a detailed view of a design would not provide individual protection for the fragmented parts. She gave the example of a chair design to describe the scope of protection in fragmentary views. She indicated that if the applicant files the handle of the chair as an additional view to the chair design, the handle shall not be protected individually. If a third party produces a chair design with the same handle but a different body part, the applicant would not be able to claim infringement to the handle of his or her design, as only the overall impression of the registered design falls under the scope of protection. If the applicant desires to protect the handle itself, separately from the chair, then another design application should be filed, rather than submitting the handle as a detailed view of the chair design.

Interviewee 1 added that detailed views are problematic, in that they may distract from the entirety of the design. Interviewee 3 said that if the part within the detailed view can be subject to another design, examiners should not accept it as an

additional view. If the part within the detailed view cannot be a design itself and the title does not change, then that detailed view will be accepted as an additional view. He also gave the example of a chair design in which the first view is given as a side view of that chair design, and the second as a zoomed view of the arm of the chair. In this case, the second visual representation comprises another design, that of a “chair arm”.

Interviewee 1 gave the example of a wheelbarrow design, for which the design is submitted in six different views: bottom, back, front, top, assembled handle parts in details and the sixth view, submitted as an additional view, of two disassembled handles shown at different angles. Interviewee 1 indicated that the sixth view could not be accepted as an additional view of a “wheelbarrow” design, as it is actually another design, which should be entitled “handle for wheelbarrow”. If the applicant wishes to protect the handle itself, then another design application should be filed.

Interviewee 2 gave the example of a water slide design as an acceptable example of a detailed view. The first view of the water slide design is a perspective view of the design, the second is again a perspective view, but from a different angle, and the third view is a detailed view of the top part of the slide. She indicated that it is clearly apparent that the part shown in the third view belongs to the same design, and said that this third view would be accepted as an additional view as part of the same water slide design.

Interviewee 3 mentioned that a fragmentary view could be used for decorative or architectural designs. The first view could display the article as a whole, namely as the general view, while fragmentary views of the design may be submitted as additional views.

Incomplete images of puzzles. Interviewee 3 expressed that incomplete images of puzzles are accepted as additional views; while Interviewee 2 indicated that such articles should not be presented as an extended or exploded view. Interviewee 2 added that incomplete images of puzzles should not distort the entirety of the design. Interviewee 1 explained that views should be submitted as a representation of the regular puzzle, with only a small part not completed. Interviewee 1 noted that views of incomplete images of puzzles are not accepted by OHIM.

Plan and elevation views. Interviewee 2 stated that plan views can be problematic, in that they mainly include explanatory text or measurements. Interviewees 1 and 3 added that plan views would be accepted as long as they do not include measurements.

Interviewee 2 indicated that if the plan view is a technical drawing, or not legible, the examiner may ask for a three-dimensional view of the design. She added that plan views also should display the design features clearly.

Extended and exploded view. All three interviewees stated that extended and exploded views are not acceptable. Interviewee 2 defined such views as “disassembled” [*demonte*] views; while Interviewee 3 stated that even if the article is a complex product, it should not be visualised as extended or exploded, as each part should be filed separately.

Interviewees 1 and 2 explained that a complete view of the assembled article should be submitted within the visual representation. Interviewee 1 showed the first figure in the example of USPTO (Figure 22) as an acceptable representation. Interviewee 3 indicated that examiners ask for a complete finished article rather than an extended and exploded view, and added that some of the foreign design applications in Turkey had such views and TPI examiners ask them to extract those views from the Turkish national application.

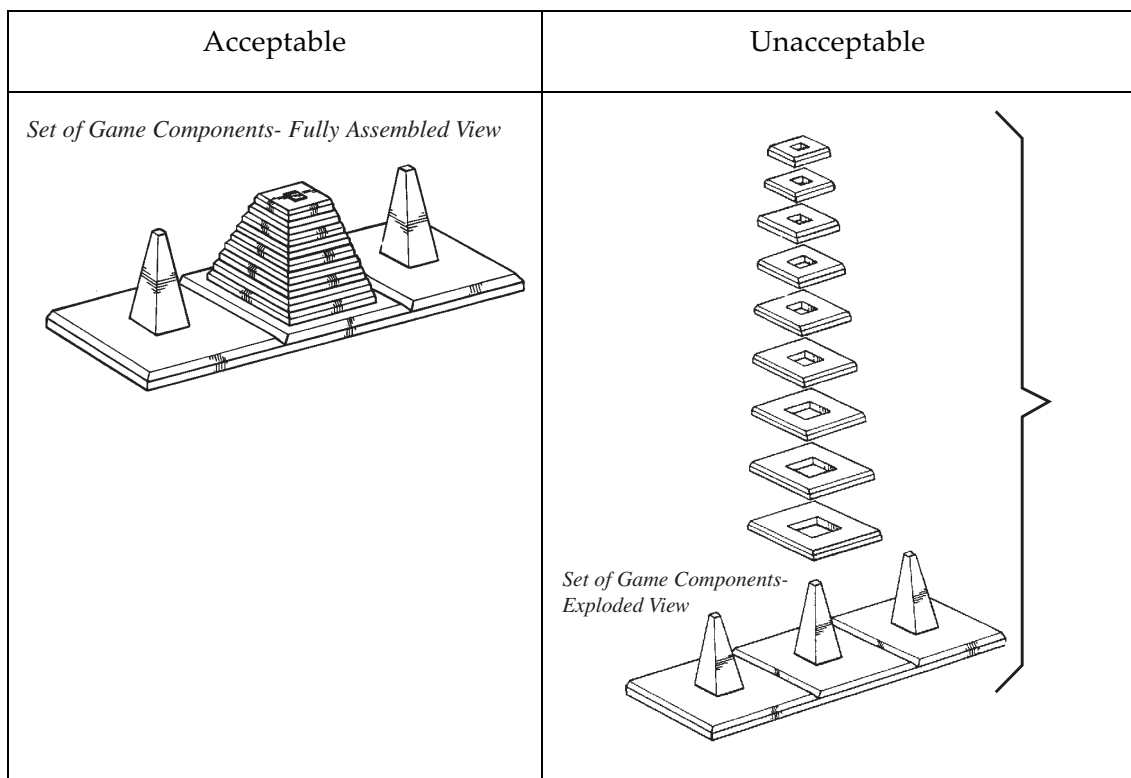


Figure 49 Exploded view sample of USPTO (USPTO 2012, 12), which are shown to the TPI examiners. The fully assembled view on the left hand side is considered acceptable and exploded view on the right hand side by the TPI examiners.

4.4.4.2.3 Repeating surface patterns

Interviewees 1 and 2 indicated that it does not matter if the applicant displays only one portion a surface pattern or more than one portion repeated in the visual representation in terms of the scope of protection.

Interviewee 3 gave the example of a carpet design, and indicated that applicants usually file a picture of the whole carpet as a visual representation. He indicated that if the views of the complete carpet design are submitted in 8 cm x 8 cm format, the visibility of the details of the design will be obscured. For this reason, only the portion which will be repeated through that design is convenient for representation, and in large dimensions, which will also help to perceive the details of the design.

4.4.4.2.4 Articles with indefinite length and width

Interviewee 1 indicated that if the proportions of the design change due to a change in size, an additional view of the same design will not suffice, and an additional design application should be made. Interviewee 1 gave the example of a waiting seat design for articles of indefinite length, stating that only one portion of the article need to be submitted in the visual representation if the design repeats consecutively. For another example, that of a profile design, she indicated that the appearance would not change when the size changes. On the other hand, in a vacuum cleaner design proportions may change as the size increases. In such cases, she stated, another application should be filed for the changed version of the design.

Interviewee 3 also gave the example of profiles, and indicated that applicants usually sought to protect the chambers within their profile designs. He stated that even though visual representations are in three-dimensional format, protection is sought for those chambers, meaning that cross-sectional views are very important in profile designs. He added that in some cases the outer appearance of the profiles may become more of an issue, for example in the case of a profile design having an elliptical outside surface, in which case three-dimensional views are important.

Interviewee 2 cited a design of a fence as an example of an article of indefinite length or width, and stated that only a portion of the repeated part is required in the visual representation in terms of scope of protection.

4.4.4.2.5 Typographic typeface designs

Interviewee 3 indicated that all characters must be shown in one view. Interviewee 1 stated she had only examined one typographic typeface design application, but stated that she had asked for separate views of 8 cm x 8 cm for each character of the

typeface. On that occasion the applicant failed to remedy the formal deficiency, and the application was deemed invalid. Interviewee 2 expressed she had not had the opportunity to examine a typographic typeface design.

Registered Community Design No. 000041496-0001 of a typographic typeface, which includes all letters of the alphabet, in both upper and lower cases, Arabic numerals and punctuation marks displayed in one view as seen in Figure 31, was shown to the interviewees. Interviewee 1 said that they may implement OHIM's practice in Turkey. Interviewee 2, on the other hand, stated that as it had been encountered previously, she would define such a representation as a page layout design rather than a typographic typeface design.

4.4.4.2.6 Designs comprising multiple components and complex products

Complex product. Interviewee 3 explained that each individual component of a design can be protected individually if the design is of a complex product, and added that if only the whole complex product is submitted within one application without submitting each component as a separate design application, then the complex product as a whole, not the components individually, shall be protected.

All of the interviewees indicated that if individual protection is sought for the components of a complex product, visual representation of the whole complex product should be filed as the first design, and each component for which protection is sought should be filed as an additional design in one multiple design application.

As an example of a complex product, Interviewee 1 gave the example of a vacuum cleaner, which is accepted as one article in terms of design registration. She added that a tea pot [*çaydanlık*] design also falls within the scope of the definition a complex product design, being perceived as a combination of multiple objects.

Interviewee 1 gave the registration number of a multiple design application, TR 2011/07942, in order to show an acceptable example of a complex product's visual representation.



TR 2011/07942	Views of the designs				
Design No: 1 Title: Vacuum Cleaner					
Design No: 2 Title: Part of a vacuum cleaner					
Design No: 3 Title: Part of a vacuum cleaner					
Design No: 4 Title: Part of a vacuum cleaner					
Design No: 5 Title: Part of a vacuum cleaner					
Design No: 6 Title: Part of a vacuum cleaner					

Figure 50 Visual representations of a registered complex product design in Turkey with the number TR 2011/07942

Figure 48 (Continued)

<p>Design No: 7 Title: Part of a vacuum cleaner</p>					
<p>Design No: 8 Title: Part of a vacuum cleaner</p>					
<p>Design No: 9 Title: Part of a vacuum cleaner</p>					
<p>Design No: 10 Title: Part of a vacuum cleaner</p>					
<p>Design No: 11 Title: Part of a vacuum cleaner</p>					
<p>Design No: 12 Title: Part of a vacuum cleaner</p>					
<p>Design No: 13 Title: Part of a vacuum cleaner</p>					

Figure 48 (Continued)

Design No: 14 Title: Part of a vacuum cleaner					
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4.4.4.3 Ordering and numbering the views

Total number of views. Interviewee 3 put forward an application by a foreign applicant as an acceptable example, which included six or seven different views. However, he did mention that submitting three different views of the design might have been sufficient.

Arrangement of views. Interviewee 1 indicated that applicants rarely pay enough attention to the order of views, and complained that they often arrange the views randomly in design applications.

All of the interviewees indicated that the perspective view should be submitted as the first view. Interviewees 1 and 2 stated that the first view should be a perspective view, which allows a clear understanding of the design and shows the general features of the design to be protected. Interviewee 2 expressed that “submitting the side view as 1.1” does not help with the legibility of the design. Side views and the like should be submitted as additional views.

Interviewee 2 mentioned common deficiencies in the arrangement of views, and gave the example of an application filed as one design registration application with eleven views. However, during the examination of the visual representation, the examiner found out that there were two different designs: First design having five, and the second design having six different views. Such mistakes of arrangement of the views not only cause remedy of the arrangement of visual representation, but also they require remedies on descriptions of the designs.

Numbering and labelling the views. Interviewees 1 and 3 explained the two-digit numbering system for design applications, with the first digit indicating the number of the design, and the second indicating the number of the view of that design, i.e. “1.1,” refers to the first view of the first design, and “1.3,” the third view of the first design. Interviewee 3 indicated that the views labelled as 1.1, 1.2 and 1.3 as if they are different views of the design may turn out to be the representations of three

different designs which should be labelled as 1.1, 2.1 and 3.1.

4.4.5 Partial disclaimer

4.4.5.1 Visual representation of partial disclaimer

All of the interviewees indicated that partial disclaimers should be indicated very clearly on the visual representation, and suggested two alternative ways of doing this by visual means:

- Showing the portion for which protection is claimed by adding a circle, ellipse or square around it. Interviewee 3 suggested outlining the part for which protection is sought with a red circle.
- Showing the non-design portions of the design in stippled or dotted lines. Interviewee 3 underlined that dotted lines are only used for features of the design for which no protection is claimed, with the features for which protection is claimed shown in solid bold lines.

Interviewee 1 added that whichever method is selected, the partial disclaimer should be clearly visible on the representation, even after scanning.

Interviewee 1 indicated that if there is a partial disclaimer for a design not shown in the visual representation, it would be a ground for a formal deficiency. She gave the example of a bottle lid. If the visual representation of the lid design is submitted together with the bottle, without clearly indicating that it is the lid for which protection is sought, the examiner shall ask for a partial disclaimer on the visual representation. She added that a much more appropriate way for representing a lid design would be to show the design individually from different angles, and submitting a view of the lid on the bottle with a partial disclaimer as an additional view.

Interviewee 1 indicated that sometimes a portion of the article is claimed to be protected but it cannot be visualized separately. Interviewee 2 gave the example of a spoon design, where the design to be protected is the ornamentation on the handle part of the spoon. In this case the examiners would ask for a visual indication of the parts of the article for which protection is claimed on the visual representation.

4.4.5.2 Verbal description of partial disclaimer

Interviewee 1 indicated that any partial disclaimer should be in combination with the visual representation, the title of the design, and the description of the article. Again using the lid design example, she suggested the title “the lid of a bottle”. Interviewees 2 and 3 added that the description should not describe the entire

article but only the portion and its features for which protection is sought.

4.4.6 Format and quality of visual representation

Interviewee 3 indicated that the resolution of the image submitted as representation is the most common problem related to the format and quality of visual representations.

4.4.6.1 Physical quality

All of the interviewees claimed that the scanning procedure at TPI is a problem in terms of the loss of resolution of the image when dealing with paper submission applications. Interviewee 2 explained that all visual representations submitted with paper applications are scanned at TPI and uploaded onto the system. Interviewees 1 and 2 indicated that if the submitted visual representation is only medium resolution, the resolution after scanning gets even worse. Both interviewees indicated an approximately 10% loss of image clarity due to scanning; and during publication there will be a further loss of resolution. Interviewee 1 added that scanning also causes a loss of colour in the visual representation. In particular, if the article being represented is black, details of the design will disappear after scanning.

Interviewee 2 stated that it is better to submit visual representations in digital format as well when filing a paper submission application. She said that some of the examiners' computers do not have DVD readers, and therefore soft copies of visual representations should be submitted in CD rather than DVD format.

Interviewee 1 indicated that they had once received an application on which the visual representations were pasted with glue. After a while, they observed that after the glue had dried, the visual representations had become totally invisible.

Size and quality of paper. Interviewees 2 and 3 indicated that applicants should not submit visual representations on the application form, but rather printed on a separate sheet of A4 paper, otherwise a formal deficiency may be given by the examiners.

Only Interviewee 1 indicated that some applications were not submitted on A4 white paper. She mentioned that the problem is rare, but stated that one time they had received an application form with visual representations printed on low-quality newsprint paper. On another occasion, she encountered an application in which the visual representations were submitted on scrap paper.

4.4.6.2 Data format for e-filing

All of the interviewees stated that applicants who file their applications

electronically commonly make errors in the ordering and numbering of visual representations. For example, while assessing a design application of one design with eleven views, during formal examination it emerged that there were actually two different designs with five and six views each.

Interviewee 1 indicated that they did not encounter problems of resolution in the visual representations of electronically filed applications; however, Interviewee 3 stated that in electronically submitted visual representations, problems of size and clarity may be encountered.

Interviewee 2 stated that uploading the visual representation of an electronically filed application on to the data system is easier than scanning and uploading the representation of an application submitted on paper.

4.4.7 Unacceptable visual representations

Interviewee 2 indicated that only visual representations that are contrary to the principles of public order and general morality are provisionally refused.

Interviewees 2 and 3 expressed that an application will be refused if it does not confirm with the definitions of “design” and “product” given in the Decree Law Article 3(a) and (b) during the formal examination. Interviewee 2 added that if the visual representation displays an article, which is accepted as “design” but has formal deficiencies, then the examiner would request the formal deficiencies to be remedied for granting the application date. Interviewee 2 said that if the formal deficiency is not remedied within the time period stated in the Implementing Regulation, then the application shall be deemed invalid.

Interviewee 1 stated that production, construction or composition methods cannot be protected by industrial design registration, as industrial design registration protects only the appearance of the design. Therefore, she added, visual representations showing production, construction or composition methods would not be accepted. She gave the example of a visual representation of a sack full of different herbs, which was submitted as the visual representation of a design application seeking protection for a particular mix of herbs. The examiner had to inform the applicant that this did not fall under the scope of design registration. Another example she gave was of a visual representation of the construction of an article, a view of a nail being hammered, which is also an unacceptable representation.

Interviewee 2 provided a list of unacceptable visual representations:

- Unclear views,
- Visual representations containing numbers, explanatory text or descriptions of the design,
- Designs which cannot be perceived clearly due to problems in the use of colour in figure-background relationship.

Interviewee 3 provided the following list of unacceptable features in visual representations:

- Lack of clarity which is the most important one,
- Visual features of the design that are not clearly shown,
- Background and article are in the same colour,
- More than one view in one visual representation.

As mentioned before, all of the interviewees stated that extended and exploded views are unacceptable.

4.5 Further comments and suggestions by the TPI experts

Interviewee 1 recommended that visual representations should be bright, in large dimensions, sufficiently clear, and should include the views of the design from different angles. She added that the description of the design is also important. Interviewee 1 gave an example of a bowl design, for which, the applicant claimed, the distinctive part of the design was the four “ticks” on the bottom of the bowl. The applicant defined the way his/her design differs from other bowl designs on the market by indicating that in the description.

Interviewee 3 said that applicants should give more weight and importance to the visual representations.

Interviewee 1 suggested that applicants and attorneys attach more importance to their duty. Interviewee 1 expressed that the power of attorney or application fee might be missing, however, the visual representation should not be, as it constitutes the most important part of a design registration application. Interviewee 2 suggested to both attorneys and applicants that:

- They should carefully read the information published by TPI on how design registration applications are made, and
- They should call the examiners directly if they want more specific information about their application.

Interviewees 1 and 2 advised attorneys working in the design registration field to explain the importance of submitting additional views and the clarity of the visual

representations to their clients, which will help in achieving acceptable visual representations. Interviewee 3 indicated that the international applications through the Hague System and applications with priority of foreign registrations or applications usually submitted adequate visual representations. He suggested attorneys to use drawing software for preparing visual representations of design.

Interviewee 2 stated that the reason for deficiencies is generally related to the knowledge level of the applicant when no attorney has been assigned.

Interviewee 3 gave three design registration applications as “acceptable visual representation examples” during the interview. The visual representations of those applications are given in Figure 51, 52 and 53 together with their application numbers.




















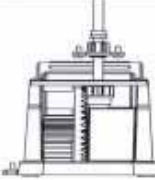
TR 2012/000 59	Views of the design				
Design No. 1 Title: Turnable mob					
Design No. 2 Title: Turnable mob					
Design No. 3 Title: Turnable mob					
Design No. 4 Title: Turnable mob					

Figure 51 Visual representation of a turnable mob design in Turkey with the number TR 2012/00059









TR 2012/0344 0	Views of the design				
Design No. 1 Title: Vacuum cleaner					
					

Figure 52 Visual representation of a vacuum cleaner design in Turkey with the number TR 2012/03440

TR 2012/03459	Views of the design		
Design No. 1 Title: Container			
Design No. 2 Title: Container			
Design No. 3 Title: Container			

Figure 53 Visual representation of a container design in Turkey with the number TR 2012/03459

CHAPTER 5

CONCLUSION

The aim of this study has been to clarify the main features and qualities of visual representations required by design registration systems in various jurisdictions including Turkey with the intention of developing a guideline which would assist the applicants and attorneys in preparing visual representations. The study has been conducted in two parts: A literature survey in which national, regional and international design registration systems have been studied, in particular their regulations and guidelines, to obtain an understanding of their main features and requirements for visual representations; and a field study has been conducted which involved in-depth interviews with TPI examiners in order to investigate the main problems and critical issues concerning visual representations in design registration applications in Turkey.

In the literature survey, the legal texts of eight different jurisdictions, including Turkey, Community designs by OHIM and international design registrations through WIPO, were analysed. This part of the study concluded with the categorization of the findings into a list of features and qualities of visual representations that not only helped in the development of the interview schedule used in the field survey, but also formed the basis of the proposed guideline.

After the investigation of the main problems encountered, and after hearing suggestions related to the features and qualities of visual representations cited by TPI examiners, the findings of the field study were analysed and presented according to the features and qualities compiled during the literature survey.

The significant aspects of this study were as follows:

- The legal texts and official guidelines of the Hague System, the Community Design system and the national design registration systems of Turkey, Australia, Canada, the United Kingdom, the United States and South Korea

have been analysed in terms of the features and qualities of visual representations.

- These features and qualities related to visual representations have been studied together with the problems encountered by TPI examiners.
- The study also highlighted the suggestions of TPI examiners to applicants and attorneys concerning visual representations in design registration applications.

The limitations of the study were as follows:

- The legal texts and official guidelines in eight jurisdictions only were reviewed due to time and language restrictions.
- The examples of unacceptable visual representations revealed in the field study were not presented within this thesis as those design applications are still pending and have not been published, yet. In order not to prejudice the novelty and distinctive character of those designs, only verbal or schematic descriptions of their visual representations were presented.

5.1 Proposed guideline for visual representation

A general overview of the topics and sub-topics of the proposed guideline is given in Figure 54, and the proposed content of the topics and sub-topics is covered in the following sections.

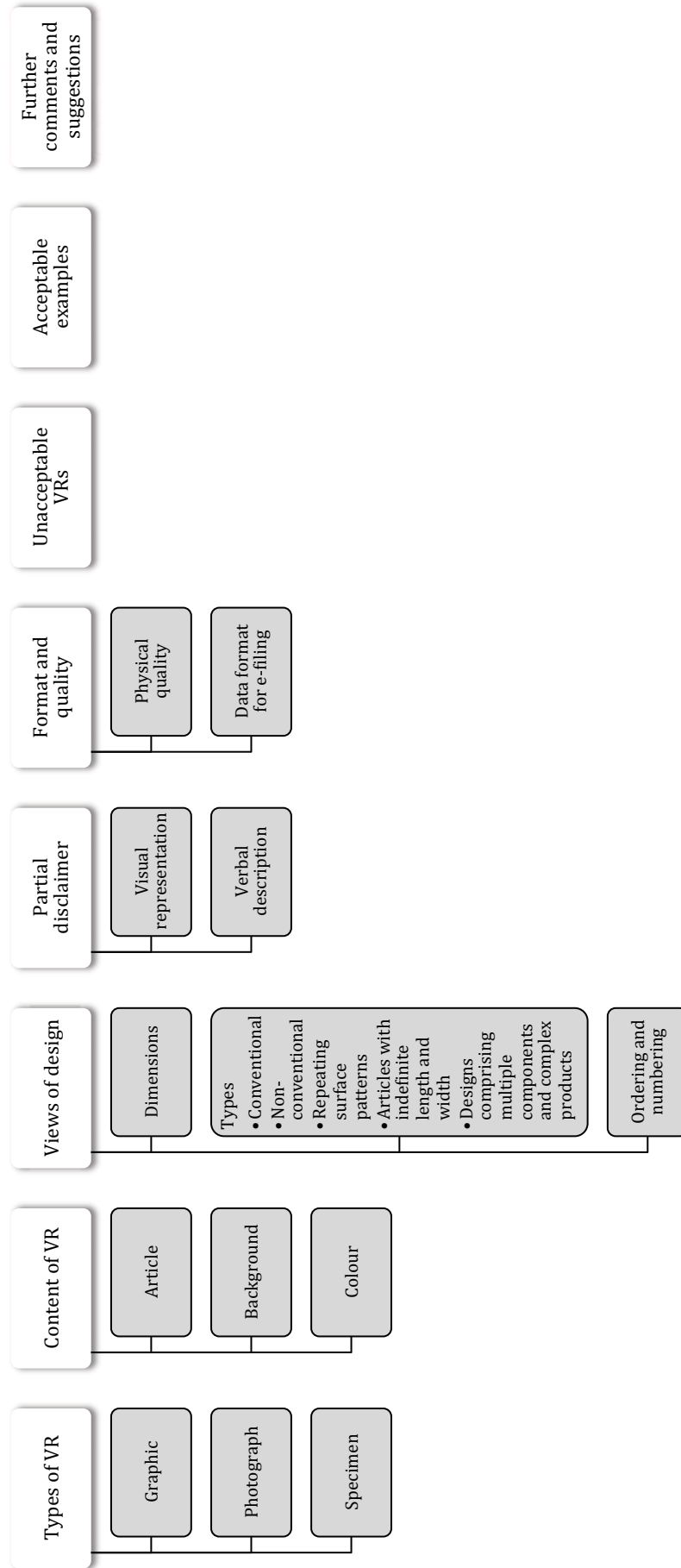


Figure 54 The topics and sub-topics concerning the features and qualities of visual representation based on both the literature review and the field survey findings

5.1.1 Types of visual representation

Visual representation of designs can be submitted in three forms: Graphic representation, which includes drawings and ink drawings in particular, photograph and specimen. Visual representations can be submitted in black and white or in colour, so long as they are suitable for reproduction by publishing.

5.1.1.1 Graphic representations

Graphic representations of a design can be prepared by using drafting instruments, or executed by electronic means to a professional standard. Either way, the graphic representations should:

- Be explicit and clear,
- Be of good quality, either the original drawing, or better still, good quality scans or copies,
- Have satisfactory reproduction characteristics, such as visible solid black lines,
- Have all edges cut at right angles,
- Be prepared in such a way that the article is shown on a neutral, plain background.

It is recommended to use drawing software in the preparation of visual representations.

Graphic representations that include explanatory text or measurement indications are unacceptable.

Types of line drawings. There are two types of drawings: Ink drawings, which refer to line drawings or black and white drawings; and coloured drawings. It is up to the applicant to select the most practical type for depicting the design clearly. It is suggested that plain black and white drawings be used if the scope of protection does not cover a particular colour.

Quality of lines. The lines of the drawings should be durable, clean, solid, sufficiently dense and dark, uniformly thick and well-defined.

The lines should be solid and the weight of the lines, including lines representing shading or cut surfaces of cross-sectional views, must be heavy enough for reproduction through publishing or scanning.

Lines or strokes in different thicknesses may be used to denote different elements, i.e. bold lines for the outline of the design to be protected. In such cases it is

important that all lines stay visible after reproduction through publishing or scanning.

Broken lines, dotted lines or stippled lines. Dotted lines can be used either to show the features or parts for which protection is not being sought (partial disclaimer), or to indicate parts that are not visible in that particular view. It is suggested for three-dimensional designs, not to show the lines of the features, which cannot be seen on that particular view of the article on the drawing. Dotted lines should not be used to indicate elements that are not part of the design to be protected, while solid lines should be used to show the features for which protection is being sought. It is suggested not to use the broken lines for showing hidden planes and surfaces that cannot be seen through an opaque material of the article due to possibility of preventing an explicit understanding of the design.

Broken lines can also be used to show environmental structures¹⁷ that are not part of the design. If broken lines are used in this way, they should not intrude upon or cross the claimed design, prohibiting a clear understanding of the design.

Another use of broken lines is the boundaries that form the non-design parts of the article for which protection is claimed.

Showing alternate positions of the design using full and broken lines on the same view is prohibited.

Broken lines should be lighter than solid lines which indicate the design features to be protected, however all lines should be heavy enough to be visible after reproduction through publishing or scanning.

Shading. Embossed parts of the design can be shown through shading or in the form of parallel lines. Shading can also be used for providing relief. Shading can be used to illustrate the shape of the design, in particular, any spherical, cylindrical or conical elements of an article. Additionally, shading is used to distinguish the open and closed solid areas of the article. Another use of shading may indicate a contrast of tones in the design, which is shown in Figure 3. On the other hand, the character and contour of all surfaces of any three-dimensional aspects of the design can be represented by shading.

There are two styles of shading accepted by USPTO: Straight-line surface shading and stippling; the sample representations are given in Figure 5, 6 and 7. A

¹⁷ The environmental structure should not be disclosed unless it is necessary to show the environmental structure and the design together in a representation for a better understanding.

combination of both styles on the same article can be used to show surface contrast in Turkey, however such a combination on the same surface should not be used because it may distort the understanding of the design.

Shading should not distort or hide the design to be protected and should be consistent in all views. If non-design portions are illustrated using stippled lines, then shading should not be used on those sections.

Solid black surface shading should not be used, as it may hide features of the design. Black shading should only be used in cases where protection of the colour black is part of a design for which protection is sought.

Flat parts need to be lightly shaded. If possible, shading should be indicated by spaced and lighter lines, lighter than those used in the rest of the drawing, so as not to distort the understanding of the contour of the design to be protected. The angle of the shading lines could be 45 degrees, coming from the upper left corner.

Transparency and translucency. Transparency may be illustrated by using thin lines of shading, as shown in Figure 9. It should not be shown using stippled lines, especially in cases where non-design portions of the design are also illustrated using stippled lines. Transparent surfaces should be shown using light and full lines rather than stippled or broken lines.

Translucency can also be indicated by using thin shading lines and an overall shading of the translucent area; the sample representation is given in Figure 10.

Additionally, elements behind transparent parts of the design should be illustrated using light but full lines rather than broken lines as shown in Figure 11.

Hatching. Hatching can be used to provide relief. Another use of hatching is in cross sectional views, which is explained within section 5.1.3.2.2 Non-conventional views.

5.1.1.2 Photograph

Photographs must be to a professional standard and of high quality, preferably taken by a professional camera. They should be explicit and clear, not blurred.

Black and white photography serves as well as coloured photography, unless the particular colour of the design is not intended to be protected as a design feature. Black and white photography, in other words, images in grey scale, should not result in a loss of clarity of the details of the design.

Photography should be of sufficient quality to ensure that all the details of the design are visible during or after reproduction by printing or scanning.

The article should be presented in front of a natural, plain and clear background, which should be in a contrasting colour to the article so as to allow a clear understanding of the design. For example, black articles should not be photographed in front of a black background. For further explanations on article and background configurations, please see section 5.1.2.

Photographic representations must not be retouched using ink or correction fluid.

Photographs should include no items other than the design itself, including the environmental structure if it is not necessary for a clear understanding.

Using a spotlight may impede visibility and affect the legibility of the design and its features. Confusing highlights, reflections and heavy shadows should be avoided. If the article is made of transparent or shiny materials, then a graphic representation rather than photography may permit a clearer definition of its features.

During photographing, if the camera is too close to the article it may cause distortion and prevent a clear understanding of the design.

5.1.1.3 Specimen¹⁸

A specimen rather than printed visual representations may be submitted if it is not possible to submit a visual representation of a two-dimensional design and a deferment of publication is requested.

5.1.2 Content of the visual representation

The content of the representation of the design must be explicit, clear, definite and complete. All of the special characteristics, in other words, the features of the design to be protected, should be shown clearly. The representation should be suitable for reproduction by publication or scanning.

The submitted representations of the design should raise no doubts or misunderstandings about the design or the features sought for protection. Nothing regarding the design to be protected should be left to conjecture.

The representation should contain no other representation, part of any other representation, numbering, measurement indications or explanatory text.

5.1.2.1 Article

The article should be shown in complete isolation, containing no non-design elements. For example, visual representations of a tribune design should not include

¹⁸ Requirements concerning specimens fall outside the scope of this thesis, and so are not included within the proposed guideline.

anything that is not part of the design, such as buildings, trees, towel left beside the tribune, etc.

In some cases a view that shows the environment and the design together may be acceptable, so long as the environment helps provide a better understanding of the design. The environment may be illustrated in stippled lines in order to indicate that it is a non-design part and is not being claimed for protection. The drawings, the description and the title of the design must be in combination and indicate clearly the design features. It is important to indicate clearly the differentiation between the finished article to which the design is applied and the environment on the visual representation. In cases where the application is filed with a view showing the environment and the design together, it is recommended that the application contain also views of the article in complete isolation.

The article should be shown completely, as a whole, on the visual representation frame without cropping.

Care should be taken when photographing articles that are either very light or dark colour to ensure the details of the design to be protected are clearly visible. Light or dark coloured articles may impede visibility and prevent the clear understanding of the details of the design.

Articles made of transparent or shiny materials, such as glass, may also be unsuitable for representation with photography. As mentioned in section 5.1.1.2, it is more convenient to submit a graphic representation of such designs, which are made of such kinds of transparent or shiny material for disclosing all the details.

If the proportions of the article do not change with changes in the size of the design, then there is no need to file an additional design application for a different size of the same article. However, if the design proportions do change, then an additional design application should be filed for each design, for example, two mugs of similar design with identical handles but with different sized main container sections. In this case an additional design application should be filed for the second design, in that the proportions have changed, affecting the appearance.

5.1.2.2 Background

The background should be simple, plain, smooth and neutral. There should be no non-design elements on the background of the visual representation.

Additionally, the background should be in a contrasting colour to the article. For example, using a black background for a black article may limit the understanding

of the features of the design and may result in the application receiving a formal deficiency. Using a light-coloured background for articles made of transparent materials may also reduce the legibility of the details of the design to be protected.

5.1.2.3 Colour

There are two types of representations in terms of colours: monochrome (black and white) and colour.

Monochrome representations can be used where no protection is claimed for the colour of the design. If the applicant wishes to protect only the shape of the design without defining a particular colour, then black and white drawings are recommended. When a visual representation is submitted in colour, the scope of protection covers the design also in different colours. The design in different colours can be accepted as additional views, but not as additional designs.

Colour may be accepted as distinctive in ornamental or pattern designs, graphic designs or logos, as the harmony between colours may give individual character to the design to be protected. In such cases, if the colour is a part of the design, representations should be filed in colour.

5.1.3 Views of design

Additional views, in other words additional visual representations, are images of the same design from different perspectives.

At the application stage, the formal examination includes an assessment of whether the design is shown entirely and clearly in the visual representations and additional views. Representing the design from different angles is very important after the registration stage, when the assessment of the novelty and individual character or an infringement analysis is conducted, based on the visual representations of the design. For this reason, the submitted views of the design must be as clear as others and must reflect all aspects of the design and allow a clear and explicit understanding of the design and its features. Submitting different views of the same design is also important for illustrating all of the characteristic features of the design.

If the applicant wants to obtain a maximum protection through the registration, then the design should be fully represented. The applicant should ensure that the design is fully represented because only aspects of the design that are visible in the visual representations shall be protected. Accordingly, the visual representation should consist a series of views form different angles in order to show the overall

appearance of the design, especially where the design is three-dimensional. . Hence, there should be a sufficient number of different views to avoid any doubt of exactly what the applicant is requesting to be registered. It is recommended that three-dimensional articles should be represented in at least three views, one of which should a perspective view showing the three sides of the article.

Once the application has been filed at the Office, the submission of additional views is prohibited. For this reason, views should be prepared and selected carefully before submitting an application.

All views should be filed separately. In other words, the visual representations should not include more than one view within one representation, and each view should be submitted on a separate visual representation frame. Views of the design from different angles within one representation will not be accepted, even if the views are explicit and clear.

Additional views of the design should not disturb the integrity or unity of the design, and all views must belong to the same design for which protection is being sought. Individual or disassembled views of the parts of the design will not be accepted as additional views. For example, in the case of a wheelbarrow design application, views of two disassembled handles of the wheelbarrow submitted as an additional view cannot be accepted as an additional view of a wheelbarrow design. The representation does not contain the wheelbarrow, only the handles, and if protection is sought specifically for the handles, it must be filed as an additional design under the title "handles of a wheelbarrow". If the appearance of the design differs from the other views and the title changes, then that view should be filed as an additional design rather than as an additional view.

All the views must be designated properly, such as perspective view, front view, side view, etc. and describe from which angle the article is disclosed can be added to the description of that particular view.

Additional views, the description and the title of the design should be in unity. The description of the additional view should describe the visual properties of that view, and all views should be designated properly.

A view may be accepted as additional design if the visual features change, even if the title and the design itself stay the same. For example, a bicycle design for multiple riders. The first view of that design is the completed version of the design in which all of the component parts are assembled, including seats, shades, tyres, etc., while the second view shows only the main structure of the same article

without the external parts. Even though the title and the article are the same in both views, the second view cannot be accepted as an additional view of the first design because the appearance of the article is different. In such cases, where the overall appearance differs, the views should be filed as additional designs, not additional views.

5.1.3.1 Dimensions of views

Visual representations should be submitted minimum 8 cm by 8cm and maximum 16 cm by 16 cm. Representations cannot exceed 16 cm by 16 cm. All representations must be presented as a whole, and must be submitted in the form of right-angled quadrilaterals (squares and rectangles), with their edges cut at right angles.

The representation of the article should be positioned in the representation frame in large scale. In other words, the image of the article should fill the frame of the above-mentioned dimensions. Schematic description of the size of the article in relation to the size of the visual representation frame is given in Figure 47.

The selected size of frame should be suitable for showing all details of the design clearly. If the size of the representation is large, then the visual features and the details of the design can be understood clearly. In particular, articles with intricate details, such as toothbrush designs or carpet patterns, or articles that are large, such as cars, bikes, buildings, etc., should be filed in the maximum dimensions.

5.1.3.2 Types of view

There are two main types of views: conventional and non-conventional. In addition to these, there are other types of views suitable for other situations, such as repeating surface patterns, articles of indefinite length and width, typographic typeface designs, etc., which are also explained within this section.

5.1.3.2.1 Conventional views

Conventional views are perspective, front, back, top, bottom, right and left side views.

A perspective view is the best option for showing the product from all three dimensions, and can reveal important details of the design on a single view. It is recommended that one of the views should be a perspective view for three-dimensional designs because of three different sides of the same article can be displayed in one view. It also helps better understanding of the design if all the surfaces are clearly understood and fully disclosed in a perspective view.

Unless all the surfaces are fully represented and the details of the design reflected clearly in the perspective view, additional views will be necessary to ensure a clear understanding of the overall appearance of the design.

The scope of protection is limited to the views given as visual representations of the design. If one of the views is missing, such as a bottom view of a three-dimensional design, then the applicant cannot claim an infringement concerning the bottom of his/her registered design against a similar bottom design of a third party's product.

If the two sides of the design to be protected are exactly same, a statement indicating as such can be filed within the description.

5.1.3.2.2 Non-conventional views

Non-conventional views are views that display features of the article that cannot be seen from conventional views, and include cross-sectional views, views showing the design in use, detailed views, incomplete images of puzzles, plan and elevation views, and extended and exploded views.

Sectional, cross-sectional or cut-through views. Since the design registration protects only the external appearance of articles in their normal use, cross-sectional views can be used to show any exterior features of the design. Cross-sectional views should be used if it is necessary to display a particular aspect of an external shape of the design, which may not otherwise be clear in a two-dimensional drawing. It should not show internal features of the design that cannot be seen during the normal use of the article. It is important for cross-sectional views to display features of the article that are visible when the article in use. In such cases, using cross-sectional views also helps provide a better understanding of the design and minimizes the number of views required.

Cross-sectional views must not show functional features or any interior structure that does not form a part of that claimed design. For example, a cross-sectional view of a foodstuff design, which shows the inner layout of the food used in it, cannot be accepted, as the registration system protects only the appearance of the design, not the inner layout.

All materials of the article in a cross sectional view can be shown on a drawing by using hatching method. Hatching can be used to denote different materials used in the design in a cross-sectional view, which are to be regularly spaced, parallel and oblique, and the space between strokes should be chosen to suit the total area to be hatched. Hatching lines should be sufficiently spaced to enable the lines of the design to be easily distinguishable. Different types of hatching should have different

meanings to denote the different materials seen in a cross-sectional view. Different elements must be hatched at different angles.

Cross-sectional views cannot be accepted individually, and should be filed as an additional view to a view that displays the external appearances of the design. As seen in Figure 48, the first visual representation of the design can be a perspective view, while the cross-sectional view can be submitted as a second (additional) view of the design.

Showing the design in use. Views reflecting the utilizing features of the design are accepted as additional views by TPI. Such views can be used for designs that become clearer and more meaningful when shown in practical use. For example, showing open or closed positions or extended or retracted positions of articles may help to reveal the design features and clear understanding.

For views showing the article in open and closed positions to be accepted, the article should have a physical connection while in both positions as shown in Figure 16. For example, for a design of a container, if the body and lid are connected when the container is open, then a representation of the open position of the article can be accepted as a view showing the design in an alternative position. However, if there is no physical connection between the lid and the body, then the lid in an open position will constitute two designs, a body of a container and a lid of a container, which should have different design titles and different Locarno sub-classes. Such views are unacceptable, and can be perceived as extended or exploded views, which are also not accepted by the TPI.

If a movable part of the article needs to be shown when in normal use, it should be shown in a sequence of views, illustrated at the same angle, so as to reveal the appearance of the product in different phases of its operation, cycle or use. Such views should be indicated within the description of the view. For example, a perspective view showing the design in use in a different position can be worded as "perspective view in first alternative position".

Positional views of the design should not be illustrated using full or broken lines on the same view. An example of an alternative positional view is given in 17.

Extended or retracted positional views of the design are acceptable if the article is normally seen and used in those positions. An example is given in Figure 18.

The appearance of flexible flat articles may differ when laid flat or when in use, such as such as clothing or cushion designs. Such articles may be demonstrated in both positions: Laid and in use. An example is given Figure 19.

Detailed, fragmentary, enlarged of partial view. A detailed or partial view is used to display part or parts of the design in detail to allow the understanding of the details for which protection is sought. A detailed view should focus and enlarge part of the article of which the design is applied in order to show the part in detail. Fragmentary views are acceptable so long as they show a portion of the design in a larger scale to better display of the details of the design.

An enlarged view or partial view can also be used considered as detailed view in terms of using such views for the purpose of to magnification a portion of the design.

A view of the whole design should be submitted together with any detailed, fragmented, enlarged or partial view. Such view should be submitted on separate visual representation frames and should be numbered separately. For example, a perspective view of the design as a whole as representation may be numbered 1.1, and the detailed view of the design may be numbered 1.2. The relationship between the whole design and the detailed view should be clear and unambiguous.

If individual protection is sought for a part of a design shown on a detailed image, then it must be submitted as an additional design, not as an additional view. For example, if the applicant files an enlarged view of the handle of a chair as an additional view to a chair design, the handle will not be protected individually. If a third party produces a chair with a same handle but different body part, then the owner cannot claim an infringement for the handle of that design as only the overall impression of a registered design falls under the scope of protection. Therefore, if the applicant desires to protect the part of the design shown in the detailed view individually, being the handle of the chair in this example, another design application needs to be filed, rather than submitting that view as an additional detailed view to the design views as a whole.

Detailed views should not distract from the integrity and unity of the design to be registered, as they may be problematic if the part within the detailed view can be subject to another design registration. Examiners may not accept the detailed view of a design if the part within that representation cannot be described as an individual “design” and the title of that view changes. In the case of the chair and handle example, the handle can be subject to another design application, and the representation showing the handle of the chair can be entitled “handle of a chair”.

Detailed views should not display dissembled parts of the design.

It should be clearly understood that a detailed view filed as an additional view is part of the same design.

Incomplete images of puzzles. Such views should be submitted displaying the regular puzzle with only a small part not completed, and must be filed as an additional view along to a completed view of the design.

Views of the incomplete puzzle should not distort the integrity of the design, and the article should not be shown in an extended or exploded view.

Plan and elevation views. Two-dimensional plan views should be free from measurements or explanatory text. They should be legible and clearly display the design features. If such a view is not legible or clear, then the examiner may ask for a three-dimensional view of the design.

Extended or exploded views. Extended or exploded views of multi-component articles, known as “dissembled views,” are not acceptable as shown in the extracted views marked as “FIG: 2” at Figure 21 and exploded view marked as “Set of Game Components- Exploded view” in Figure 22. The article should be shown fully assembled in the visual representation. Even if the article is a complex product, it should not be illustrated in an extended or exploded view; rather, each part should be displayed and filed separately.

5.1.3.2.3 Repeating surface patterns

Patterns and ornamental designs are used for purposes of decoration, and can be applied to the surface of various types of products without affecting their three-dimensional forms or lines. Visual representations should show the complete pattern and a sufficient portion of the repeating surface. The complete pattern should be surrounded by enough of the repeated pattern to show how the pattern repeats.

It is important to show the details of ornamentation or pattern designs, and therefore filing an ornament or pattern design as a whole in an 8 cm by 8 cm frame may not be sufficient for displaying the small details. For this reason, the repeated portion and a sufficient portion of the repeating surrounding surface *on a large scale* may provide a better understating and a good perception of the details of the pattern.

A pattern design applied to a product may be accepted as an additional view of the same pattern design, and should be filed as an additional view. If the surface

pattern is applied to an article, the article may be shown in broken lines to indicate protection is sought for only the pattern design.

If the design is shown on a product, the description should state clearly “the pattern as applied to a product”. The description may also indicate that the features repeat consistently and at regular intervals along the length or width of the item.

Since pattern and ornamentation designs are considered in one Locarno class, even if the class of the product onto which the design is incorporated is different, the scope of protection of the pattern or ornamentation design covers all classes.

5.1.3.2.4 Articles with indefinite length and width

Different types of articles with indefinite length and width are explained below.

- Articles with indefinite length with a constant cross-section, such as extrusions for mouldings, are can be defined as the articles that, when you cut, the cross-section is identical and do not comprise surface pattern or three-dimensional features.
- Articles with indefinite length with a repeating surface pattern, such as an ornamented ribbon design, in which the repeating pattern is located on the surface of the article, which does not affect the article’s width.
- Articles of indefinite length and width with a repeating surface pattern, such as fabric with a repeating pattern. Both the indefinite length and width may be shown with a stippled line around the pattern to be repeated which the article’s section is constant and the sectional view is not affected.
- Articles of indefinite length with repeating three-dimensional features, such as a drainage track with repeating apertures, where the cross-section is *not* constant, yet the three-dimensional features are repeated at regular intervals along the article’s length.

It is important to note that if the proportions of the article change with changes in length and/or width, then the appearance of the product changes. Accordingly, additional design applications should be filed for each different design.

Illustrating a portion of the repeated part of the article can be sufficient if the pattern repeats consecutively and the appearance does not change with repetition, i.e. a profile design for a sliding door or a fence design. The length of the article is variable but repeats consecutively, but the appearance does not change.

Descriptions of such designs may indicate the features that are repeated consistently and at what intervals along the length or width of the portion.

5.1.3.2.5 Typographic typeface designs

Visual representations of typographic typeface designs should show at least four lines of text comprising all typographic characters in such a way that all the features of each character can be clearly be seen. All characters should be shown, meaning all letters of the alphabet in both upper and lower cases, a line of Arabic numerals and five lines of text produced using the typeface, including both letters and numerals at the minimum size of 16 Point as given in Figure 31.

On the other hand, single colour shall not assist ordinary typographic typeface or graphic symbol design as a feature to be protected, if the design does not pass the novelty and individual character criteria.

5.1.3.2.6 Designs comprising multiple components and complex products

Each component of a multiple component design can be filed as additional designs within one design application if:

- the components forming the design have the same the visual properties that can be seen during normal use, *and*
- the indication of the product in which the main design is classified should be the same.

This is to prevent the component designs from being perceived as different designs, in other words, multiple design applications rather than a design with multiple components. For example, the representation of a pen *with* its cover or *without* its cover may be accepted as additional visual representations; however, an individual representation of the cover itself is considered as a different design, not as an additional representation.

Get-up designs. Get-up designs are designs in which more than one product or set of items that constitute a composition by them and can be perceived as one design, such as trade dress, in-store layouts, indoor or outdoor designs, layouts. Such designs need to be filed with multiple views, one of which should be a top view, in order to display the layout of the design clearly. The description of the views should not indicate all of the individual features of the products comprising the design, but should reflect the ambiance of the overall appearance of the components and state precisely for what protection is being claimed.

Designs comprising a set of articles. Such designs made up of a combination of features should show clearly which elements are being claimed for protection such as the articles of the set are so closely related that they can be considered as forming

a single product, i.e. spoons and knives as shown in Figure 32. At least one of the views should show the set of articles together.

All of the pieces of the set of articles must be shown within the visual representations of the design.

Representation of a complex product. Views of components incorporated into a complex product should disclose the novel and individual character that *remains visible in the normal use*¹⁹ of that complex product. The representation of a complex product should cover all internal and external features that are visible in normal use by the end user, *not* the maintenance provider or service engineer of the article.

Individual parts of a complex product can be protected individually. If individual protection is sought for each part of a complex product, visual representations of the whole complex product should be filed as a first design, and afterwards, each individual part of that complex product should be filed as additional designs in one multiple design application. If the complex product is displayed as a whole in the representations without submitting views of the individual components as additional designs, then the complex product can only be protected as a whole, and not the individual components.

An example of a complex product design registration is given in Figure 50. The complex product is illustrated in its entirety as design no. 1, with each individual part of the complex product given as an additional design separately with different views in one multiple design application.

5.1.3.3 Ordering and numbering the views

Total number of views. There is no limit on the number of representations and views that can be submitted, so long as they clearly display the design and show all of its novel and individual features clearly and accurately. There should be a sufficient number of views of the design to specify all the features and to be understood without leaving any doubt for which design features protection is being sought. In other words, the views should facilitate complete disclosure of the appearance of the claimed design.

As a guide, the minimum number of views may be suggested as: one view for a two-dimensional design; and seven conventional views, one being a perspective, for

¹⁹ Normal use is defined as use by the end user by the IPO Registered Designs Act 1949 (c.88) as amended in Section 1B(9). The Design Practice Notes define the end user of a motor car as being the owner or the driver rather than the service engineer (IPO 2003 Design Practice Notices (DPN) 1/03).

a three-dimensional design in order to display every side in one representation and show the overall appearance of the product with nothing regarding the design for which protection is sought left to conjecture. It is suggested to submit one of the views of a three*dimensional design as a perspective view in order to show the appearance of the design clearly.

It should be noted that Registered Community Design (RCD) regulations limit the number of views in an application to seven,²⁰ and so if a national design application is the priority application for an RCD, then only the first seven views will be considered as the views of the design.

Arrangement of the views. Representations should be arranged in the order in which the applicant wishes them to be published. It is preferred to have the perspective of the design as the first representation of the design so as to allow a clear understanding of the design, after which the views should be grouped according to each variant rather than arranged randomly. In multiple design applications, the representations of each design should be arranged together and not mixed with the representations of other designs. In one example case, an application was filed as one design with 11 views, however after the formal examination of the visual representations, the examiner realised that there were actually two different designs, with the first design illustrated in five views, and the second in six views. Such mistakes in the arrangement of views results not only in the need to remedy the formal deficiency of the arrangement of the visual representation, but the descriptions of the designs as well.

All views should be placed on an upright position and must not be overlap upon or within the outline of another view.

Numbering and labelling the views. Each design and each view must be consecutively numbered with simple and clear Arabic numerals. All additional views for each design shall be numbered with two digits separated by a dot. The first digit indicates the design number, and the second indicates the view number i.e. 3.7 denotes the 7th view of a design numbered 3. The design represented from different angles must be denoted with two-digit numbers, i.e. 1.1, 1.2, 1.3, etc. for the first design; and 2.1, 2.2, 2.3, etc. for the second design. For example, a multiple design application with three designs, each presented in one view, should be numbered 1.1, 2.1 and 3.1.

²⁰ OHIM2003 Article 4; 2007 CDIR Article 4(2); 2012 Article 11.4

It is important that the reproductions themselves contain no numbering on them. There is a space for numbering on the application form of TPI for paper submission applications.

5.1.4 Partial Disclaimer

Protection may not be always requested for the whole of an article. In cases where the applicant seeks to limit or extend the scope of protection, and protection can be requested for only a part of the design.

A disclaimer can be used to:

- Limit or extend the scope of protection being sought in relation to the design, or
- Indicate that an application details only a part of the appearance of a product.

A partial disclaimer can be used to protect a specific feature of the design, such as the three-dimensional shape but not the surface decoration; or to disclaim some of the visual features of the design, such as colours or materials; or to show the design attached to another article for which protection is not sought, but merely to depict the design in a clear manner. An example of this would be automotive parts, which in normal use would be attached to a vehicle.

The partial disclaimer must be indicated within the description and/or within the representation of the design. Additionally, the indication of the product, the visual representation and the written description must be in combination.

5.1.4.1 Visual representation of partial disclaimer

The parts for which protection is sought should be indicated clearly on the visual representation. For example, if the partial disclaimer is to be used to limit the application to a particular element of the article, such as its shape or decoration, it must be clearly marked as such on the visual representation.

If there is a partial disclaimer for the design to be protected and it is not shown on the visual representations, then a formal deficiency may arise. For example, if protection is requested for the "lid of a bottle" and the representations are submitted presenting the bottle as a whole, without disclaiming the bottle part or showing the lid specifically, the application will not be accepted.

If an design requested protection that cannot be visualized separately from the article which the design is applied, then the design portion for which protection is sought should be indicated on the visual representation. For example, in the case of

a spoon for which protection is sought for only the ornamentation on the handle, there should be a visual disclaiming of the spoon, and a clear indication of the ornamentation for which protection is sought.

There are three ways of showing a partial disclaimer on visual representations:

- Using stippled, dotted, dashed or broken lines
- Colouring or blue wash,
- Outlining, or

No matter which method is used to show the partial disclaimer on the representation, it should be indicated clearly with a high quality image. All markings should be clearly understandable after reproduction and be suitable for reproduction through publishing or scanning.

Stippled, dotted, dashed or broken lines in a partial disclaimer: Using stippled, dotted, dashed or broken lines to show parts for which protection is not requested or parts that are not a part of the claimed design. This method can be used for especially graphic representations in a drawing format. The article can be illustrated showing the design for which protection is claimed in solid lines and the portions of the features that are not part of the design in stippled lines, formed by evenly spaced short dashes or dots, or evenly spaced and alternating short dashes and dots as shown in Figure 34 and 35.

Non-design features of the article should be shown as opaque or non-transparent, unless those parts are actually transparent as shown in Figure 36.

It is important that broken lines be used only to illustrate the non-design features of the article, but they may also be used to indicate environmental structures that are not part of the design to show the environment in which the design is to be used, facilitating a clear understanding of the design. Further use of broken lines is explained within the section 5.1.1.1 Graphic representation in detail.

When showing partial disclaimers on drawn graphic representations, the boundaries between the design and the non-design portions of the article, in cases where the use of solid and stippled lines alone does not clearly show the design applied to the article, can be illustrated using bold and wavy lines. It is important to illustrate clearly the bold and wavy lines and to indicate the design features to be protected and the sections of the article relating to the design and they should not be confused with ordinary solid, stippled or broken lines. It is recommended that an explanation be provided in the description of what is illustrated or represented by the bold and wavy lines on the drawings. Such use of bold and wavy lines is

suggested by CIPO, however, TPI examiners confirmed that this method can also be applied to Turkish national applications which the examples are given in Figure 37 and 38.

Colouring in partial disclaimers. A partial disclaimer can also be made using visual means through the use of colour, either by colouring the parts for which protection is not sought in one single colour, known as *blue wash*,²¹ or by colouring only the parts for highlighting the features for which protection is sought on a black and white drawing.

Outlining in partial disclaimers. A further indication of a partial disclaimer can be achieved on a representation through the outlining of the part or parts containing the design features that are to be protected with a boundary²², preferably in coloured ink.

Alternatively, a circle, ellipse or square can be drawn around the part or parts for which protection is sought to indicate a partial disclaimer, so long as the legibility of the design features is not distorted.

5.1.4.2 Verbal description of partial disclaimer

The description may also serve for disclaiming the protection of some features of the design. The partial disclaimer should correspond to the visual representation, the title of the design and the description. If protection is sought for only part of an article, then the expression “a part a product” should be indicated in the description and the title of the design accompanying the representation itself. The description should highlight the design features for which protection is sought.

5.1.5 Format and quality of the visual representation

5.1.5.1 Physical quality

It is important to submit visual representations in a highest quality, which distinguish is all details of the design clearly, is one of the formal requirements for the allocation of the application date.

No matter it is a graphic or photographic representation, the physical quality of the representation should be capable of being reproduced using IT scanning equipment and reproducible in print. In other words, the quality of the representation should remain high and details of the design should be legible even after scanning or publishing.

²¹ IPO 2004 DPN 1/04

²² OHIM 2012 Article 11.4; IPO 2012a under “Partial Disclaimers”

Drawings should be of sufficient size to show all the features and details of the design in a clear way and the quality of the line in drawings should be of good enough quality for scanning, copying or publishing.

The resolution of the representation should be such that all the features of the design are apparent when the reproduction is reduced or enlarged to a size of 8 cm by 16 cm.

It is recommended that visual representations be submitted in jpeg format, recorded on a CD with high resolution so as to avoid problems during the scanning process at TPI for non-digital paper applications. Further explanations on non-digital paper submission applications are rendered in the next section 5.1.5.2 Data format for e-filing applications.

Submission on the application form. Visual representations should be submitted on the application form published by TPI. The Turkish national design application form example is given in Figure 40 to show the physical content of representations on the page of the application form.

The representation page should contain the name, surname, title and signature of the applicant or his representative. Each representation frame should contain only one view, and should contain no other representations or parts of representations.

There should be no explanatory text, wording or symbols, or indications of direction of view, such as “top,” on the representation page.

Each design and their views should be grouped together and should appear on the application in that order, labelled with consecutive design and view numbers. The consecutive numbers of the design and views should be written in the designated areas on the application form.

Representations of the design should be placed in upright position in the frame.

Numbering of representation pages. Each page must be numbered in consecutive order. Page numbers must be written in the designated areas on the application form.

Size and quality of paper. The representation page should be submitted on 21.0 cm to 29.7 cm DIN size A4 paper. All sheets should be the same size. The paper should be good quality, plain, white and opaque, and it is recommended that it be flexible, strong, smooth, non-shiny and durable.

Only one side of the paper should be used. Neither the representation nor the page should be folded. The paper should be free from cracks, creases, folds, erasure

marks, alterations, overwriting and interlineations. Only one copy of the each representation page should be submitted.

Representations should be printed or pasted on the representation page, and must not be stapled, folded, scratched or retouched with ink or correction fluid.

5.1.5.2 Data format for e-filing applications

WIPO, in the Guide to International Registration of Industrial Design²³, recommends representations be submitted in jpeg or tiff format in RGB colour mode, and in files not exceeding 2 megabytes. The resolution should be 300 dpi. The representation of design and any additional views should be arranged respectively. The views should be ordered and numbered carefully.

5.1.6 Unacceptable visual representations

Applications that contain visual representations that are contrary to the principles of public order and general morality are provisionally refused. Additionally, if the content is found to fall outside of the coverage of the “design” and “product” description within the Decree Law²⁴, the application shall be refused. As an example, if the construction of an article is visualized on the representation, the application shall be refused on the grounds that the design registration system does not protect methods of production, construction or composition. Another example is a representation showing a sack of mixed herbs for which protection is claimed for the mix. Such requests do not fall under the scope of design protection.

Unaccepted visual representations, for which a formal deficiency shall be raised, are listed below.

- Representations that include *objects, accessories, people or animals* that do not fall under the scope of the design protection. The representation should include only the design or its relation to an object with which it is to be used.
- Applicants should avoid including additional items that are not a part of the design for which protection is sought. If their inclusion is unavoidable, then the applicant should disclaim the non-design features.
- Representations that include measurement indications and technical drawings, particularly with axes or dimensions.

²³ The image format for representations are indicated as for international design applications by WIPO (WIPO 2012d BII.22.05.05)

- Representations that include explanatory text, legends, numbering or wording and symbols, or other such indications.
- Displaying the product in sections or plans, together with axis and dimensions.
- Representations that include multiple views or contain other representations or parts of other representations.
- Representations that are folded, stapled or marked in any way.
- Representations that have been retouched with ink or correction fluid.
- Representations on a non-neutral background.

In addition to the above list, the following may also prevent acceptance:

- Representations in which the design features cannot be understood clearly due to the use of the same colour for the article and the background, such as using a white background for a white article.
- Lack of clarity, preventing the visual features of the design from being displayed clearly.

5.1.7 Examples of acceptable visual representations

Examples of acceptable visual representations are given in Figure 51, 52 and 53.

5.1.8 Further comments and suggestions

Representations should be bright, in large dimensions, sufficiently clear and comprise additional views from different angles of the design in order to be understood clearly.

The applicant needs to be sure that the novel and distinctive character of the design to be registered is shown clearly on the visual representations.

The article in the representation, the description and the title of the design should be in unity.

It is recommended that applicants or their attorneys read the information published by TPI. They can contact TPI examiners directly to ask for specific information regarding an application and its visual representation.

5.2 Further studies

In the course of this study, while investigating the field of visual representation in design registration, the researcher noted down a number of other areas for further study :

- A checklist can be developed basing on the proposed guideline for the use of the applicants and /or attorneys for checking the applications before filing the applications.
- Each topic in the proposed guideline can be enhanced further in terms of visual representation samples in collaboration with TPI examiners.
- The proposed guideline can be extended to other jurisdictions.
- A comprehensive guideline can be developed for applicants and attorneys detailing the preparation of visual representations, including how to visualize the design to be registered.
- A checklist can be developed covering all formal examination procedures and the requirements, for use by applicants and attorneys before filing an application.
- A guideline can be build for the requirements concerning specimens.

GLOSSARY

Applicant. Right holder who could be a natural person or a legal entity.

Attorney. A natural person or a legal entity who is entitled to represent a right holder at the Patent and Trademark Offices. Patent and/or trademark attorneys are entitled for the design registration procedures in Turkey.

Guidelines. Guides for preparing or examining an industrial design registration or a design patent published by Patent and Trademark Offices or other by an Authority entitled to regulate and implement industrial property rights.

Legal Texts. National, regional or international laws, decree-laws, regulations, and the related provisions of the treaties, agreements or conventions including administrative instructions by regional or international bodies.

Patent and Trademark Office. The Authority entitled to regulate and implement industrial property rights.

Representative. See Attorney.

Reproduction. The act of making copies in terms of printing, publishing or scanning. WIPO and KIPO, on the other hand, use the term “reproduction” as refer to visual representation of a design.

Visual representation. Pictures or images of the design, either in graphic or photographic format, which is available for reproduction in terms of printing, publishing or scanning.

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APPENDIX A

CONTRACTING PARTIES OF THE HAGUE AGREEMENT GENEVA ACT (1999)

In refer to Hague Agreement Concerning the International Registration of Industrial Designs Geneva Act (1999) publication of WIPO which was updated on July 13, 212
(WIPO 2012f, 19)

Name of Country	Name of Country
African Intellectual Property Organization (OAPI)	Lithuania
Albania	Luxembourg
Armenia	Mali
Azerbaijan	Monaco
Belgium	Mongolia
Belize	Montenegro
Benin	Morocco
Bosnia and Herzegovina	Namibia
Botswana	Netherlands
Bulgaria	Niger
Côte d'Ivoire	Norway
Croatia	Oman
Democratic People's Republic of Korea	Poland
Denmark	Republic of Moldova
Egypt	Romania
Estonia	Rwanda
European Union	Sao Tome and Principe
Finland	Senegal
France	Serbia
Gabon	Singapore
Georgia	Slovenia
Germany	Spain
Ghana	Suriname
Greece	Switzerland
Holy See	Syrian Arab Republic
Hungary	Tajikistan
Iceland	the former Yugoslav Republic of Macedonia
Italy	Tunisia
Kyrgyzstan	Turkey
Latvia	Ukraine
Liechtenstein	

APPENDIX B

LETTER TO THE HEAD OF DESIGN DEPARTMENT OF TURKISH PATENT INSTITUTE FOR REQUESTING INTERVIEW IN TURKISH

Türk Patent Enstitüsü Endüstriyel Tasarımlar Dairesi Başkanlığına,

Hipodrom Caddesi No:115 (06330) Yenimahalle / ANKARA

TPE Santral : (0 312) 303 10 00

Enformasyon Faks: (0 312) 303 11 73

Tarih

Sayın Naim Uğur,

Orta Doğu Teknik Üniversitesi (ODTÜ) Endüstri Ürünleri Tasarımı Bölümünde yüksek lisans öğrencisiyim. Yrd. Doç. Dr. Fatma Korkut danışmanlığında yürüttüğüm yüksek lisans tezimin amacı, Türkiye’de endüstriyel tasarım tescilinde kullanılan görsel anlatımlarda yaşanan problemleri saptamak ve buna yönelik bir kılavuz önerisi geliştirmektir. Bu kapsamda Türkiye’nin ve diğer ulusal, bölgesel ve uluslararası sistemlerin mevzuat ve kılavuzlarını inceledikten sonra Türkiye’deki uygulamada görsel anlatımlara ilişkin karşılaştığımız problemler ve çözüm önerileriniz için Türk Patent Enstitüsü (TPE) uzmanları ile görüşmeler yapmak istiyorum. Geliştireceğim bu kılavuz ile başvuru sahiplerinin ve vekillerin, görsel anlatımlara ilişkin bu problemleri başvurudan önce giderebilmelerini sağlamayı amaçlıyorum.

Enstitünüz bünyesinde Endüstriyel Tasarımlar Dairesinde görev yapan tasarım uzmanlarıyla yapılacak görüşmelerde daha sonra analiz edilebilmek amacıyla ses ve görüntü kaydı yapılacaktır. Bu kayıtlar sadece benim ve gerekirse danışmanım tarafından izlenecek ve görüşmeler sırasında elde edilen bilgiler sadece bilimsel amaçlarla kullanılacaktır. Kişilere ilişkin kimlik bilgileri saklı tutulacaktır.

Görsel anlatımlarla ilgili yaşanan çeşitli sorunlara örnekler üzerinden bakmamız araştırmam açısından faydalı olacaktır. Bu nedenle bu tür örneklerin görüşme öncesinde hazırlanması araştırmam açısından önem taşımaktadır.

Dilediğiniz takdirde araştırma sonuçlarını size iletmekten mutluluk duyacağım. Konu ile ilgili geri dönüşünüzü bekler, yardımlarınız ve desteğiniz için şimdiden teşekkür ederim.

Saygılarımla,

Irmak Yalçiner

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APPENDIX C

LETTER TO THE HEAD OF DESIGN DEPARTMENT OF TURKISH PATENT INSTITUTE FOR REQUESTING INTERVIEW IN ENGLISH

To the Turkish Patent Institute Department of Industrial Design,

Hipodrom Caddesi No: 115 (06330) Yenimahalle / ANKARA

TPI Operator: (0 312) 303 10 00

Information Fax: (0 312) 303 11 73

Date

Dear Naim Uğur,

I am a graduate student at Middle Eastern Technical University (METU) Department of Industrial Design. The aim of my graduate dissertation, under the counselling of Assistant Professor Dr. Fatma Korkut, is to identify the issues encountered in the visual representations of industrial design registration in Turkey and develop a guideline proposal towards this. In this context, after reviewing Turkey's and other national, regional and international systems' regulations and guidelines, I wish to conduct interviews with examiners from the Turkish Patent Institute (TPI) regarding the issues they have encountered of visual representation practices in Turkey and their suggestions for solutions. The purpose of this guideline that I am developing is to allow applicants and their attorneys to solve their issues on visual representation prior to the application.

The interviews to be conducted with the design examiners working at the Industrial Designs Department within the Institute shall be recorded in audio and video in order to be analysed afterwards. These recordings shall only be view by myself and if necessary by my supervisor and all information obtained from these interviews shall only be used for scientific purposes. The identity of these interviewees shall not be disclosed.

It will be beneficial for my research for us me to review various problems in visual representations by means of examples. Therefore it is essential for my research that these kinds of examples are prepared prior to our interview.

If you wish I would be delighted to share the outcome of my research with yourself. I am looking forward to your reply in this matter and thank you in advance for all your assistance and support.

Best Regards,

Irmak Yalçiner

METU Department of Industrial Design

Graduate Program Student

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APPENDIX D

ELECTRONIC MAIL TO THE TURKISH PATENT INSTITUTE EXAMINERS IN TURKISH

Sayın (Görüşme yapılacak kişinin adı),

Türkiye’de endüstriyel tasarım tescilinde kullanılan görsel anlatımlarda yaşanan sorunları saptamayı ve buna yönelik bir kılavuz önerisi geliştirmeyi amaçladığım araştırma kapsamında görüşmeyi kabul ettiğiniz için teşekkür ederim.

(*Tarih*) tarihli telefon görüşmemizde belirttiğim üzere görsel anlatımlarla ilgili sorunlara örnekler üzerinden bakmamız araştırmam açısından faydalı olacaktır. Aşağıda sunulan konulardaki örneklerin görüşme öncesinde hazırlanması araştırmam açısından önem taşımaktadır. Bu konudaki yardımlarınız için şimdiden teşekkür ederim.

I. Görsel anlatımın şekli incelemesi

Görsel anlatımların incelenmesinde nasıl bir prosedür izliyorsunuz, hangi konulara dikkat ediyorsunuz, örnek bir dosya üzerinden anlatabilir misiniz?

II. Görsel anlatımlara ilişkin karşılaşılan sorunlar

Görsel anlatımlarda en sık karşılaştığınız sorunlar nelerdir, örnekler üzerinden anlatabilir misiniz?

III. Görsel anlatım çeşitleri

Fotoğraf, grafik ve numune formatında verilen görsel anlatımlardaki sorunlara örnekler verebilir misiniz? Bu formatlar açısından dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

III. Görsel anlatımda tasarım, zemin, fon ve renk

Görsel anlatımda tasarım, zemin, fon ve renge ilişkin sorunlara örnekler verebilir misiniz? Bu konuda dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

IV. Görünümler

Görsel anlatımda görünümün boyutlarına, geleneksel (perspektif ve teknik görünüşler) ve geleneksel olmayan (kesit, detay, açık kapalı halleri, vb.) görünümlere ilişkin dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

Tekrar eden yüzey deseni tasarımlarının, değişebilir veya kesin olmayan boyutlara sahip tasarımların, tipografik karakter tasarımlarının, bileşik ürün tasarımlarının görünümlerine ilişkin dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

V. Kısmı tescil talebi

Kısmı tescil talepli görsel anlatımlarda dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

VI. Görsel anlatımın formatı ve niteliği

Dijital olmayan, kağıt üzerinde yapılan başvurularda dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz??

Elektronik olarak yapılan başvurularda dikkat edilmesi gereken konular nelerdir, olumlu ve olumsuz örnekler üzerinden anlatabilir misiniz?

VII. Kabul edilmeyen görsel anlatımlar

TPE tarafından şekli inceleme aşamasında kesinlikle kabul edilmeyen görsel anlatımlara ilişkin örnekler nelerdir?

VIII. Örnek görsel anlatımlar

TPE tarafından şekli inceleme aşamasında kabul edilen, şekli açıdan uygun bulunan iyi (olumlu) görsel anlatım örnekleri nelerdir?

Eposta mesajımı aldığınıza dair teyidinizi rica ederim.

Saygılarımla

Irmak Yalçın

ODTÜ Endüstri Ürünleri Tasarımı Bölümü

Yüksek Lisans Programı öğrencisi

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APPENDIX E

ELECTRONIC MAIL TO THE TURKISH PATENT INSTITUTE EXAMINERS IN ENGLISH

Dear (*Interviewee's Name*)

Thank you for granting the interview in scope of my research wherein I aim to determine the issues in the visual representations used in the registration of industrial designs in Turkey and develop a related guideline.

As I have stated at our telephone conversation on (*date*) it will be beneficial for my research for us to review various issues in visual representations by means of examples. It is essential for my research that examples for the below mentioned subjects are prepared prior to our interview. Thank you in advance for your assistance in this matter.

III. Formal examination of the visual representations

During the examination of visual representations, what procedures do you implement, what are the issues that you pay attention, could you explain via an exemplary file?

IV. Encountered problems on visual representations

What are the most common problems encountered regarding visual representations, can you explain through examples?

IV. Types of visual representations

Can you give examples to visual representations submitted in photographic, graphic and specimen formats? What are the points to be taken into consideration in regard to these formats, could you explain with positive and negative examples?

V. Article, background and colour in visual representation

Can you give examples on the problems regarding the article, background and colour in visual representation? What are the points to be taken into consideration on this matter, could you explain with positive and negative examples?

VI. Views

What are the points to be taken into consideration regarding conventional views (perspective and technical views) and unconventional views (cross sectional, detail, open/closed configuration, etc.) in visual representation, could you explain with positive and negative examples?

What are the points to be taken into consideration regarding the views of repetitive surface pattern designs, designs with indefinite length and width, typographic character designs and complex product designs, could you explain with positive and negative examples?

V. Partial Disclaimer

What are the points to be taken into consideration regarding visual representations with partial disclaimer, could you explain with positive and negative examples?

VIV. Format and quality of visual representation

What are the points to be taken into consideration regarding non digital, paper submission applications, could you explain with positive and negative examples?

What are the points to be taken into consideration regarding electronic filing applications, could you explain with positive and negative examples?

VV. Unaccepted visual representations

What are the examples of visual representations that have definitely not been accepted by the TPI during the formal examination phase?

VVI. Good examples of visual representations

What are the examples of good (positive) visual representations that have been deemed formally appropriate and have been accepted by the TPI during the formal examination phase?

I kindly request confirmation of safe receipt of this e-mail.

Best Regards,

Irmak Yalçiner

METU Department of Industrial Design

Graduate Program Student

METU Faculty of Architecture Department of Industrial Design

İnönü Bulvarı 06531 Ankara

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Mobile:

Thesis Supervisor:

Asst. Prof. Dr. Fatma Korkut
ODTÜ Faculty of Architecture
Department of Industrial Design
İnönü Bulvarı 06531 Ankara

E-mail:

Phone:

Mobile:

APPENDIX F

INTERVIEW SCHEDULE FOR THE TURKISH PATENT INSTITUTE EXAMINERS IN TURKISH

Giriş

Araştırmama önemli bir katkı sağlayacak olan bu görüşmeyi yapmayı kabul ettiğiniz için teşekkür ederim. Adım Irmak Yalçınır. Orta Doğu Teknik Üniversitesi Endüstri Ürünleri Tasarımı Bölümünde yüksek lisans öğrencisiyim. Yrd. Doç. Dr. Fatma Korkut'un danışmanlığında yürüttüğüm bu araştırmanın amacı, Türkiye'de endüstriyel tasarım tescilinde kullanılan görsel anlatımlarda yaşanan sorunları saptamak ve buna yönelik bir kılavuz önerisi geliştirmektir. Yapacağımız görüşmede size araştırma konusuyla ilgili sorular soracağım. Görüşme sırasında elde edilen bilgiler sadece bilimsel amaçlarla kullanılacak ve kimliğiniz saklı tutulacaktır. Görüşmemizi daha sonra analiz edebilmek için ses ve görüntü kaydı yapacağım. Bu kayıtlar sadece ben ve gerekirse danışmanım tarafından izlenecektir. Görüşmemize başlamadan önce sormak istediğiniz herhangi bir şey var mı?

I. Görsel anlatımın şekli incelemesi

1. Bir endüstriyel tasarım tescili başvurusunda görsel anlatımın şekli incelemesini nasıl yapıyorsunuz, bir örnek dosya üzerinden ayrıntılı olarak anlatır mısınız?

> Endüstriyel tasarım tescil başvurularının şekli inceleme sürecinde kullandığınız genel bir kontrol listesi, yönerge, kılavuz veya benzeri bir doküman var mı?

> Bu kontrol listesinde görsel anlatımların incelenmesine ilişkin bölümler nelerdir?

> Görsel anlatımların şekli incelenmesine ilişkin kullandığınız özel bir kontrol listesi, yönerge, kılavuz veya benzeri bir doküman var mı?

2. Görsel anlatımların şekli incelemesinde hangi konulara dikkat ediyorsunuz? Bu unsurları örnekler üzerinden anlatır mısınız?

II. Görsel anlatımlara ilişkin karşılaşılan sorunlar

3. Tasarım tescil başvurularındaki görsel anlatımlarda en sık karşılaştığınız sorunlar nelerdir?

> Görsel anlatımlardaki bu şekli eksikliklere ilişkin örneklere bakabilir miyiz?

> En çok hangi tasarım konularında veya hangi Lokarno sınıfında yer alan tasarımlarda görsel anlatıma ilişkin şekli eksikliklere rastlıyorsunuz?

> Konu ile ilgili istatistiksel veriler var mı?

V. Görsel anlatım çeşitleri

4. *Fotoğraf* formatında verilen görsel anlatımlarda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir?

5. *Grafik* formatta verilen görsel anlatımlarda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir?

> Örneğin, saydamlığın veya malzeme farklılığının çizimle anlatılması.

6. *Numune* formatında verilen görsel anlatımlarda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir?

> Örneğin, numunenin boyutları.

VI. Görsel anlatımda tasarım, zemin, fon ve renk

7. Görsel anlatımlarda kullanılan *zemine veya fona ilişkin* dikkat edilmesi gereken konular nelerdir? Bu konuda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir? Örnekler verebilir misiniz?

[Örneğin, koruma kapsamında yer almayan unsurların yer alması, şeffaf bir tasarımın uygun olmayan bir zeminde görüntülenmesi, tasarımın rengiyle zeminin veya fonun birbirine karışması, vb.]

8. Görsel anlatımlarda *tasarıma ilişkin* unsurlarda veya niteliklerde dikkat edilmesi gereken konular nelerdir? Bu konuda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir? Örnekler verebilir misiniz?

[Örneğin, tasarımın net bir şekilde gösterilmemiş olması, görsel anlatımda tasarımın tamamının yer almaması, tasarımın koruma kapsamında yer almayan unsurlarının görsel anlatımda mevcut olması, vb.]

9. Görsel anlatımlarda *renk kullanımına ilişkin* dikkat edilmesi gereken konular nelerdir? Bu konuda gözlemlediğiniz sorunlar ve şekli eksiklikler nelerdir? Örnekler verebilir misiniz?

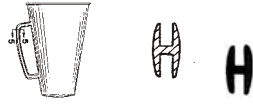
VII. Görünümler

10. Görünümlerin *boyutlarına* ilişkin sorunlar ve şekli eksiklikler nelerdir?

11. Sayacağım *geleneksel görünümlere* ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?

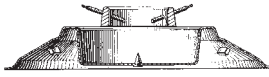
- > Perspektif görünüş
- > Teknik görünüşler (ön, arka, üst, alt, sağ ve sol)

12. Sayacağım *geleneksel olmayan görünümlere* ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?



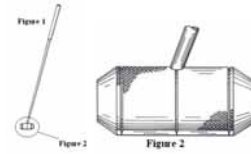
> Kesit görünümler
sample (CIPO 2010b, 20)

Cross sectional view and description



Christmas Tree Stand

Cross Sectional View Sample (USPTO 2012, 16)

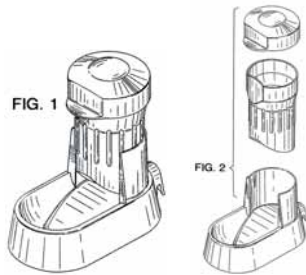


> Detay görünümler
description sample (CIPO 2010b, 19)

Enlarged fragmentary view and

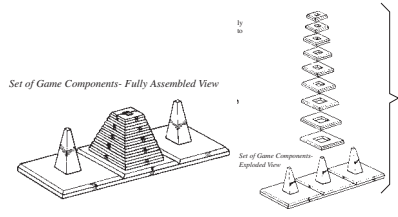
> Plan ve cephe (elevation)

> Birden fazla parçadan oluşan bir tasarımın parçalarını ayrılmış şekilde gösteren görünümler (extended) ve patlamış görünümler

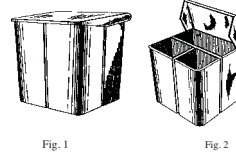


12)

Extended view and description sample (CIPO 2010b,

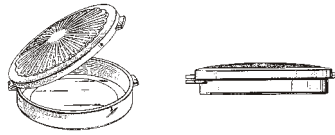


Exploded view sample (USPTO 2012, 12)



> Tasarımın kullanım halindeki görünümü
> Tasarımın kullanım halindeki görünümü (CIPO 2010b, 5)

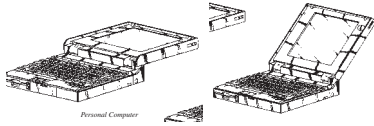
View Samples of a



Open and closed positional view sample and their descriptions (CIPO 2010b, 10)

> Yapı bozlarının tamamlanmamış görünümleri

> Bir tasarımın farklı kurgulardaki görünümleri (yatak olabilen koltuk)



Alternate positional view sample (USPTO 2012, 16)

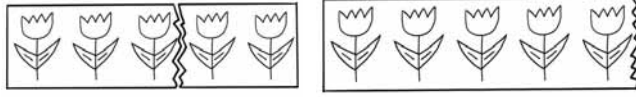


Extended and retracted positional view and description sample (CIPO 2010b, 13)

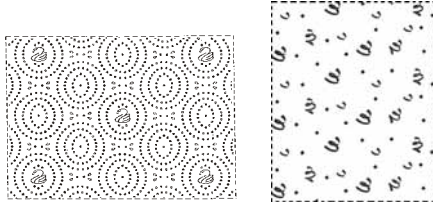


Positional view and description sample of a flexible article (CIPO 2012b, 11)

13. Tekrar eden yüzey desenlerine ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?

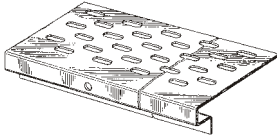


Two different ways of showing indefinite length on the representation of a surface pattern design (CIPO 2010b, 16) Indefinite length indicated by jagged line.



Two different samples of showing indefinite length and width on the representation of a repeating surface pattern design (CIPO 2010b, 18) Indefinite length and width indicated by stippled line.

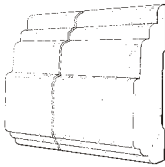
14. *Değişebilir veya kesin olmayan boyutlara sahip tasarımların görünümüne ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?*



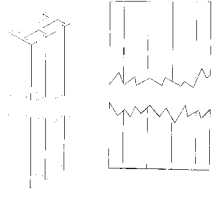
Sample showing indefinite length on the representation of a repeating three dimensional feature of the design (CIPO 2010b, 16) Indefinite length and width indicated by sinusoidal lines.



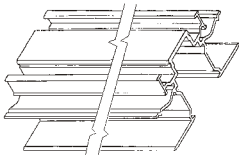
Sample showing indefinite length of a relevant portion of the design on the representation (CIPO 2010b, 17) Indefinite length indicated by a break of the lines.



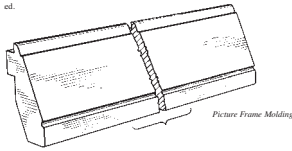
Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 14) Indefinite length indicated by sinusoidal lines.



Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 14) Indefinite length indicated by sharp jagged sinusoidal lines.



Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 15) Indefinite length indicated by parallel lines broken by a zig zag.



Indeterminate length sample (USPTO 2012, 16)

15. *Tipografik karakter* tasarımlarının görünümüne ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?

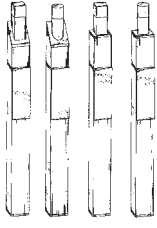


Visual representation of a registered community design of a typeface at OHIM with the number RCD 000041496-0001 in Locarno class 18-03

16. *Bileşik ürün tasarımlarının* görünümüne ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?



The representation and description sample of clothes washer design (CIPO 2010b, 23)



Extended view sample (USPTO 2012, 16)

> Bu konuda belirtmek istediğiniz başka hususlar var mı?

17. Görünümlerin sıralanmasına ve numaralandırılmasına ilişkin dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?

VIII. Kısmi tescil talebi

18. Kısmi tescil talepli başvuruların görsel anlatımında dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?



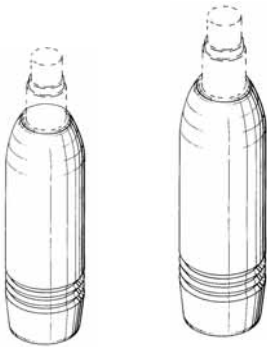
A representation sample of a partial disclaimer (

TPI 2012, 12). Disclaimed features of the design shown by dashed lines.

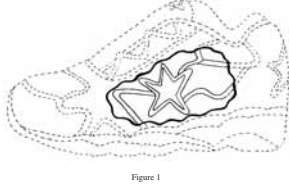


(CIPO 2010b, 3)

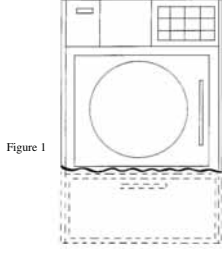
Partial disclosure sample shown by solid and stippled lines



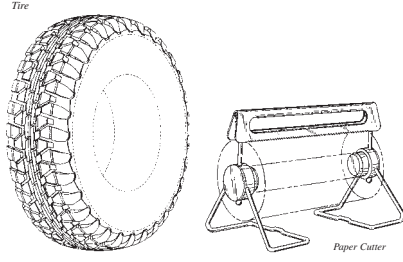
Partial disclaimer sample of showing the opaque non design portions of the design (CIPO 2010b, 4)



Partial disclaimer sample showing the use of bold and wavy lines for indicating the design portions in a shoe design (CIPO 2010b, 23)



Partial disclaimer sample showing the use of bold and wavy lines together with the stippled lines for indicating the non design portions in a clothes washer design (CIPO 2010b, 23)



Partial disclaimer sample where non design portions of the design shown by broken lines (USPTO 2012, 16)

19. Kısmı tescil talepli başvuruların tarifnamelerinde dikkat edilmesi gereken konuları belirtir misiniz? Örnekler verebilir misiniz?

VI. Görsel anlatımın formatı ve niteliği

20. Görsel anlatımın formatına ve niteliğine ilişkin genellikle ne tür hatalarla karşılaşıyorsunuz? Örnekler var ise benimle paylaşabilir misiniz?

21. Dijital olmayan, *kağıt üzerinde* yapılan başvurularda dikkat edilmesi gereken konular nelerdir (Örneğin, zımba kullanılmaması, elle düzeltme yapılmamış olması, ek olarak görsel anlatımın dijital formatta verilmesi, vb.)?

22. *Elektronik olarak* yapılan başvurularda dikkat edilmesi gereken konular nelerdir (Örneğin, görsel anlatımın baskıya uygun çözünürlükte olmaması, çözünürlüğün çok düşük olması, vb.)?

IX. Kabul edilmeyen görsel anlatımlar

23. TPE tarafından şekli inceleme aşamasında kesinlikle kabul edilmeyen görsel anlatımlar veya görsel anlatımlara ilişkin nitelik veya unsurlar nelerdir? Örneklerle anlatabilir misiniz?

X. Örnek görsel anlatımlar

24. TPE tarafından şekli inceleme aşamasında kabul edilen, şekli açıdan uygun bulunan örnek gösterebileceğiniz görsel anlatımları paylaşır mısınız?

25. Görsel anlatımlardaki yetersizliklerin ve eksikliklerin sizce en önemli nedenleri nelerdir?

26. Görsel anlatımlara ilişkin sorunların yaşanmaması için vekillere yönelik önerileriniz nelerdir?

27. Görsel anlatımlara ilişkin sorunların yaşanmaması için başvuru sahiplerine yönelik önerileriniz nelerdir?

X. Son Sorular

28. Ekleme veya söylemek istediğiniz başka bir şey var mı?

29. Üzerinde yeterince konuşmadığımız veya eksik kaldığımızı düşündüğünüz bir şey var mı?

30. Araştırma tamamlandıktan sonra sonuçların bir özetini size iletmemi ister misiniz?

Elektronik posta: _____@_____

veya

Adres: _____

Araştırmaya katkıda bulunduğunuz ve zaman ayırdığınız için çok teşekkür ederim. Eğer daha sonra görüşmeye ilişkin herhangi bir şey sormak ya da söylemek

isterseniz, bana bu karttaki telefonlardan veya elektronik posta adresinden ulařabilirsiniz. Yardımlarınız için teřekkür ederim.

Görüşme yapılan kişiye ilişkin bilgiler

Ad Soyad:

Cinsiyet:

Doğum yılı:

Şimdiki görevi ve unvanı:

TPE’de aldığı diğerk görevler ve süreleri:

Endüstriyel tasarım başvurularına ilişkin şekli inceleme görevinde geçirdiğı süre ve yıllar:

Eğitim

Lisans (üniversite, program):

Yüksek lisans (üniversite, program):

Doktora (üniversite, program):

APPENDIX G

INTERVIEW SCHEDULE FOR THE TURKISH PATENT INSTITUTE EXAMINERS IN ENGLISH

Introduction

Thank you for participating in this interview which shall contribute significantly to my research. My name is Irmak Yalçiner. I am a graduate student at Middle East Technical University Department of Industrial Design. The purpose of this study, under the counselling of Asst. Prof. Dr. Fatma Korkut, is to identify the issues encountered in the visual representations of industrial design registration in Turkey and develop a guideline proposal towards this. During our interview I will ask you questions in respect to the topic of the study. Information obtained through the interview shall only be used for scientific purposes and your identity shall not be disclosed. I shall record audio and video at our interview in order to be analysed later. These recordings shall only be viewed by myself and by my supervisor if necessary. Is there anything you wish to ask before we begin our interview?

I. Formal examination of the visual representations

1. How do you conduct the formal examination of visual representations of an industrial design registration, could you explain in detail by showing an exemplary file?

> Is there a general checklist, instructions, manual or similar document that you use during the formal examination of industrial design registration applications?

> What are the sections in this checklist related to the examination of visual representations?

> Is there a specific checklist, instructions, manual or similar document that you are using for the formal examination of visual representations?

2. What are the topics that you pay attention to during the formal examination of visual representations? Can you explain these elements by showing examples?

II. Encountered problems on visual representations

2. What are the most common problems encountered regarding visual representations of design registration applications?

> Can we examine examples of these formal deficiencies in visual representations?

> In which design fields or designs in Locarno classes do you encounter formal deficiencies regarding visual representations?

> Are there any statistical data on the subject?

V. Types of visual representations

3. What are the problems and formal deficiencies you have observed of visual representations in the *photograph* format?

4. What are the problems and formal deficiencies you have observed of visual representations in the *graphics* format?

> For example conveying of opacity or differences in materials with drawing.

5. What are the problems and formal deficiencies you have observed of visual representations in the *specimen* format?

> For example the dimensions of the specimen.

VII. Article, background and colour in visual representations

6. What are the points to be taken into consideration in regard to *backgrounds or backdrops* used in visual representations? What are the problems and formal deficiencies in this aspect? Can you give examples?

[For example elements that are not within the scope of protection, a transparent design represented on an unsuitable background, the colour of the design blending with the background or backdrop, etc.]

7. What are the points to be taken into consideration *in regard to* features and qualities of the *design* in visual representations? What are the problems and formal deficiencies in this aspect? Can you give examples?

[For example, the design not being shown clearly, the design not being shown fully in the visual representation, elements that are not within the scope of protection being shown in the visual representation, etc.]

8. What are the points to be taken into consideration *in regard to* the *use of colour* in visual representations? What are the problems and formal deficiencies in this aspect? Can you give examples?

VIII. Views

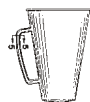
9. What are the problems and formal deficiencies regarding *dimensions* of views?

10. Can you specify the points to be taken into consideration regarding the *conventional views* I shall state? Can you give examples?

> Perspective view

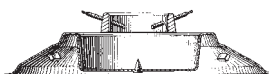
> Technical views (front, back, top, bottom, right and left)

11. Can you specify the points to be taken into consideration regarding the *unconventional views* I shall state? Can you give examples?



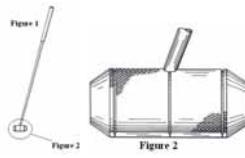
> Cross sectional views
description sample (CIPO 2010b, 20)

Cross sectional view and



Christmas Tree Stand

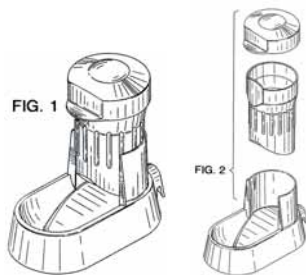
Cross Sectional View Sample (USPTO 2012, 16)



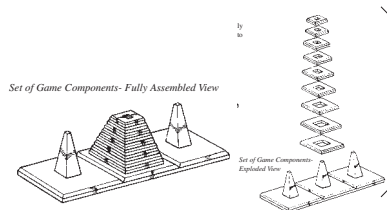
> Detail views
 sample (CIPO 2010b, 19)

> Plan and elevation

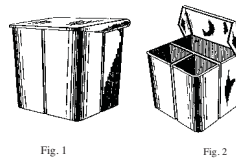
> Extended and exploded views showing separated elements of a design made of multiple parts



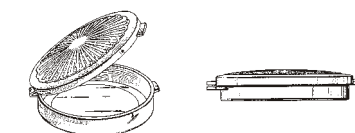
Extended view and description sample (CIPO 2010b, 12)



Exploded view sample (USPTO 2012, 12)



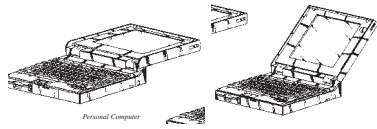
> View of the design in use
 design (CIPO 2010b, 5)



Open and closed positional view sample and their descriptions (CIPO 2010b, 10)

> Incompleted images of puzzles

> Views of a design in different configurations (a sofa that can be converted into a bed)



Alternate positional view sample (USPTO 2012, 16)

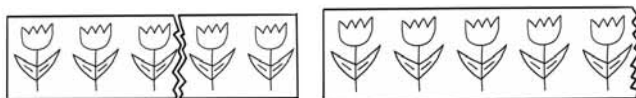


Extended and retracted positional view and description sample (CIPO 2010b, 13)

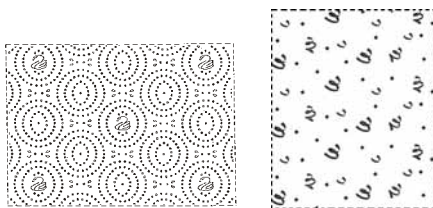


Positional view and description sample of a flexible article (CIPO 2012b, 11)

12. Can you specify the points to be taken into consideration regarding *repeating surface patterns*? Can you give examples?

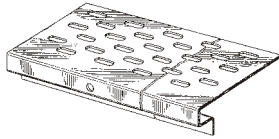


Two different ways of showing indefinite length on the representation of a surface pattern design (CIPO 2010b, 16)
Indefinite length indicated by jagged line.



Two different samples of showing indefinite length and width on the representation of a repeating surface pattern design (CIPO 2010b, 18) Indefinite length and width indicated by stippled line.

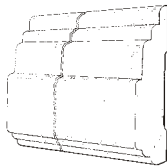
13. Can you specify the points to be taken into consideration regarding *designs with indefinite length and width*? Can you give examples?



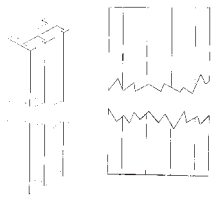
Sample showing indefinite length on the representation of a repeating three dimensional feature of the design (CIPO 2010b, 16) Indefinite length and width indicated by sinusoidal lines.



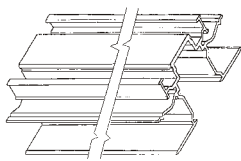
Sample showing indefinite length of a relevant portion of the design on the representation (CIPO 2010b, 17) Indefinite length indicated by a break of the lines.



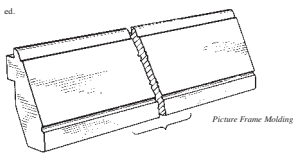
Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 14) Indefinite length indicated by sinusoidal lines.



Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 14) Indefinite length indicated by sharp jagged sinusoidal lines.



Sample showing indefinite length of a constant cross section of the design on the representation (CIPO 2010b, 15) Indefinite length indicated by parallel lines broken by a zig zag.



Indeterminate length sample (USPTO 2012, 16)

14. Can you specify the points to be taken into consideration regarding *typographic typeface designs*? Can you give examples?

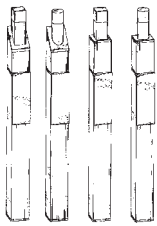


Visual representation of a registered community design of a typeface at OHIM with the number RCD 000041496-0001 in Locarno class 18-03

15. Can you specify the points to be taken into consideration regarding *complex product designs*? Can you give examples?



The representation and description sample of clothes washer design (CIPO 2010b, 23)



Extended view sample (USPTO 2012, 16)

> Are there any other aspects you would like to mention in this regard?

16. Can you specify the points to be taken into consideration regarding the *ordering and numbering* of the views? Can you give examples?

V. Partial disclaimer submission

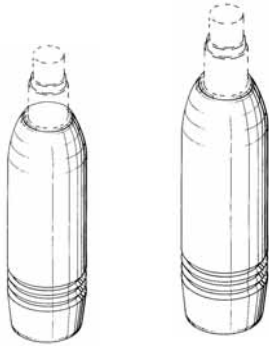
17. Can you specify the points to be taken into consideration regarding the *visual representation* of applications with partial disclaimer? Can you give examples?



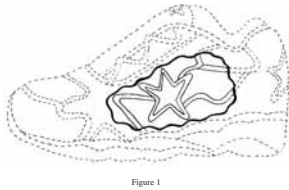
A representation sample of a partial disclaimer (TPI 2012, 12). Disclaimed features of the design shown by dashed lines.



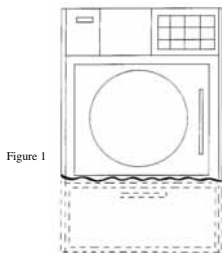
Partial disclaimer sample shown by solid and stippled lines
(CIPO 2010b, 3)



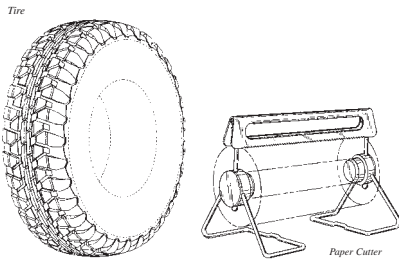
Partial disclaimer sample of showing the opaque non design portions of the design (CIPO 2010b, 4)



Partial disclaimer sample showing the use of bold and wavy lines for indicating the design portions in a shoe design (CIPO 2010b, 23)



Partial disclaimer sample showing the use of bold and wavy lines together with the stippled lines for indicating the non design portions in a clothes washer design (CIPO 2010b, 23)



Partial disclaimer sample where non design portions of the design shown by broken lines (USPTO 2012, 16)

18. Can you specify the points to be taken into consideration regarding *specifications* for applications with partial disclaimer? Can you give examples?

VVII. Format and quality of visual representations

19. What kind of mistakes do you generally come across regarding format and quality of visual representations? Are there any examples you would like to share with me?

20. Can you specify the points to be taken into consideration regarding non-digital applications submitted on *paper* (for example, not using staples, no handwritten corrections, the digital format of the visual representation being additionally submitted)?

21. Can you specify the points to be taken into consideration regarding applications submitted *electronically* (for example the visual representation not being in a resolution which is suitable for printing, the resolution being too low, etc)?

VVIII. Unaccepted visual representations

22. What are the visual representations or features or qualities of visual representations that are absolutely unaccepted by the TPI at the formal examination phase? Can you explain with examples?

VIX. Examples of good representation

23. Can you share with me the visual representations that are acceptable by the TPI at the formal examination phase and are exemplary to being formally suitable.

24. What do you think are the most important reasons of inadequacies and deficiencies of visual representations?

25. What are your suggestions to attorneys against problems regarding visual representations?

26. What are your suggestions to applicants against problems regarding visual representations?

VX. Final Questions

27. Is there anything else you would like to add or state?

28. Is there anything that you think we have not talked about adequately or have missed?

29. Would you like me to convey to you a summary of the finding once my research is complete?

E-mail: _____@_____

or

Address:

Thank you for participating in the research and taking the time. If you have any questions regarding this interview or would like to add something you can reach me on the telephone number on the card or via my e-mail address. Thank you for your assistance.

Information regarding the person interviewed

Name Surname:

Gender:

Year of Birth:

Current position and title:

Other positions held at the TPI and their durations:

Years and duration at the position of formal examining of the visual representations regarding industrial design applications:

Education:

Undergraduate (university, program):

Graduate (university, program):

Ph.D. (university, program):