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Draft amendment to Design Patent Substantive Examination Guidelines announced

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On November 2 2015 the Intellectual Property Office announced a proposed draft amendment to the Design Patent Substantive Examination Guidelines. It is expected to initiate public hearings to discuss the proposal further.

The following provisions are to be added to "Principles of Disclosures for the Specification and Drawings", Section 1(1) of the guidelines:

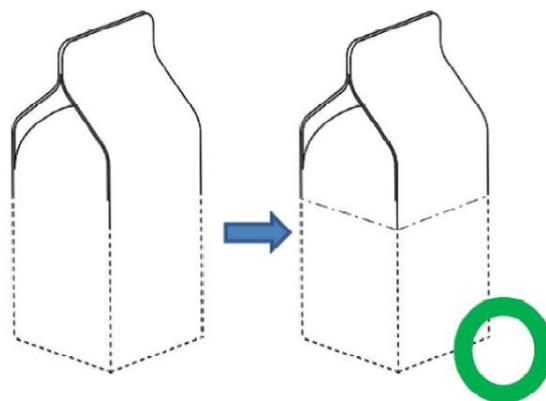
- If the design patent application does not claim a colour, drawings should be presented by ink drawings, greyscale computer graphics or black-and-white photographs.
- The boundary is a virtual imaginary line and belongs to the portion not claimed in the design patent application.

The following provisions are to be added to "Amendments, Post-grant Amendments and Correction of Translation Errors", Chapter 6 of the guidelines:

- The scope of a design patent is determined by the portion claimed in the design application illustrated in the drawings. Such scope can be adjusted by amendments based on the disclosure of the as-filed specification and drawings of the design patent application.
- If the drawings do not clearly differentiate the portion claimed in the design patent application from the portion not claimed in the design patent application, amendments with an added boundary in the form of broken lines (eg, a dotdash line) can be made for the purpose of confirming the boundary of the scope.

The following provisions are to be added to "Division and Conversion of Patent Applications", Chapter 7 of the guidelines:

- The applicant can file a divisional application to cover the design disclosed in the as-filed specification or drawings but not claimed in the patent application, such as the one disclosed in the reference views, or to cover the design which is clearly illustrated by the broken lines, as below.



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