

PECULIARITIES AND ADVANTAGES OF PROTECTING DESIGNS IN RUSSIA

Article 1352 of the Russian Civil Code

An appearance of an industrial or handicraft product shall be protected as an industrial design.

The industrial design shall be granted legal protection if, by essential features thereof, it is new and original.

The essential features define aesthetic properties of the product's appearance, in particular, shape, configuration, ornamentation, combination of colors, lines, contours, texture or material structure.

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Patentable Objects (apart common)

- images as such;
- small portions of a product;
- car spare parts;
- objects with open contour;
- GUI;
- types;
- architecture;
- logos, etc.

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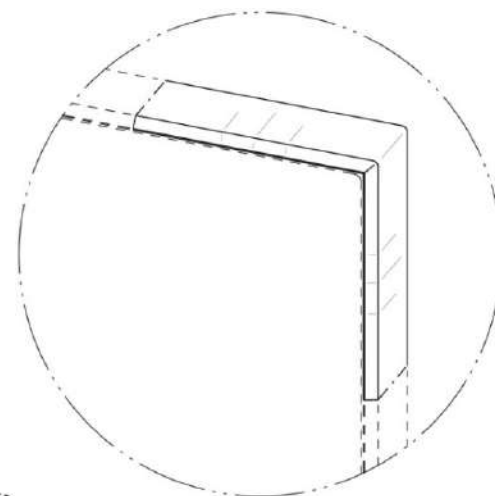
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General: Patentable Objects



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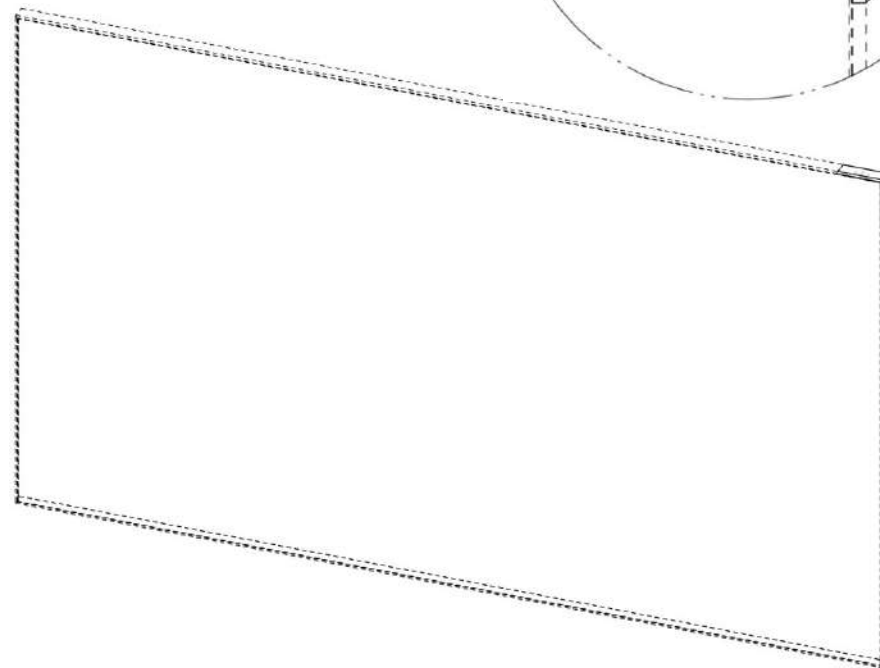
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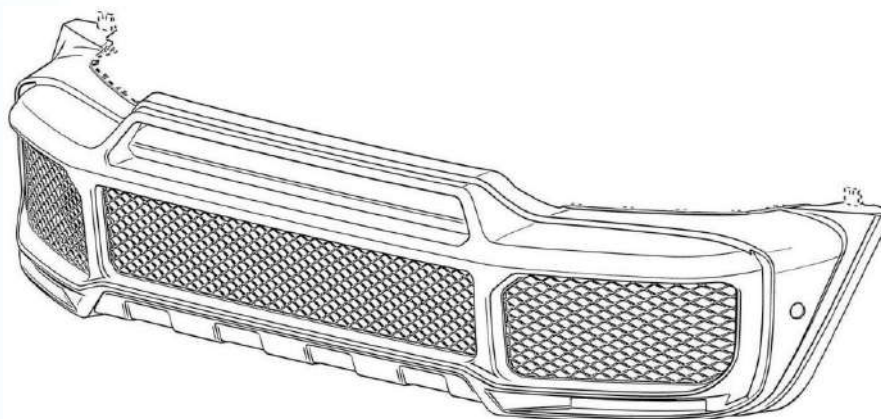
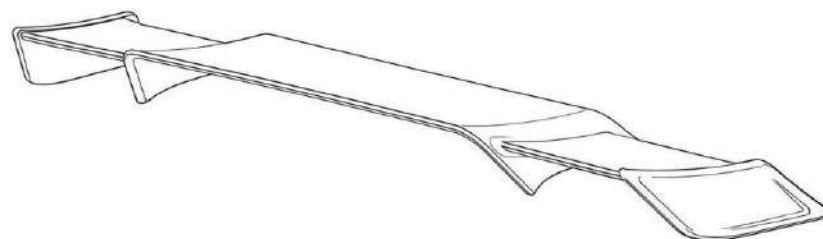
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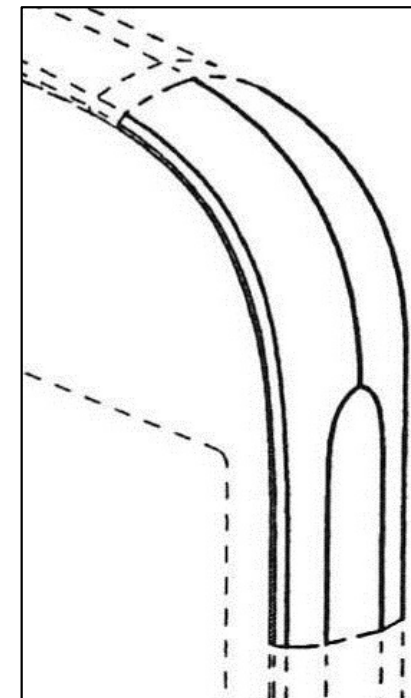
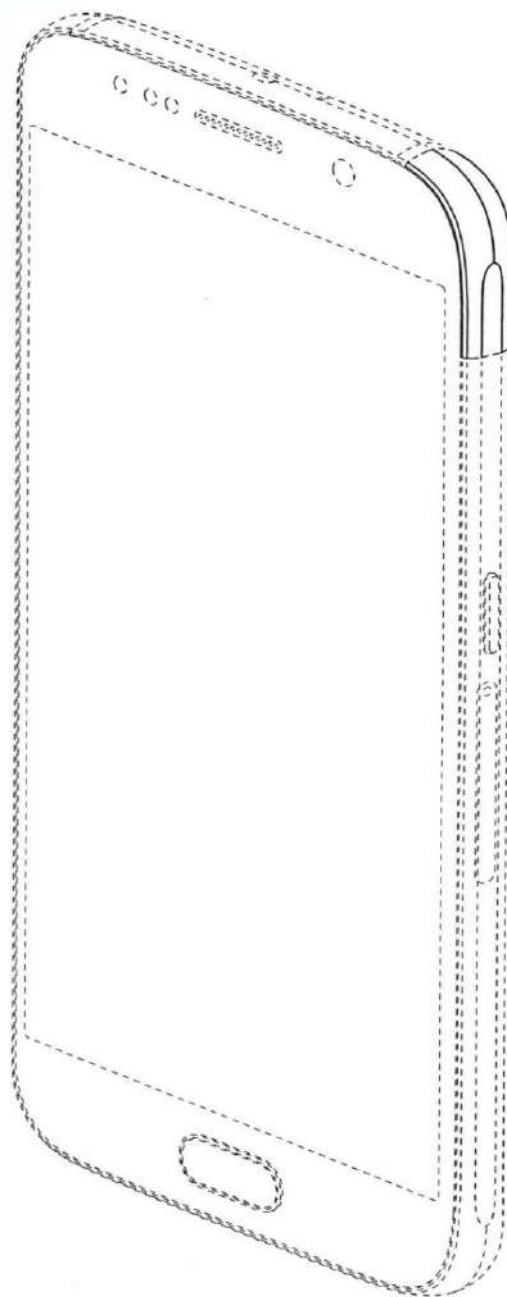
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General: Patentable Objects

View Inside

Inside Image

Food List

Sort by

Date entered (New) ▾

Filter

All Loc

Bridge

1		Milk	40 days ago	<input type="checkbox"/>
2		Add Onion	35 days ago	<input type="checkbox"/>
3		Asparagus	32 days ago	<input type="checkbox"/>
15		Cheese	4 days ago	<input type="checkbox"/>
17		Ice Cream	7 days ago	<input type="checkbox"/>
Flex Zone				
24		Matured in honey lemon	1 days ago	<input type="checkbox"/>
12		Pasta	8 days ago	<input type="checkbox"/>
6		Meat&Chicken	8 days ago	<input type="checkbox"/>
12		Juice	4 days ago	<input type="checkbox"/>

0 SELECTED

☒ Select All

Move to Other List

Send to Shopping List

Search For Recipe

Delete

☒ Cancel

АаБбВвГгДдЕеЁёЗзЖжИиЙйКкЛл
МмНнОоПпРрСсТтУуФфХхЦцЧч
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Peculiarities

Protection shall not be granted if:

- all features of a product are determined solely by technical function thereof;
- a design may mislead a consumer regarding producer or place of origin (“similar” to TM).

Design application undergoes substantive examination.

Author's grace period is 12 months.

Design application may be published thus providing provisional protection.

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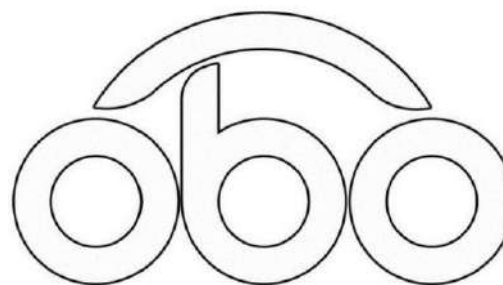
Variants: those differing in color or inessential features. New elements shall not produce another, or different, overall impression.

A whole object and a part (portion) thereof cannot be filed in one design application.

Not more than seven images for each variant.
Therefore, a design having movable elements may require filing several applications.

No exhibition priority is provided.

Accepted as variants 😊



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Accepted as variants ☺



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4 variants of 7 excluded...



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Protection for can only ☹️

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Description is used to focus examiner's attention on features considered as essential, and “hide” those features known from prior art.

File sets instead of variants, though it may lead to correcting priority date.

Movable designs: file several, most important images, keeping in mind the limitation of 7 images.

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Set: all designs in one image...



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Set: plus each design separately



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Limitations: Not More Than 7 Images

May be tricky for movable designs

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Scope of Protection and Infringement

The scope of protection is defined by a sum of essential features disclosed in images of product's appearance comprised in a patent.

A design is considered used in a product if the product comprises:

- all essential features of the design, **OR**
- a sum of features producing overall impression on an informed user similar to that produced by the design, assumed that the product and the design are of the same purpose.

Provisional Protection

The scope of provisional protection is defined by a sum of essential features reflected on images of a design application.

The scope of provisional protection can be narrowed by the examiner in the decision to grant a patent, though.

Damages for infringement made during the provisional protection period may be recovered upon issuance of a patent.

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RU Application vs International Application (Hague System)

Main Concerns for International Application:

- the priority application is to be timely filed. Confirmation thereon is not provided though;
- **objection to unity of designs filed in one application leads to the rejection decision (not office action)** which may be appealed in the Chamber for Patent Disputes;
- **no possibility to amend application materials**, e.g. transform from variants to set.

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EAPO: Eurasian Designs

On September 9, 2019, the Diplomatic Conference on Adoption of the Protocol for Protection of Industrial Designs to the EAPC was held in Nur-Sultan (KZ).

The Industrial Designs Protocol was signed by AZ, KG, AM, KZ, and RU and on October 2, 2019 deposited with WIPO.

The Protocol shall enter into force in respect of the first three States in 3 months the third State submits the document with the WIPO.

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Thank you for your attention!



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