



# JIANQ CHYUN Intellectual Property Office

7F. -1, No. 100, Roosevelt Rd. Sec. 2, Taipei 10084, Taiwan, R.O.C.  
E-mail: [JCIP@JCIPGroup.com](mailto:JCIP@JCIPGroup.com) website: [www.JCIPGroup.com](http://www.JCIPGroup.com)

TEL: +886-2-2369 2800  
FAX: +886-2-2369 7233/34


## OVERVIEW OF THE AMENDED DESIGN PATENT EXAMINATION GUIDELINES 2016 IN TAIWAN

The Taiwan Intellectual Property Office (TIPO) recently released the amended Design Patent Examination Guidelines, which is applied to all design patent applications filed on and after April 1, 2016. The main amendments to the Guidelines are provided below.

### I. Title of Design

Before amendment	After amendment
<ul style="list-style-type: none"><li>● General: shall not include unrelated descriptive text.</li><li>● Partial design: shall be recited as “portion of article”.</li></ul>	<ul style="list-style-type: none"><li>● General: shall not include unrelated/redundant descriptive text, or language relating to appearance (e.g., <b>shape</b> of ...).</li><li>● Partial design: shall be recited as “<u>article</u>” or “portion of article”.</li></ul>

### II. Presentation of Drawings

Before amendment	After amendment
<ul style="list-style-type: none"><li>● General: portions to be claimed and portion not to be claimed shall be presented in broken lines, colored in grayscale, or be circled.</li></ul>	<ul style="list-style-type: none"><li>● General: portions to be claimed and portion not to be claimed shall be presented in broken lines, colored in grayscale, be circled, <u>or be presented in other methods.</u> <u>Other methods include:</u>  <u>(I) ink lined portion with photographs;</u>  </li></ul>





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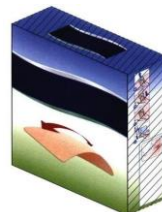
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(ii) colored computer-drafted views with slant line patterns shielding portions not to be claimed;



(iii) portions not to be claimed shielded by single color.



- General: not explicitly provided in the Guidelines.

- General: not explicitly provided in the Guidelines.

- General: the drawings of six views shall be consistently presented by using the same method and shall not be presented by adopting two or three methods among ink line views, computer-drafted views, and photographs. The regulation applies to the drawings of six views only; perspective view may not be required to be presented by using the method identical to the six principal views.

- General: where the portions to be claimed include patterns (e.g., stitching lines) similar to broken lines, it is required to recite in the specification “the broken lines disclosed in the drawings represent the stitching lines of the article”.





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## III. Color Presentation of Drawings

Before amendment	After amendment
<p>For design of a whole article, graphic design, or design of a set of articles: where colors are claimed, the drawings shall be able to specifically and definitely present the colors to be claimed. The applicant may recite industrial color codes in the description of design or submit color sample cards.</p>	<p>For design of a whole article, graphic design, or design of a set of articles: where colors are claimed, the drawings shall be able to specifically and definitely present the colors to be claimed. The applicant may recite industrial color codes in the description of design or submit color sample cards. <u>Where colors are not claimed, the design shall be presented by using ink line views, grayscale computer-drafted views, or black-and-white photographs. It is not allowed to submit colored drawings with texts stating that the colors are not claimed to exclude the colors. Namely, the drawings shall directly present whether colors are claimed.</u> (Note: where the colors to be claimed are gray or black-and-white, the colors to be claimed shall be stated in the description of design.)</p>
<ul style="list-style-type: none"><li>● Partial design: not explicitly provided in the Guidelines.</li></ul>	<ul style="list-style-type: none"><li>● Partial design: the drawings may be presented with a portion shielded by one single color. In this case, if colors are not claimed for the claimed portion of the appearance of the design, the claimed portion shall still be presented in ink line views, grayscale computer-drafted views, or black-and-white views. If colors are claimed for the claimed portion of the appearance of the design, in the drawings, the claimed portion shall be applied with the colors to be claimed.</li></ul>







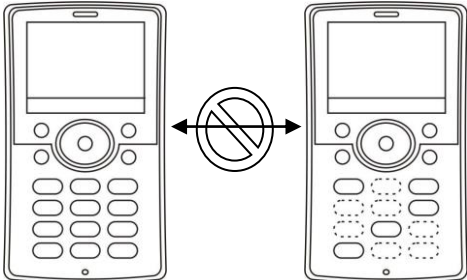
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	<p>As exemplified below:</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>colors are not claimed for the claimed portion</p> </div> <div style="text-align: center;">  <p>colors are claimed for the claimed portion</p> </div> </div>
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## IV. Examination of Amendment

Before amendment	After amendment
<ul style="list-style-type: none"> <li>● General: the amended drawings shall not create different visual effect.</li> <li>● Amendment in partial design: amendment between broken lines and solid lines shall not be selected randomly.</li> </ul>	<ul style="list-style-type: none"> <li>● General: the amended drawings shall not create a different appearance.</li> <li>● Amendment in partial design: amendment between broken lines and solid lines shall not be selected randomly. Referring to the example below (currently added to the Guidelines):</li> </ul> <div style="text-align: center;">  </div> <p>Definition of random selection: In the example above, the 12 capsule-shaped keys are seen as a whole that shall be amended altogether to solid lines or broken lines and shall not be partially selected for amendment.</p>



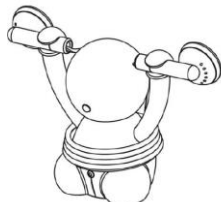
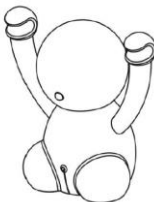


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## V. Divisional Application

Before amendment	After amendment
<p>A design application that substantially relates to two or more designs is not limited to the claimed design per se only. Where the content recited in the specification or drawings of the original application before division can substantially be two or more designs, the applicant may file one or more designs therein as one or more divisional applications.</p>	<p>A design application that substantially relates to two or more designs is not limited to the claimed design per se only. Where the content recited in the specification or drawings of the original application before division can substantially be two or more designs <u>(including the claimed design and the disclosed-but-not-claimed design(s)), although the application already meets of the requirement of one design per application, the applicant may file one or more designs therein as one or more divisional applications if the applicant intends to claim the design disclosed in the specification or drawings but not claimed at filing. For example, another design that is specifically disclosed in “reference drawing” among the drawings or in the “broken lined portions” can be divided from the original application.</u></p> <div style="text-align: center;"></div> <p style="text-align: center;">perspective view      reference drawing</p> <p><u>However, where only one appearance applied to an article is disclosed at filing and <b>no other reference drawings or in-use state views</b>, since the application does not specifically disclose substantially two or more designs, <b>a divisional application cannot be filed based on the disclosure of “the unclaimed portion”.</b></u></p>





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(For example, if the original application is submitted to claim a design of a whole of a vehicle, a divisional application from the original application is not accepted to solely protect the appearance of spare parts such as the headlight or tail wing. Therefore, at the time of filing, applicant has to decide which spare parts (portions) are to be individually claimed to file them in separate applications. It is not possible to divide one single application into a number of applications claiming only individual spare parts or partial portions.)

### Conclusions

Under the new draft of Examination Guidelines for Design patent applications, there are more flexibility on the methods of presenting the drawings, particularly for partial design and the interpretation of claim may more rely on the drawings. For example, the drawings with colors are considered to expressly claim the color for the design. The new draft of Examination Guidelines for Design patent application provides more examples for determining the amendment of drawings, which helps clarifying the standard of judging “new matter”. In addition, regarding the standard on divisional application for design patent applications in the new draft, it is suggested to file several applications for respective improved/designed portions.

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