

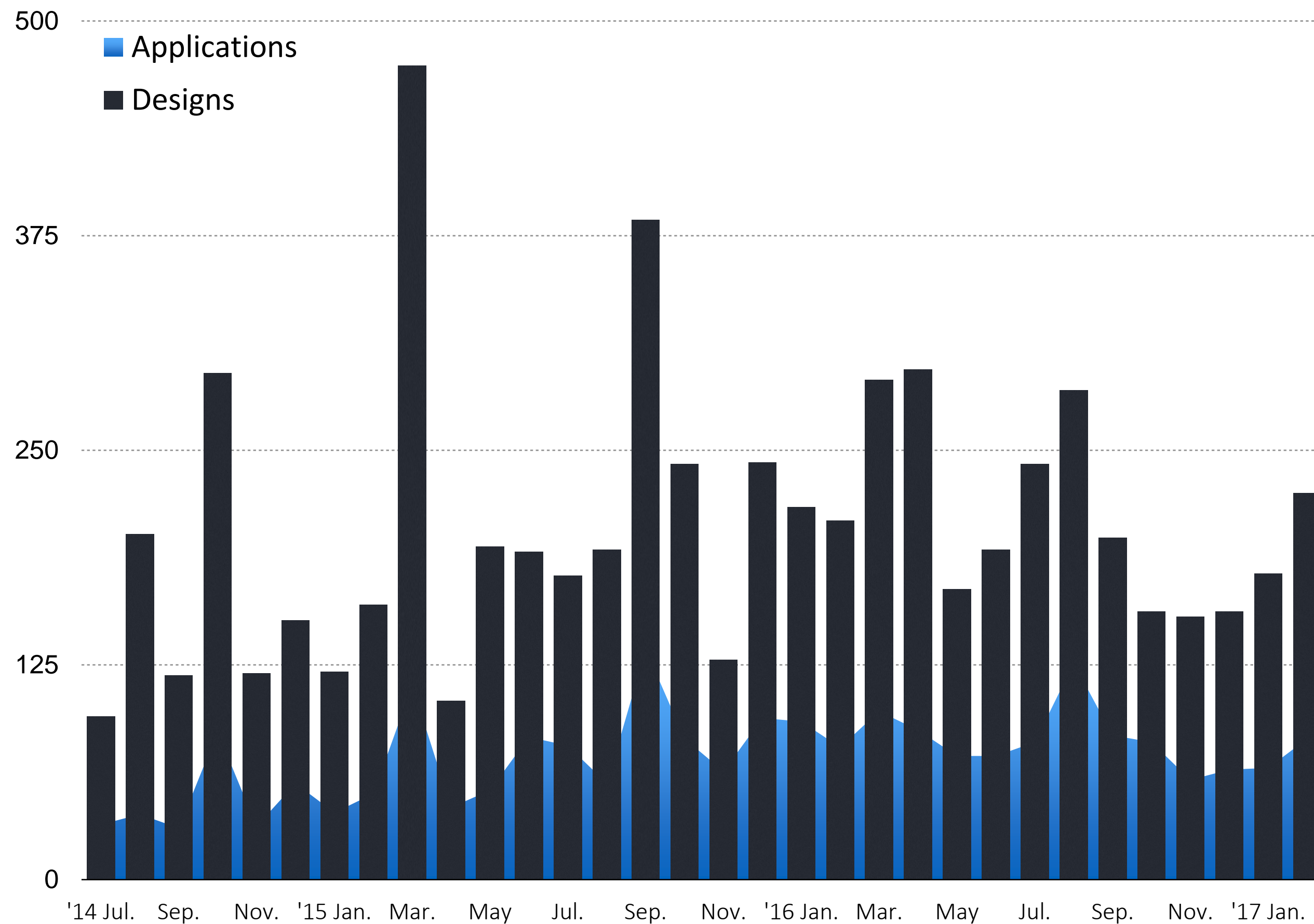
Feedback from KIPO as a designated Contracting Party

- Substantive requirements of registration & more

Kijoong Song, Deputy Director of Trademark Examination Policy Division

The Hague Agreement

IRs designated KR ('14.7.- '17.2.)



■ Effect in ROK in **July 1, 2014**

■ **2,296** IRs include

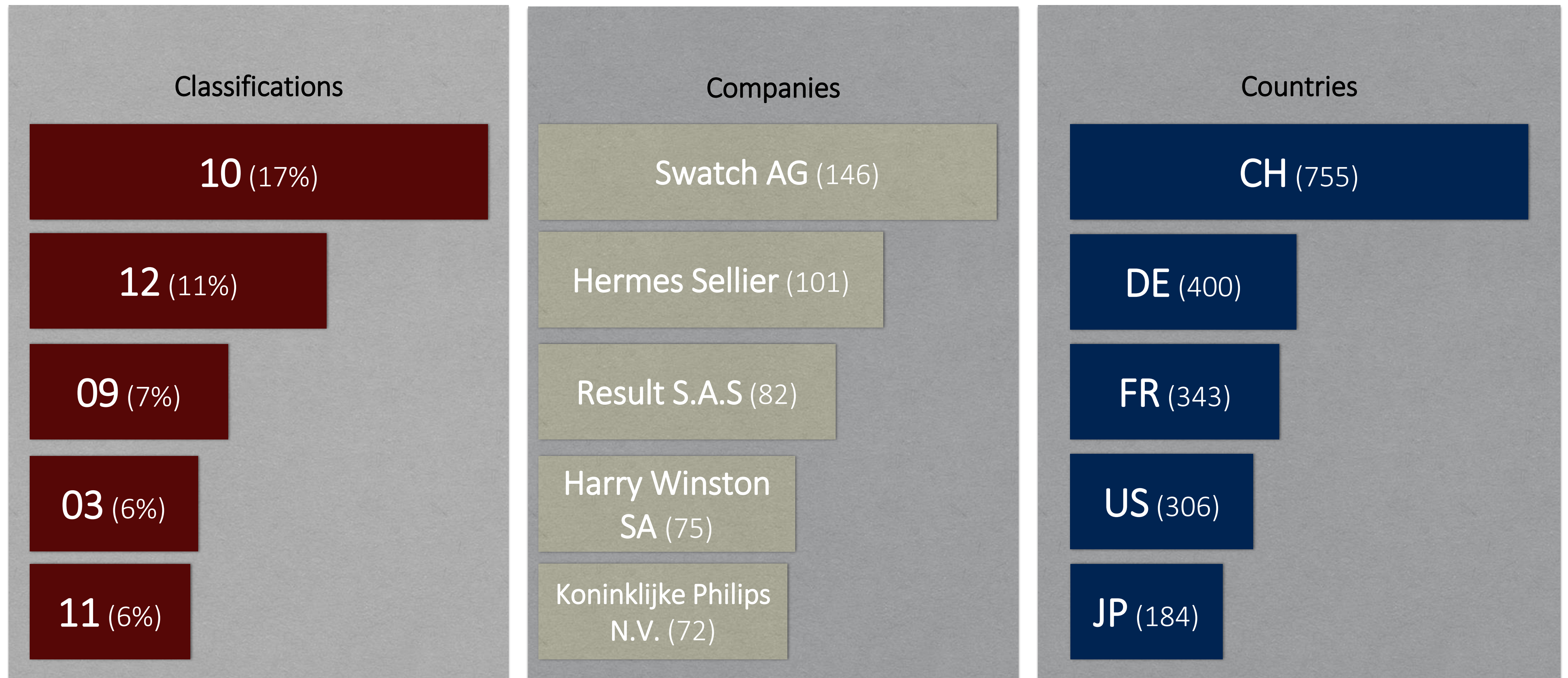
■ **6,560** designs

■ *per month* : **72** applications
205 designs

■ **2.86** designs in an application

■ **6.75** months for first OA

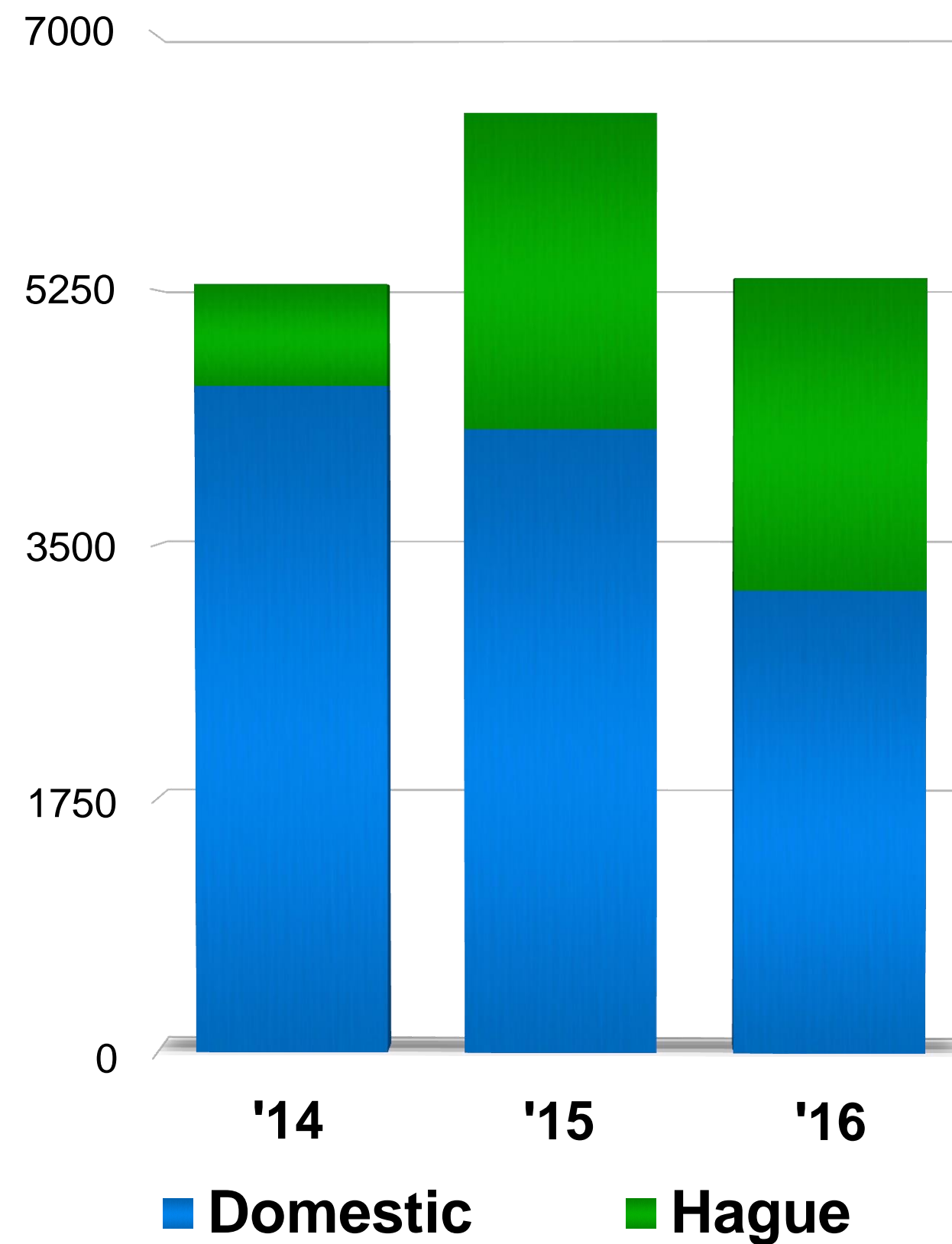
Statistics



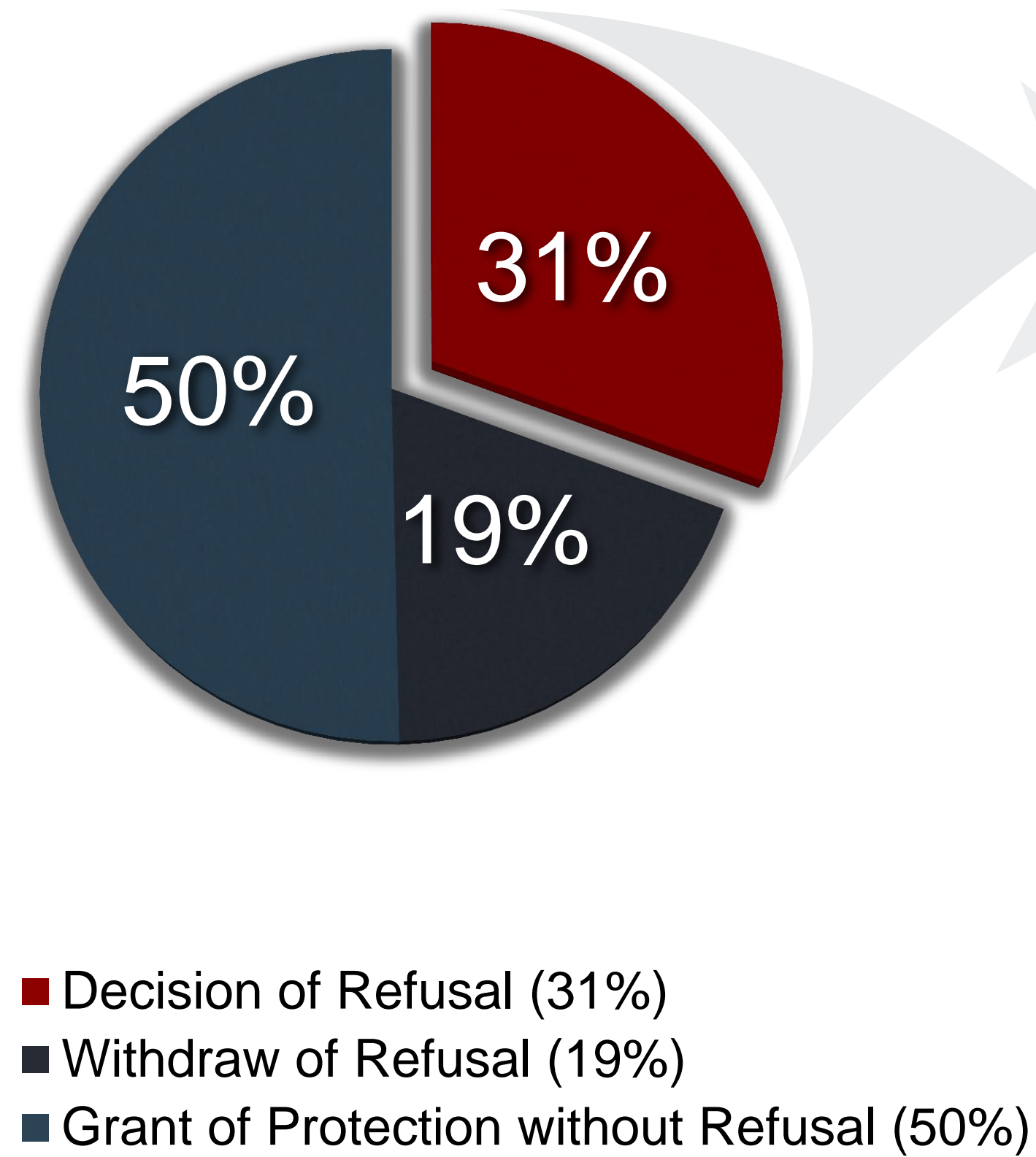
TOP 5 KR designated applications (2016, designs)

Statistics

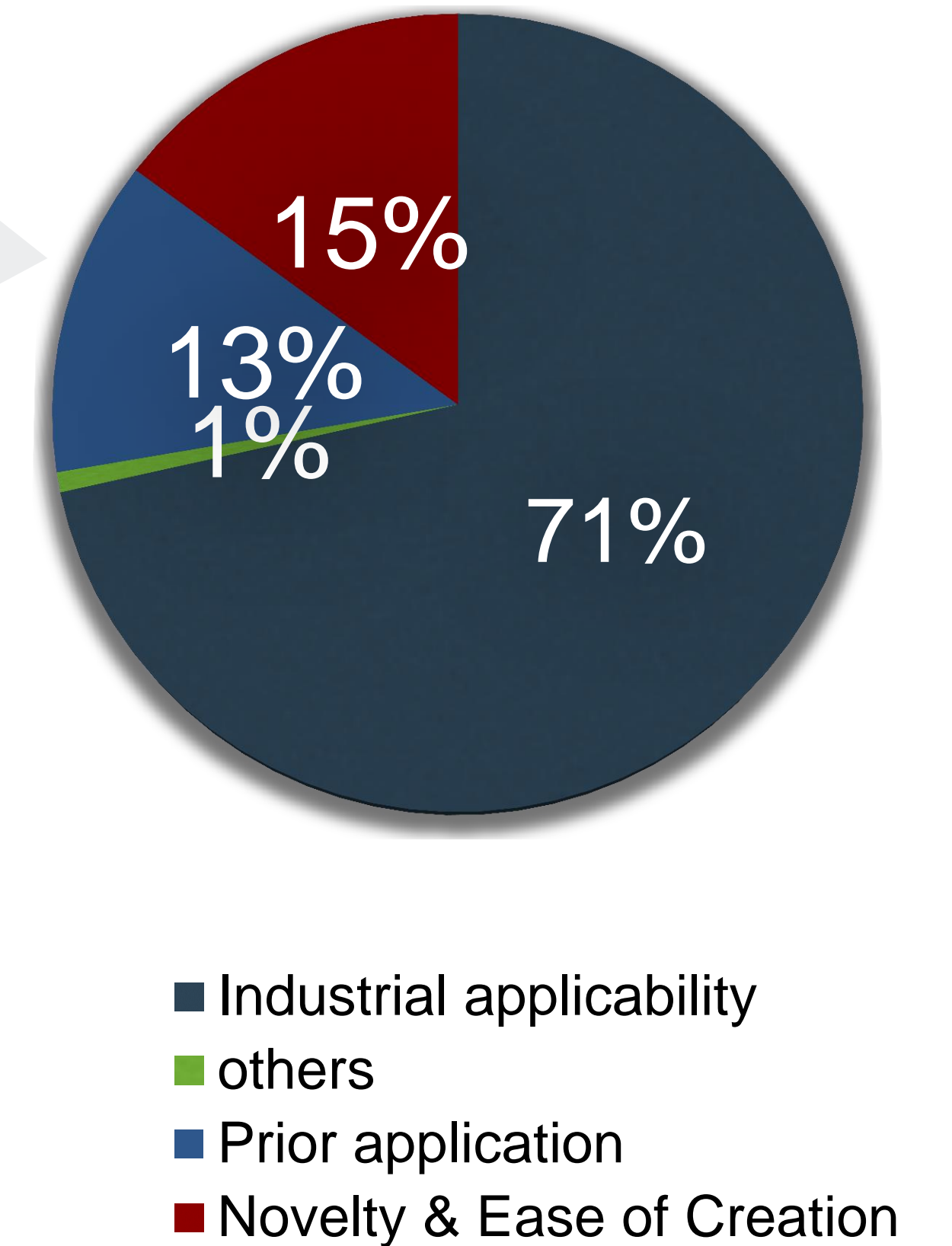
Foreign design applications (2014-2016)



IR designated KR (2014-2016)



Refusals by ground (2014-2016)



Declarations

1. Fees

Substantive Exam. Track (except Locarno class 2,5, or 19)

- individual designation fee

Non-substantive Exam. Track (class 2,5, or 19)

- Standard designation fee (level three)

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

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

4. Special reproductions

- A set of articles & typeface

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

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

5. Period of Refusal & etc.

- **6 months (class 2,5, or 19)**

- **12 months (except the above)**

- **Overcoming Refusal grounds**

: Just in case of an unforeseen circumstance, such as a natural disaster

Priority claim to KIPO

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

* E-filing : under 'Priority tab' tab, or DM/1/V

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

Exception to lack of novelty

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

* E-filing : 'More optional contents' tab, or DM/1/II

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

Most common grounds for Refusals from KIPO

- Design usable for an industrial purpose
- Novelty
- Ease of creation
- Related design
- Indication of Products

Design usable for an industrial purpose

Design Protection Act Article 33(1)

© Article 33 (Requirements for Design Registration)

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

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

discrepancy between drawings

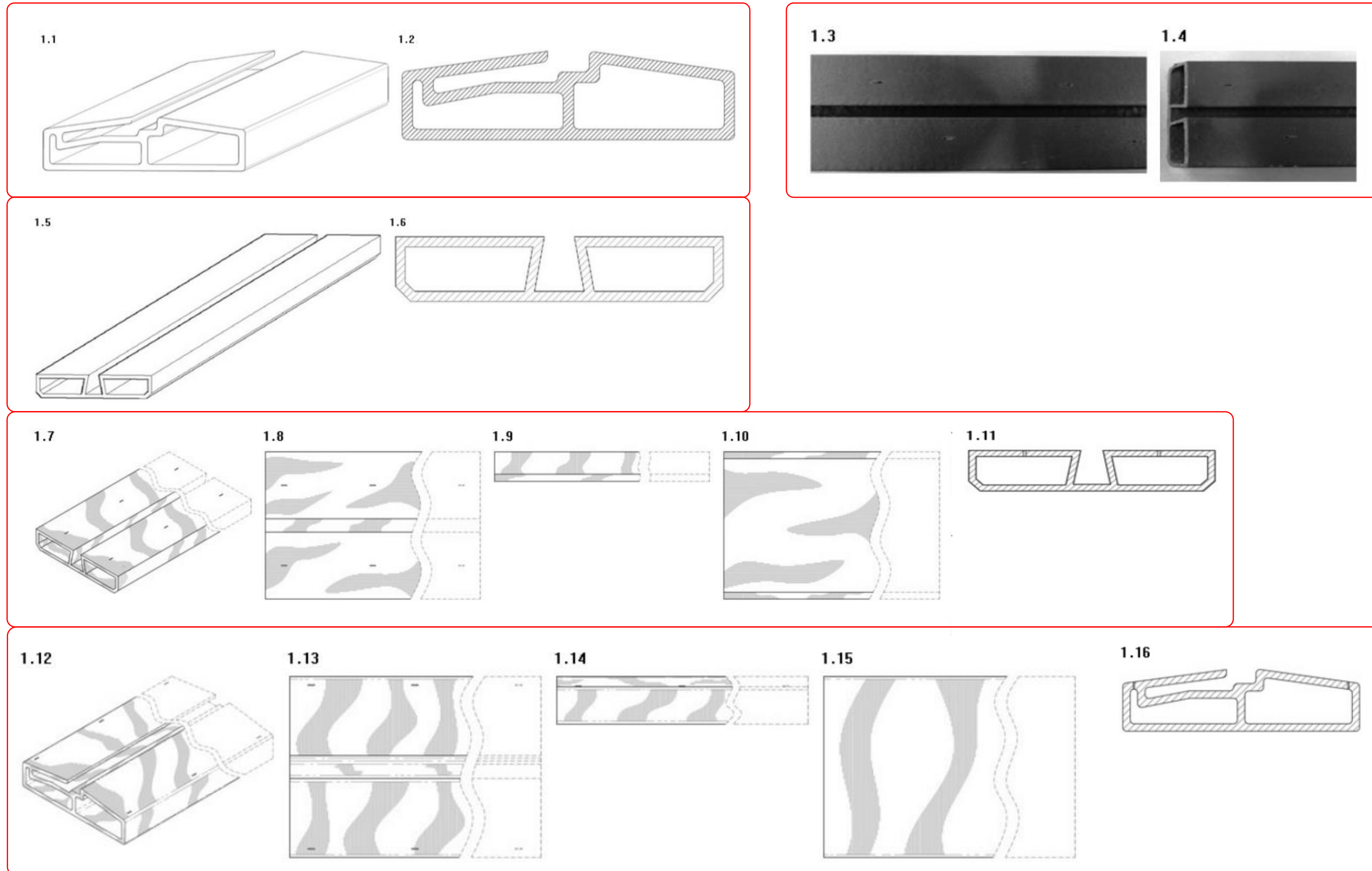
Ambiguity

Lack of views

Design usable for an industrial purpose

discrepancies between drawings

DM/086955



© Article 33 (Requirements for Design Registration)

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

Self-disclosure before 6
months

Novelty

Self-disclosure before 6 months of filing date

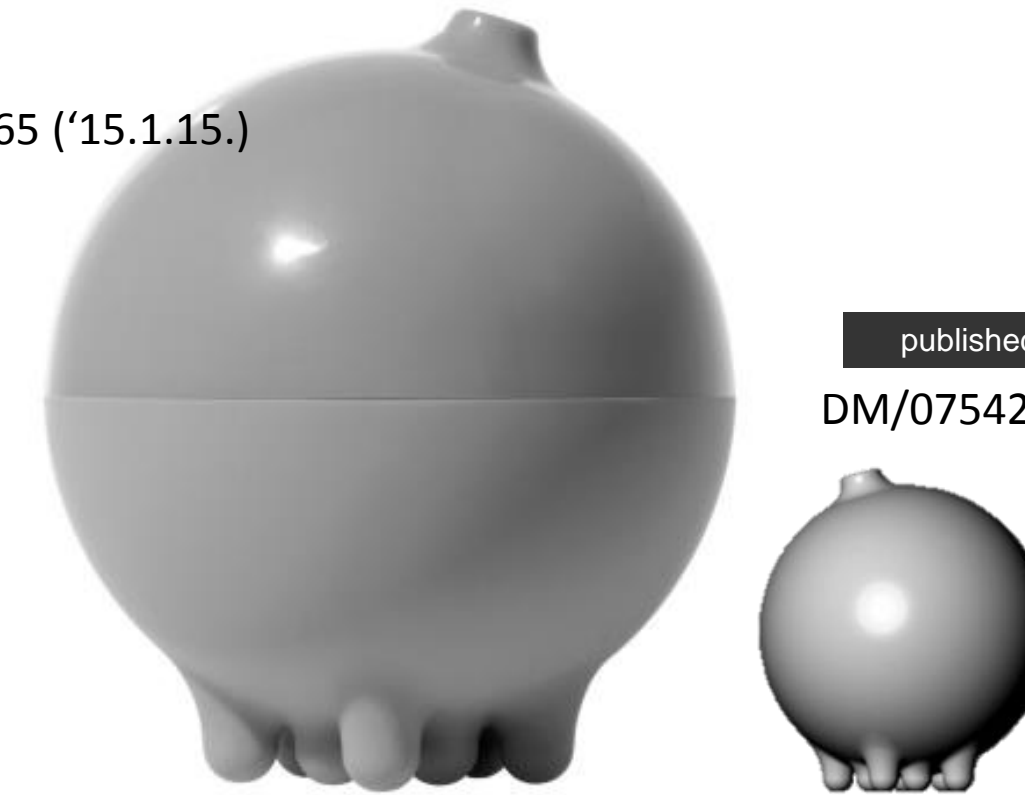
DM/085959 ('14.12.19.)

published Online ('14.12.2.)

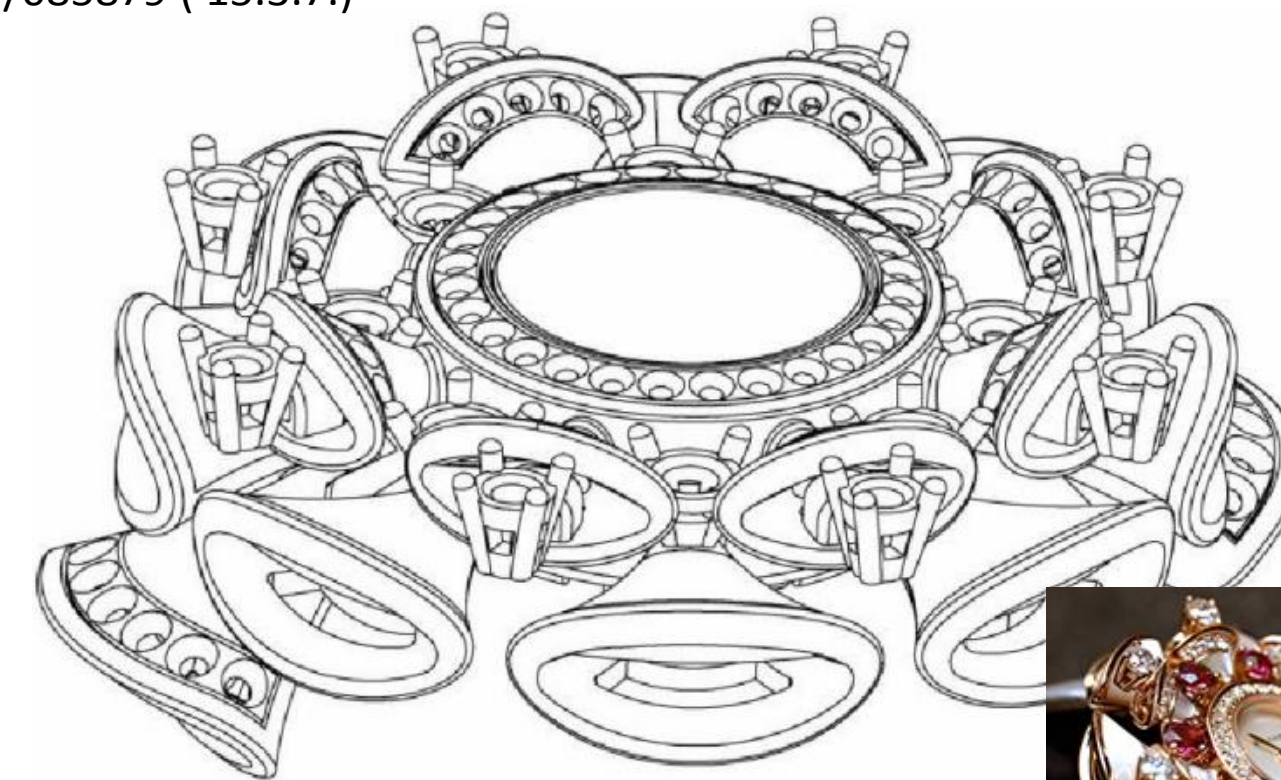


DM/080465 ('15.1.15.)

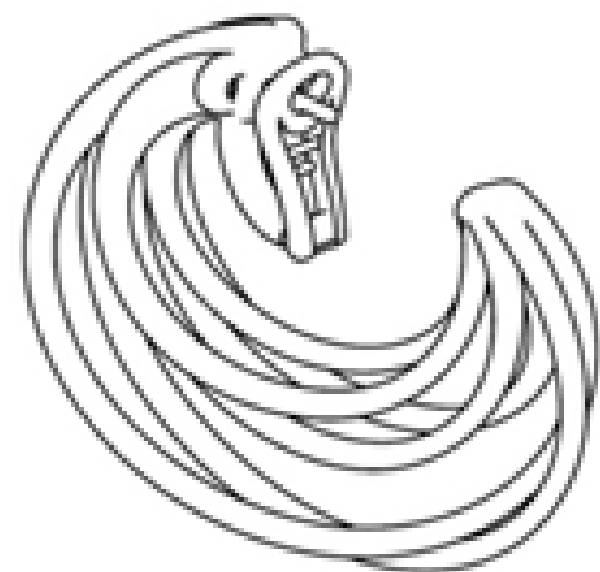
published
DM/075425 ('11.7.31)



DM/085879 ('15.3.7.)



published
Online ('14.6.23)



DM/084462 ('14.9.4.)



published
DM/080784 ('13.4.22.)



DM/084610 ('14.10.8.)



Online '13.11.14.
published

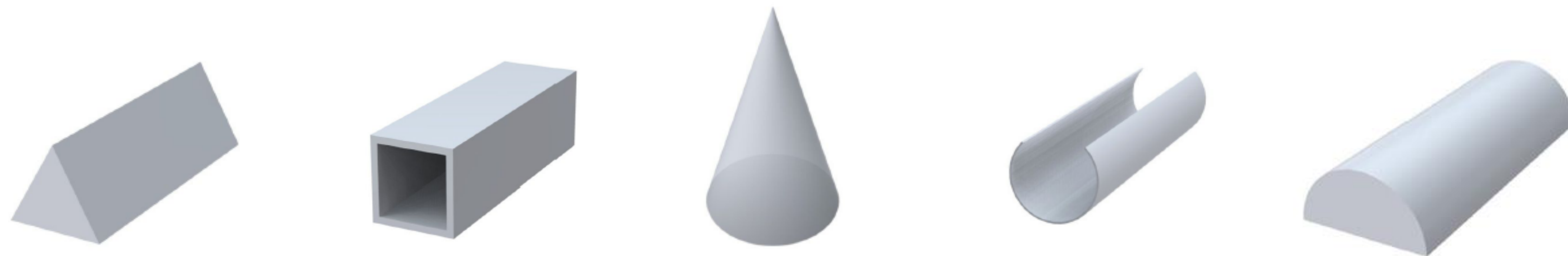
Ease of creation

Design Protection Act Article(33)ii

© Article 33 (Requirements for Design Registration)

(2) Notwithstanding the provisions of paragraph (1), no design (excluding a design specified in paragraph (1)) that could have been easily created by a person who has ordinary skill in the art to which the design pertains by applying any of the following methods before an application for design registration is filed, shall be eligible for design registration:

1. A design specified in paragraph (1) 1 or 2 or a combination of such designs;
2. A shape, pattern, or color, or a combination thereof, widely known in the Republic of Korea or in a foreign country.



Ease of creation

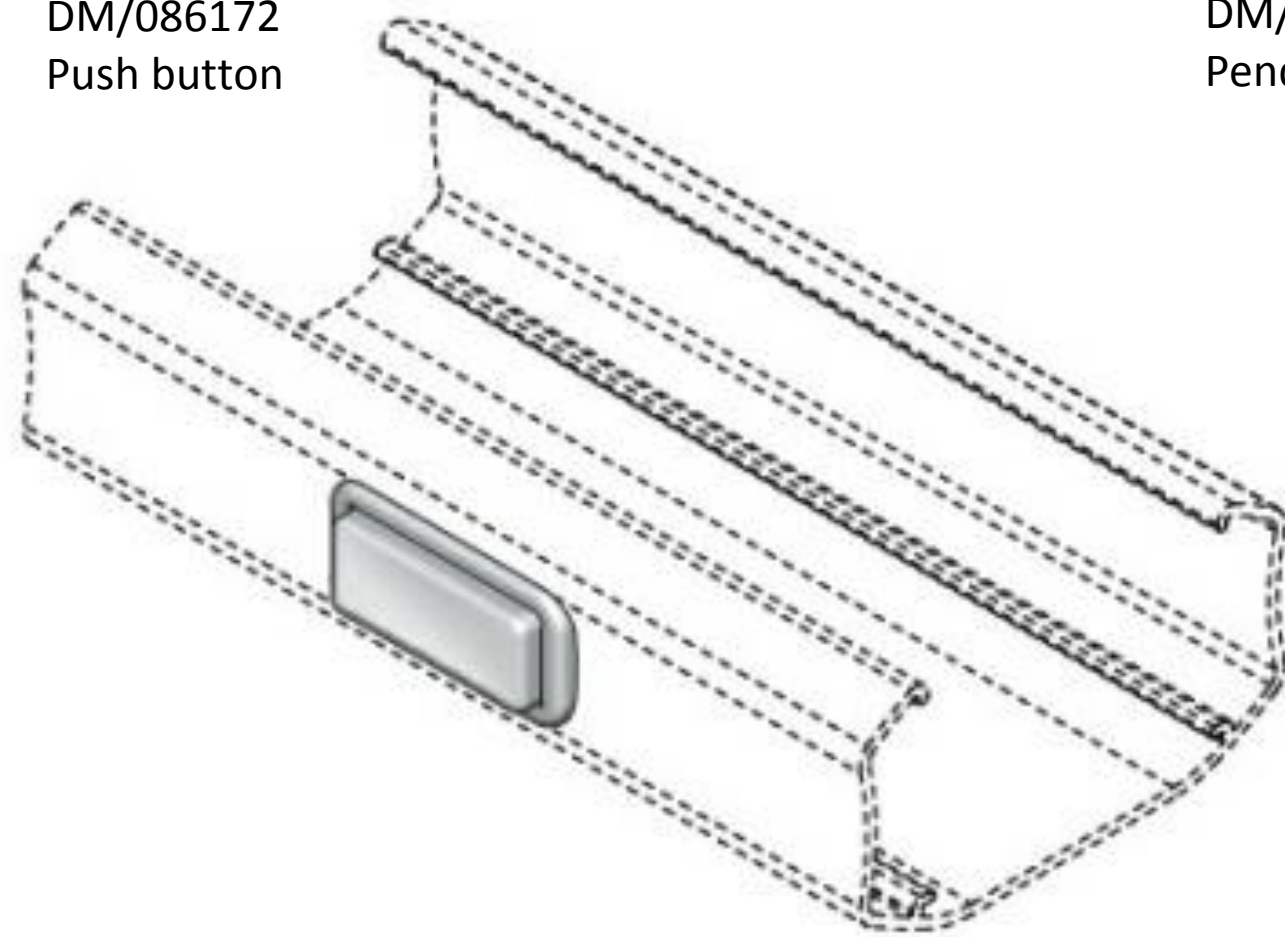


DM/086020 Watch hands



DM/086172
Pendant

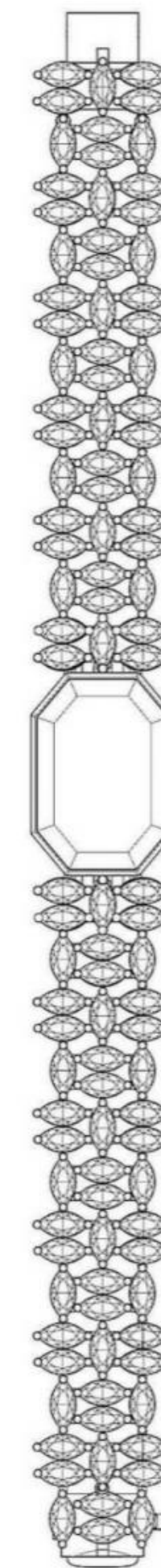
DM/086172
Push button



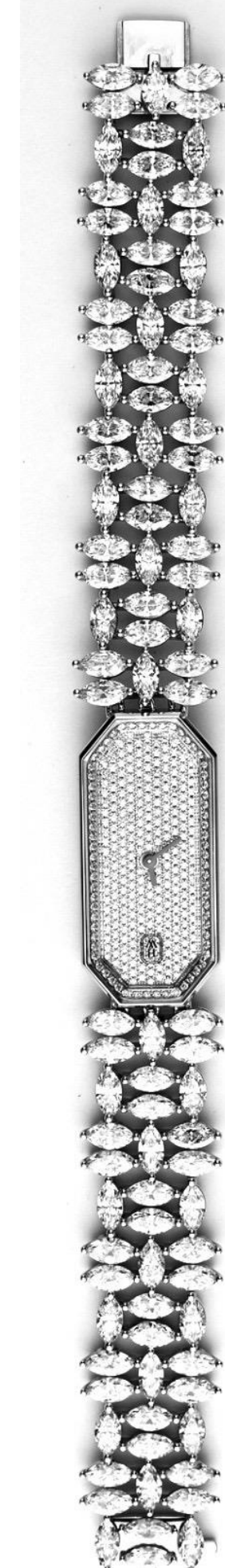
<http://orchidgrey.blogspot.kr/2012/07/kick-around.html>

Prior design, '13.8.8.

Design Protection Act Article(33)ii



Applied design,
watch case with bracelet
DM/085760, '15.3.3.



Prior design
DM/083608,
'14.9.26.

Related Design

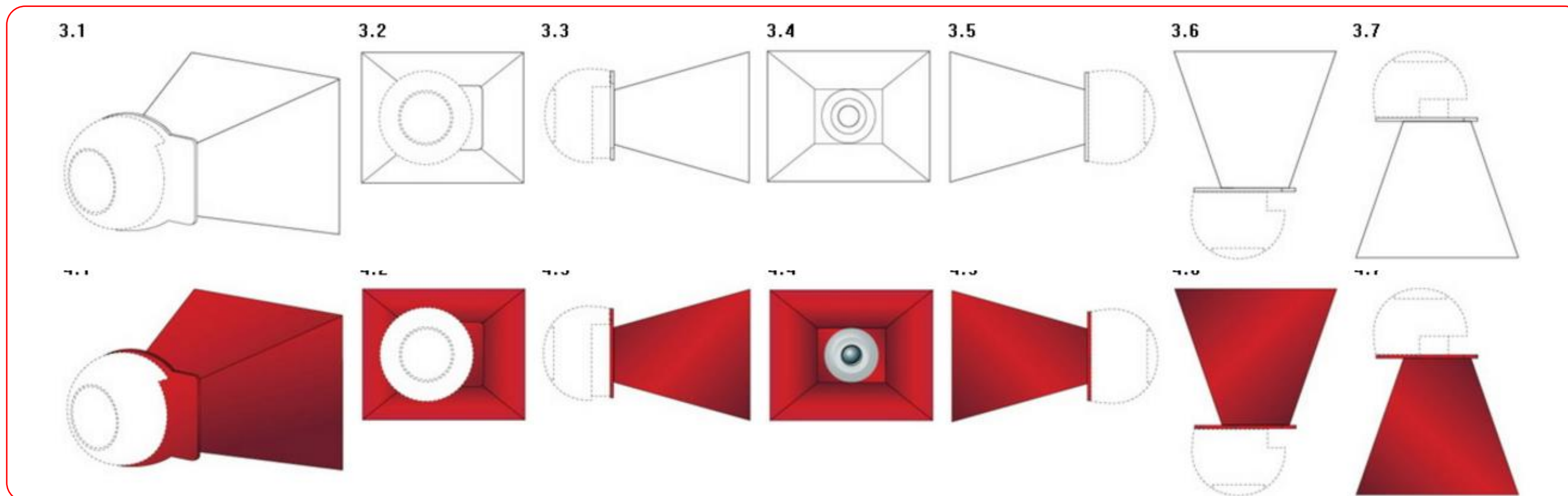
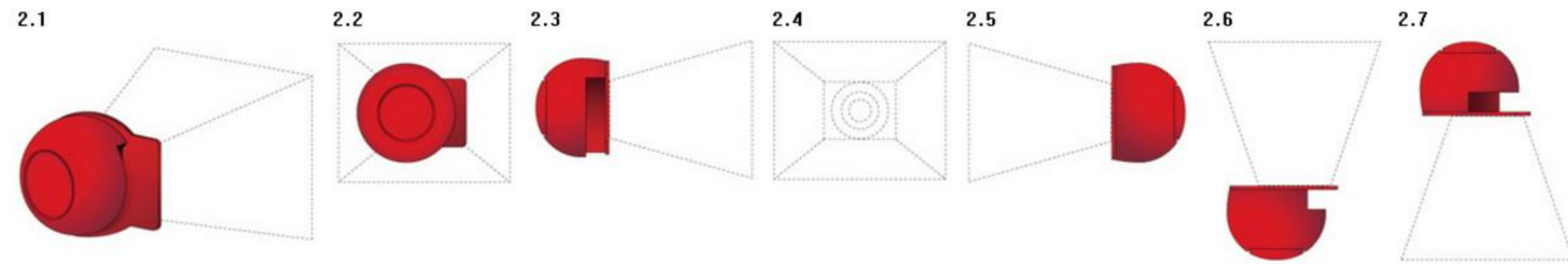
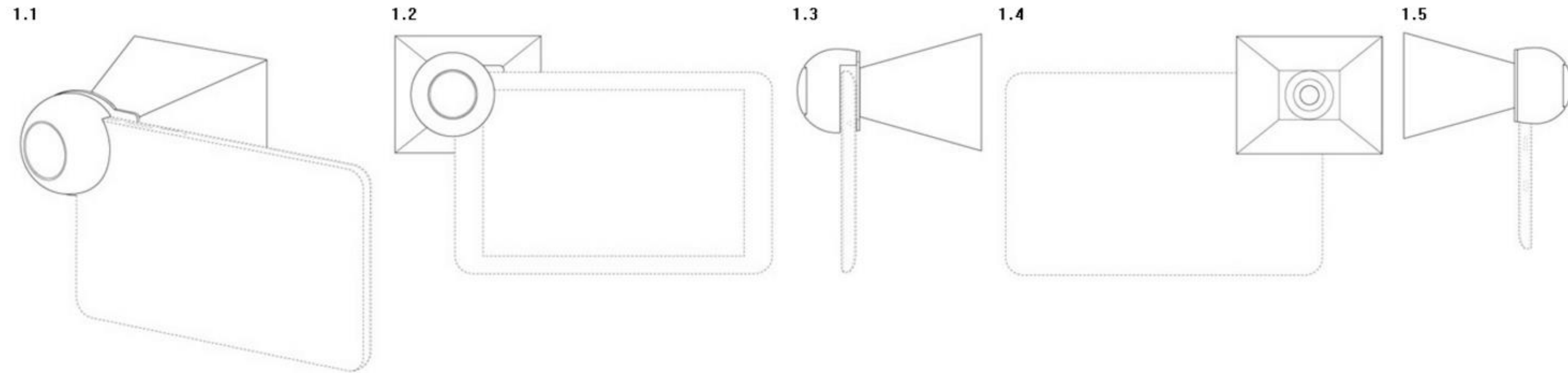
Design Protection Act Article(35)

© Article 35(1) (Related Designs)

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

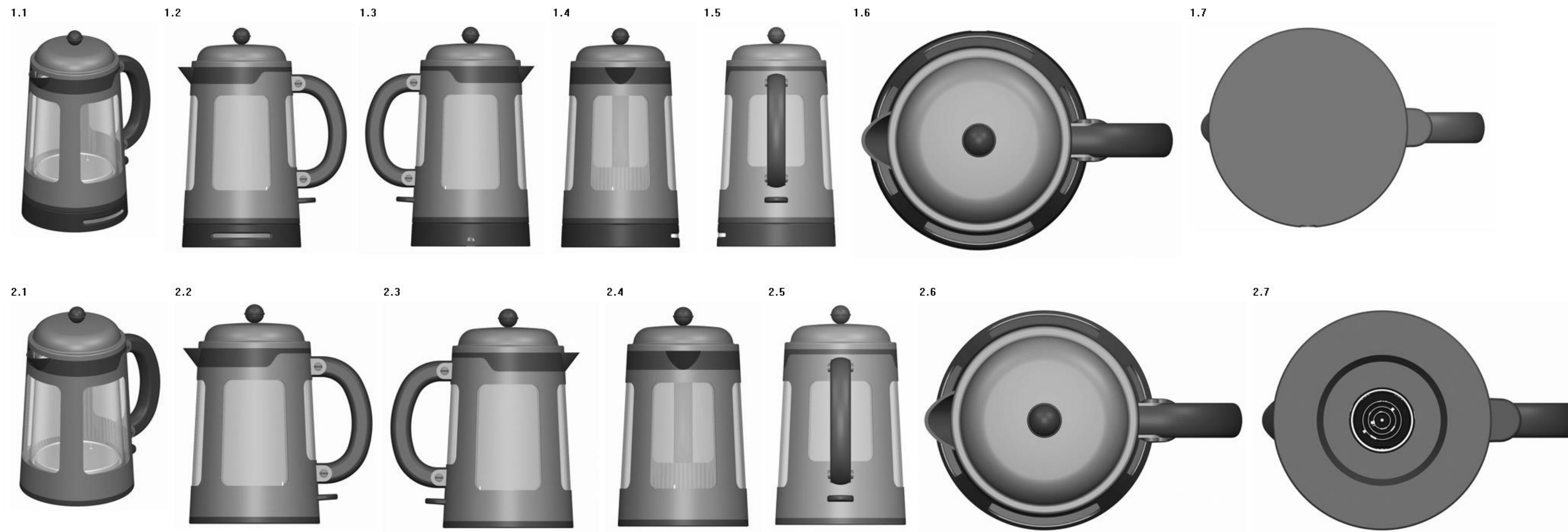
	Principle design(A)	Related design (A')
Order of time	Registered design	Subsequent application (within 1 year from the filing date of principle design)
	Antecedent application	Subsequent application (within 1 year from the filing date of principle design)
	Application filed on the same date	Application filed on the same date
Type of design	Finished article	Finished article
	Component	Component
	Set of article	Set of article
	Partial design	Partial design

Related Design



Related Design

DM/086172 Electric water kettle



Indication of Products

© Article 40 (One Registration Application for Each Design)

Design Protection Act Article(40)ii

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



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

Recommendations

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

Thank You

hague@korea.kr

+82 42 481 8103