



Design Legislative Reform In The EU

Dr. Iván Sempere

Co-CEO PADIMA

Hon. Prof at the University of Alicante School of Law

i.sempere@padima.es

DESIGN
LAW
2024



Ivan Sempere

PADIMA

Share your insights using #DesignLaw2024

Main aspects of the reform

- Substantive provisions
 - a) Definitions: “Design” and “Product” concepts.
 - b) Object and Scope of protection.
 - c) Grounds for non-registrability and invalidity.
 - d) Design Registration Symbol.

Share your insights using [#DesignLaw2024](#)

“Design”

Article 3 Definitions

(1) ‘**design**’ means the appearance of the whole or a part of a product resulting from the features, in particular, the lines, contours, colours, shape, texture, materials of the product itself and/or its decoration, including the movement, transition or any other sort of animation of those features;



Share your insights using #DesignLaw2024

“Product”

Article 3 Definitions

(2) ‘**product**’ means any industrial or handicraft item other than computer programs, regardless of whether it is embodied in a physical object or materialises **in a digital form**, including:

(a) packaging, sets of articles, get-up, **spatial arrangement of items intended to form, in particular, an interior environment**, and parts intended to be assembled into a complex product;

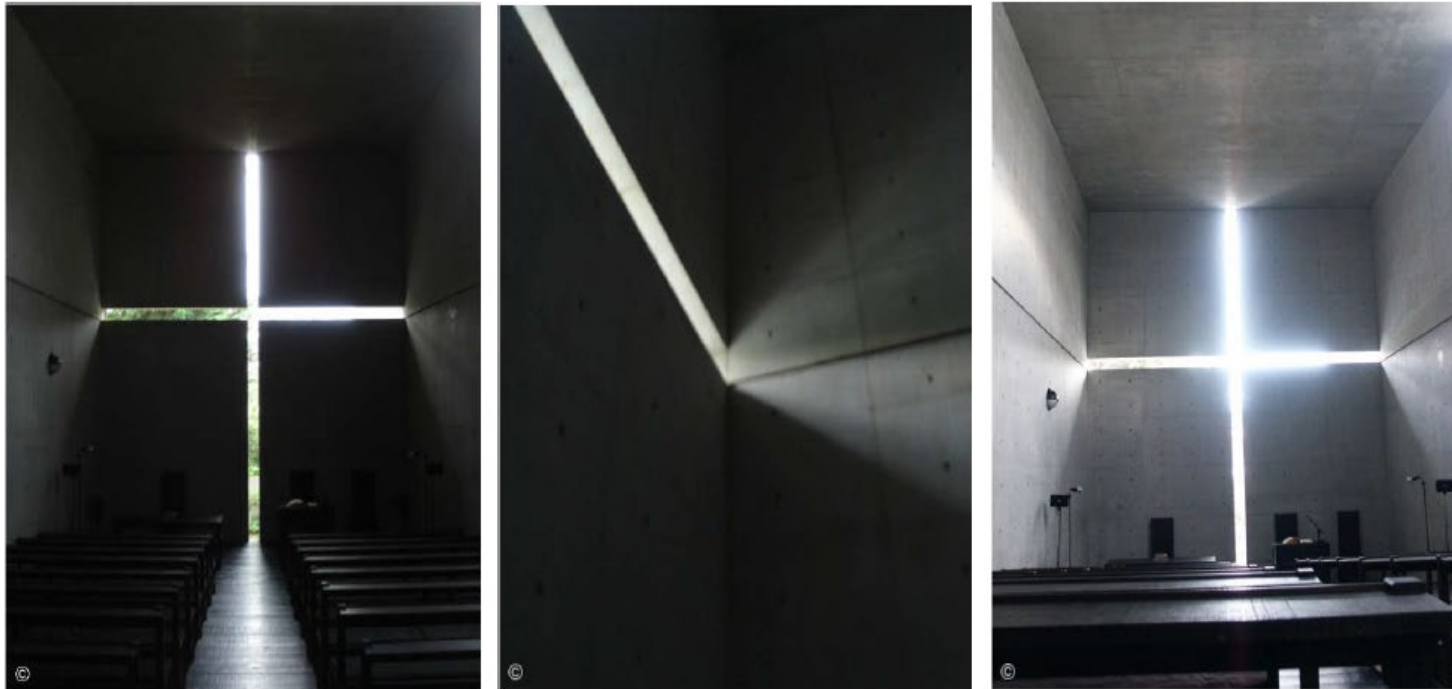
(b) graphic works or symbols, logos, surface patterns, typographic typefaces, **and graphical user interfaces**;



[Source: Star Wars movies](#)

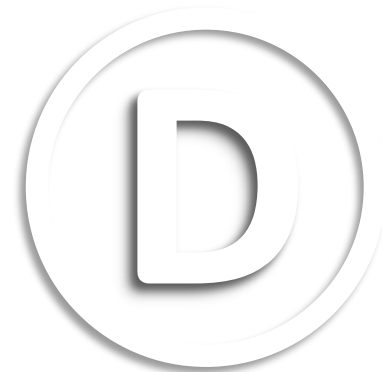
Share your insights using #DesignLaw2024

Object and Scope of protection



[Church of the Light – Tadao Ando Architect](#)

Share your insights using #DesignLaw2024



Share your insights using #DesignLaw2024

-  Simplified procedures: direct filings before EUIPO
-  New filing date requirements
-  1 Unity of class requirement abolishment
-  50 Limit of 50 designs/application
-  Deferment
-  New terminology: 'Community' > 'European Union'
-  Fees
-  Renewals
-  Amendment/alteration of the application
-  8 year transitional period for national laws

Share your insights using #DesignLaw2024



**DESIGN
LAW
2024**

Design Law and Practice in China

Lili Wu, Partner
Lili.wu@hankunlaw.com
Han Kun Law Offices
October 23, 2024

DESIGN
LAW
2024



Lili Wu
HanKun

Share your insights using #DesignLaw2024

Design Protection in China

Patent Law
Amendment
June 1, 2021

Drafted Examination
Guidelines of the Patent
Nov. 10, 2020
Aug. 3, 2021 & Oct. 31,
2022

Drafted Rules of
Implementation of the Patent
Law
Nov. 30, 2020

Rules and Guidelines took
into effect
January 20, 2024

- Partial design protection is possible
- Up to 10 designs can be protected in one design patent
- 15 years from Chinese filing date
- Annuity need to pay to maintain patents
- 6 months of grace period from first disclosure in strict situations
- Punitive damage of up to 5 times of damage

Share your insights using #DesignLaw2024

Overview of Design Application System China vs. EU vs. US

State	Duration of Protection	Substantive Examination	Partial Design	GUI	Deferment of Publication	Priority Claim	Grace Period for Application	Foreign Filing License
China	15 years	N	Y	Y	Deferment of examination in months, maximum delay period is 36 months; revocable	6 months	6 months only for limited reasons ¹	N
EU	25 years	N	Y	Y	30 Months	6 months	12 months	N
US	15 years	Y	Y	Y	N	6 months	12 months	Y

1. The design was exhibited at an international exhibition sponsored or recognized by the Chinese Government; or published for the first time at a prescribed academic or technological conference; or disclosed by a third part without permission of the applicant.

Share your insights using #DesignLaw2024

Design Patent Prosecution Tips

1. Requirement of figures for 3D/2D product and partial design
2. Brief explanation
3. GUI, animations
4. Multiple similar designs in one application
5. Voluntary amendment to change the protection scope

Share your insights using #DesignLaw2024

Requirements of Figures When Filing Design Application

3D design of physical product



Share your insights using #DesignLaw2024

Requirements of Figures When Filing Design Application

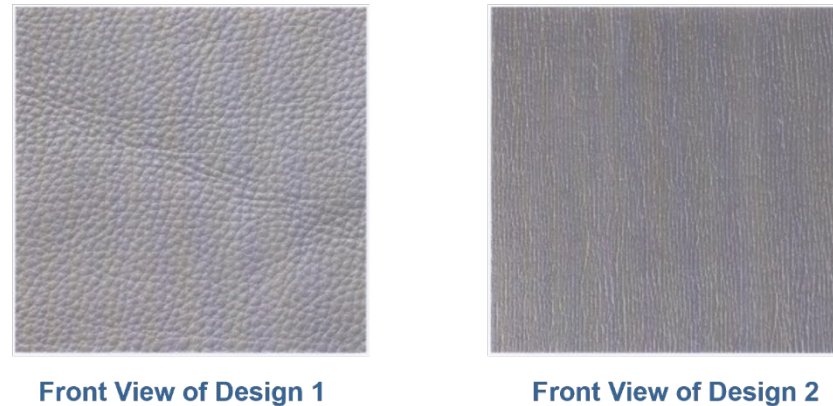
2D design of physical product

- Partial design not applicable for 2D Design

CN307086302S Packaging blank



CN302739095S Leather Sheet

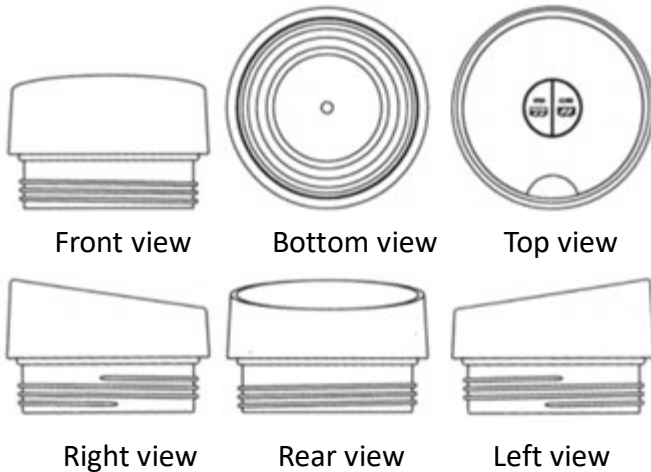


Share your insights using #DesignLaw2024

Requirements of Figures When Filing Design Application

Clearly indicating the claimed design

- **Invalidation Decision No. 19275 (Cup lid)**

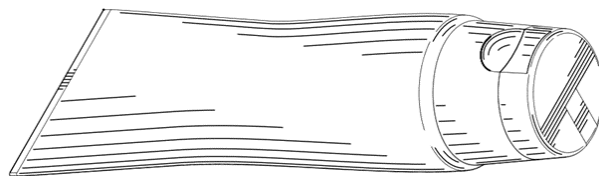


Invalidation Decision:

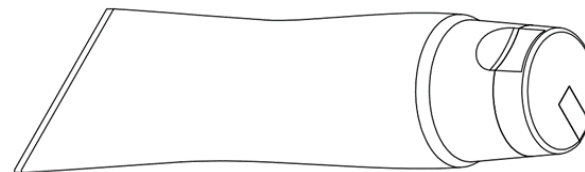
*The upper end surface of the cup lid is located inside the outer circle and its height is lower than the lowest point of the outer circle. As the **overall shape of the upper end surface cannot be determine** from the figures, the patent does not clearly indicate the design of the product for which patent protection is sought, and does not comply with the provisions of Article 27, Paragraph 2 of the Patent Law.*

Cross-sectional views?

- **Clearness issue may arise when entering into China**



Lines drawings **with shading lines**
For **US** Design Application



Lines drawings **without shading lines**
For **CN** Design Application

Rendering images
as reference
views?

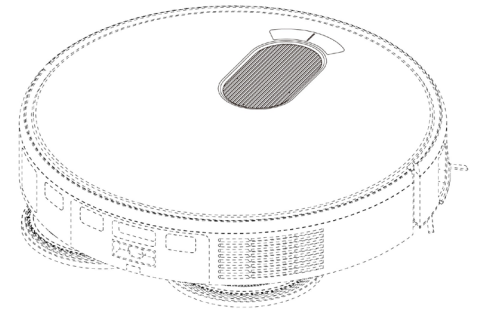
Share your insights using #DesignLaw2024

Requirements on Brief Explanation Physical product

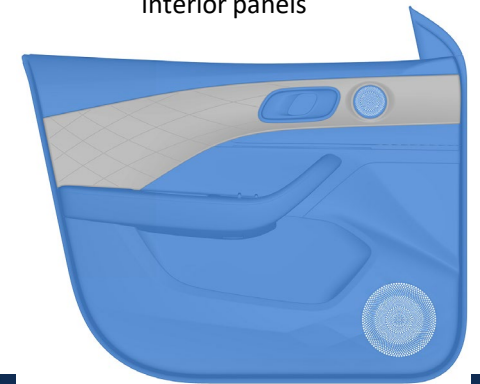
Brief Explanation

- Title of the product and title of the claimed portion (for partial design only): *Interaction Module of Cleaning Robot*
- Use of the product and use of the claimed portion (for partial design only): *The cleaning robot may be used for cleaning, interaction module may be used for receiving interactions from a user.*
- The essential feature of the design: *The essential feature of the design lies in the shape of the interaction module of the cleaning robot*
- View designated to best show the essential feature of the design (for partial design, view designated shall show the claimed portion): *Perspective view*
- Whether color is claimed: *Color protection is claimed*
- Reason for omission of views: *The left view is identical with the right view, and thus the left view is omitted*
- Basic design (for multiple-designs application only): *Design 1*
- Description of claimed / disclaimed portion of the design (for partial design only): *Broken lines show portions that form no part of the claimed design / Portions mask by semi-transparent layer of blue form no part of the claimed.*

CN308696825S
Interaction Module of
Cleaning Robot



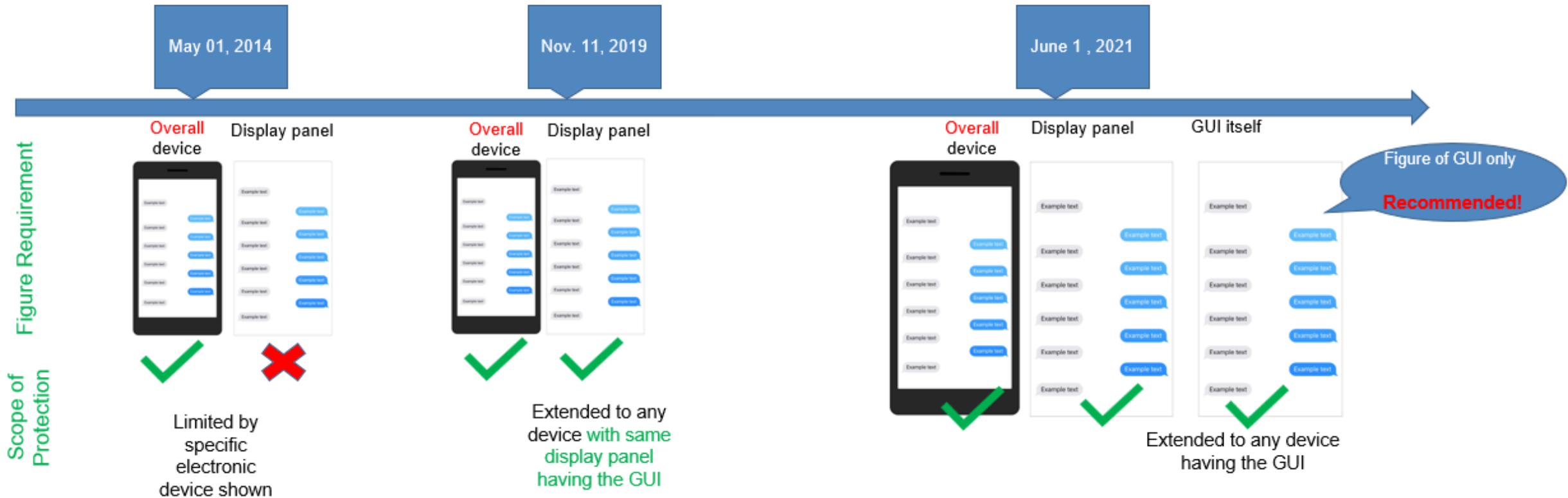
CN308695790S
Decorative fabric for door
interior panels



Share your insights using #DesignLaw2024

GUI Design Protection Practice Development

Figures of electronic device not needed



Share your insights using #DesignLaw2024

Requirements of Figures When Filing Design Application Graphical User Interface (GUI)

- For GUI occupying only a portion of the display, such as icon, widgets, figure showing the GUI and the entire display in solid line or dashed line shall be submitted

CN308817190S



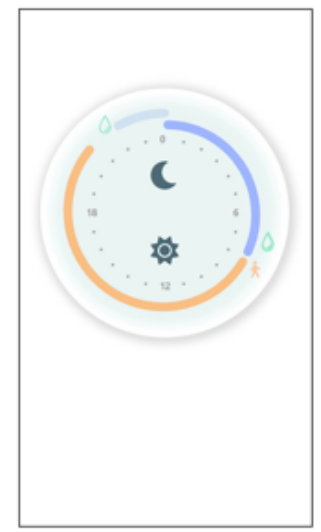
CN308733439S



CN308759441S



CN308733352S



Share your insights using #DesignLaw2024

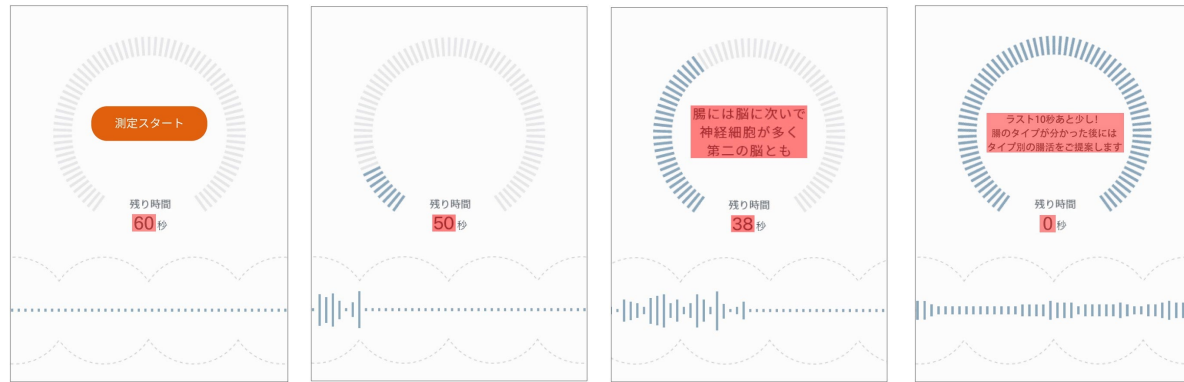
Requirements of Figures When Filing Design Application

GUI- differentiate automatic animation and interactive animation

Automatic animation

- Animated GUI (continuous transition triggered by one single interaction) : by interacting with the first GUI, the GUI transitions sequentially from the first GUI to the last GUI

CN308849496S Animated GUI



Front view

Animated variation state views 1 to 3

Transition Description: By touching start button in the front view, the GUI transitions sequentially to variation state views 1-3.

Interactive animation

- Multiple GUI (discontinuous transition triggered by one or more interactions)

CN308849496S Multiple GUI



Front view

Variation state view 1

Variation state view 2

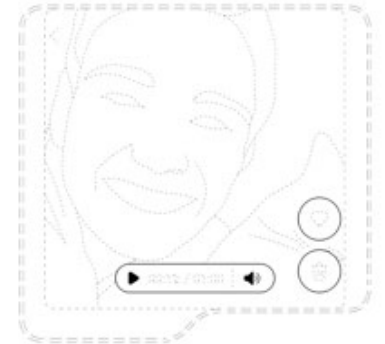
Transition Description: By touching the small round button in the front view, the GUI transitions from the front view to the variation state view 1, and by pressing the center ball in the variation state view 1 and moving it upwards, the GUI transitions from the variation state view 1 to variation state view 2.

Requirements on Brief Explanation Graphical User Interface (GUI)

Brief Explanation

- Title of the product and title of the claimed portion (for partial design only): *Operation Portion of Graphical User Interface for Viewing Photo or Video of Electronic Device*
- Use of the product and use of the claimed portion (for partial design only): *The graphical user interface may be used for viewing photo or video, the operation portion may be used for operating the photo or video*
- The essential feature of the design: *The essential feature of the design lies in the operation portion of the graphical user interface*
- View designated to best show the essential feature of the design (for partial design, view designated shall show the claimed portion): *Front view*
- Human-machine interaction / transitions of GUI (for animated or multiple GUI only) : *The graphical user interface may be interacted by tapping, pressing, or swiping the graphical user interface. By touching start button in the front view, the GUI transitions sequentially to variation state views 1-3.*
- Whether color is claimed: *Color protection is claimed*
- Basic design (for multiple-designs application only): *Design 1*
- Description of claimed / disclaimed portion of the design (for partial design only): *Broken lines show portions that form no part of the claimed design / Portions mask by semi-transparent layer of red form no part of the claimed*

CN308702442S



CN308702442S

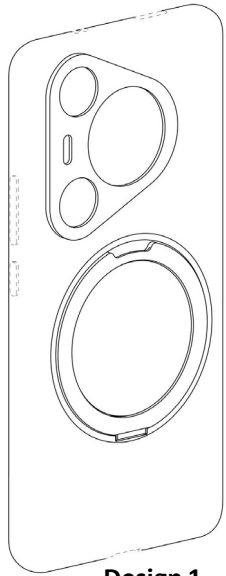


Share your insights using #DesignLaw2024

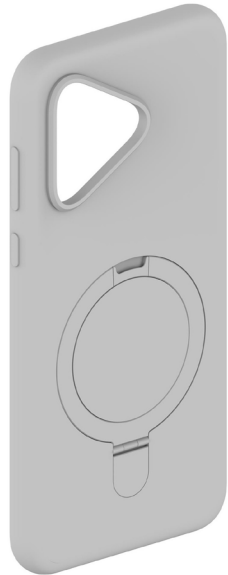
Multiple-Designs Application

Up to 10 Designs can be included in one application

CN308839741S



Design 1



Design 7



CN308746115S



Design 1



Design 5



Share your insights using #DesignLaw2024

Multiple-Designs Application Similarity requirement

Multiple-Designs application

- Similarity requirement: difference between Main Design and Other Design(s)
 - ✓ *slight changes in some fine details*
 - ✓ *usual design of this category of the products*
 - ✓ *the repeated and continuous arrangement of a design unit*
 - ✓ *mere change of color element*
 - ✓ *common change of position or proportion of the claimed portion in the whole design*
- For partial designs, the claimed portions of designs shall also meet the similarity requirement

Share your insights using #DesignLaw2024

Voluntary Amendments to Change Claimed Portion

3 time windows

Timing for Changing Claimed Portion

1. When entering into China (claiming a foreign priority)
2. Within 2 months from the CN filing date (voluntary amendment)
3. Within 6 months priority period of the CN first filing (filing a secondary application)



Share your insights using #DesignLaw2024



DESIGN
LAW
2024

Thank you!

www.designlaw2024.com