



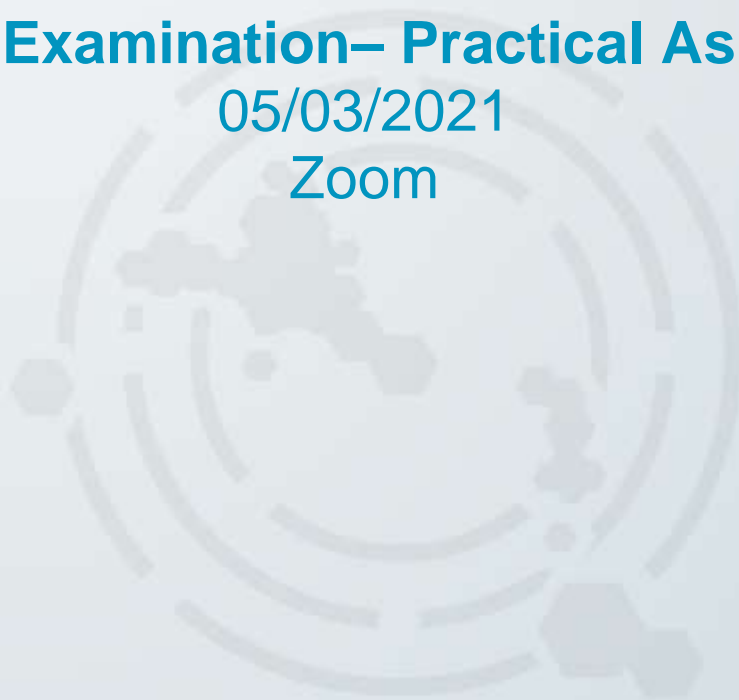
QUESTIONS & ANSWERS



Design Examination– Practical Aspects II

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Zoom



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Design Examination– Practical Aspects II

Questions and Answers

[To JIPO]

- 1) A statement of Novelty: What are the data and information contained in the statement? Does the regulation specify the format and content of the statement? Does the statement undergo formality examination? Has it ever been used in a dispute resolution event?**

The law doesn't specify the format or the statements of novelty. It is usually a simple paragraph stating what is new about the design or what, in the applicant's opinion, is novel about the design. We've never had a dispute where novelty was called into question.

- 2) Is the new law in effect now?**

The new law is not in effect at this time. We are hoping that it will be in effect by the end of this calendar year and also at the same time that we start implementing accession to the Hague.

- 3) Do you have any instructions or guidelines that your examiners are using during the examination procedure?**

We don't have an official manual or practice guidelines for designs. The standard is fairly simple as we only consider local novelty currently. We may need to work on creating a more detailed manual or guide as the new law is implemented.

- 4) What informed policy makers to amend the law, the accession to Hague?**

The law allows for accession to the Hague and introduces things that are in more modern design laws and that are not in the old law such as claiming priority. Under our current system we can't make a priority claim and there is no deferment. So, it is bringing us into modern times, allowing applicants to use a standardized classification system.

- 5) Is the design industry in Jamaica growing?**

Most of the applications received by JIPO are local. We don't receive many foreign applications for designs. On average we receive about 200 per year. It is not as robust as it could be in comparison to almost 2000 trade mark applications. There is definitely scope for improvement in terms of persons utilizing the designs registration system. This is why we do a lot of public education to create awareness that this form of protection is available.

[To EUIPO]

- 6) Visual disclaimers: what is the industry practice for defining/indicating visual disclaimers in design applications? Do applicants have to use the services of an agent who has the capability to indicate visual disclaimers and prepare and file application? Or can the applicant do it generally? Can you give the EU experience?**

This kind of disclaimer is widely used. When applicants are filing for a car part, for example, they often use the visual disclaimer because it is important to show where this product is placed.

7) Is the applicant required to explain any disclaimers in his/her application in addition to the visual disclaimer or is the visual disclaimer meant to stand alone?

When they file the application, they can give an explanation. They indicate the goods and also a description of what is up for protection and what is not.

8) Can the EU file a design with the part indicated and just a visual disclaimer or is it common practice to provide a written description?

A description is usually provided.

9) Can you share the practice paper presented?

Under this link you can find this specific practice paper

https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euipo/who_we_are/common_communication/common_communication_7/common_communication7_en.pdf

10) Further information:

On the aspect of informing laws, see this link for the International Trade Mark Association's model law on designs where recommendations are made based on the US, EU, Asia and other countries.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjAm8_LrJnvAhWKUcAKHVUXBrIQFjAAegQIARAD&url=https%3A%2F%2Fwww.inta.org%2Fwp-content%2Fuploads%2Fpublic-files%2Fadvocacy%2Fmodel-laws-guidelines%2F2019-draft-Model-Design-Law-Guidelines.pdf&usg=AOvVaw3_gFNw0ivDYZp0me4Gphqv

On the CP6. Convergence on graphic representations of Designs

<https://www.tmdn.org/network/graphical-representations>

On how the design system works in the EU, there is an economic study and a legal study that has been undertaken in view of the reform process

<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1846-Evaluation-of-EU-legislation-on-design-protection>