The Interplay of Copyright Protection and Design Protection of Virtual Objects in Japan: Features and Background of Applied Art Protection under Japanese Law

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Abstract

This paper examines the backdrop and reasons for the limited copyright protection afforded to useful articles and architectural works in Japan. Also, it attempts to clarify the roles that the Design Act and the Copyright Act should play in relation to creations intended from the outset for use as virtual objects.

The paper overviews Japanese design protection legislation and focuses on the issue of copyright protection of applied art. It also discusses the status of legal protection of virtual objects in Japan, including the ongoing discussion by the governmental committee, the Design System Subcommittee of Intellectual Property Committee under the Industrial Structure Council of METI and JPO.

The main conclusions of this paper are as follows: in Japan, the courts have long recognised copyright protection for applied art only in a restrictive manner under elaborate theories. Accordingly, amendments to the relevant design protection laws have been made to respect this policy stance of the courts and to ensure its objectives are realised. Considering important values such as legal certainty and predictability, such responses can be acknowledged as reasonable.

On the other hand, if designing a new legal framework, since copyright law can provide protection beyond media boundaries, it would be the first choice to protect creations intended from the outset for use as virtual objects. This paper attempts to propose certain changes in interpretations and legislative amendments. Such measures would not disrupt the existing copyright law framework governing applied art in the physical world.

Keywords

Virtual Objects, Copyright, Design, Applied art, Metaverse

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1. Introduction

As of December 2025, the Design System Subcommittee of the Intellectual Property Committee under the Industrial Structure Council of METI and JPO, is discussing a proposal to amend the Design Act 1959 to expand the protection of virtual objects depicting useful articles and architecture.

The subject matter protected under the current Design Act is the shape or equivalent features of articles or buildings, or graphic images. At first glance, virtual objects might seem to be covered by design rights for articles or to be registrable as graphic image designs. However, under the current Japanese Design Act, this is not actually the case. According to established Supreme Court precedent[1], the effect of a design right for an article extends only to designs of articles that are identical or similar to the article in question. For example, if it is assumed that a design right relates to an automobile, as automobiles and virtual objects in virtual space are neither identical nor similar articles, the effect of that design right would not extend to the reproduction of the shape of the design in question within the virtual space[2].

Furthermore, virtual objects are not necessarily eligible for design registration as graphic image designs. The eligible subject matter for registration as a graphic image design is limited to graphic images “used in the operation of a device or displayed as a result of the device performing its function[3]” (Article 2(1) of the Act). According to the Japan Patent Office[4], even images of pens in virtual space with similar shapes or equivalent features, shown below (Figure 1), depend on their function to determine whether they are eligible for design protection. The pen on the left is assumed to be one that allows a user to select the image of the pen and, by operating the controller, draw lines in the virtual space. The image of this pen constitutes a graphic image “used in the operation of a device or displayed as a result of the device performing its function” and is therefore eligible for protection under the Design Act. On the other hand, the pen on the right is assumed to be one merely displayed in the virtual space and serves only as decoration. The image of this pen cannot be protected under the Design Act as a graphic design since it is neither “used in the operation of a device” nor “displayed as a result of the device performing its function”.

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[1] Judgement of Supreme Ct. on 19 March 1974, Minshu vol.28 no.2 p.308 (*Hose* case).

[2] E.g. Yoshiyuki Tamura “Intersection of intellectual property laws regarding the use of ‘practical products’ in the Metaverse” (2023) Journal of Information and Communications Policy vol. 7 Issue 1 p.102. (in Japanese)

[3] Translation cited from Japan Law Translation “Design Act（Act No. 125 of 1959）” (Last Version：Act No. 48 of 2022). https://www.japaneselawtranslation.go.jp/en/laws/view/4806 (accessed: 19 December 2025)

[4] Japan Patent Office “*isho-seido ni kansuru kentokadai ni tsuite* [On Issues for considerations concerning the design system]” material of the 16th Design System Subcommittee, Intellectual Property Committee, Industrial Structure Council (6 December 2024) 13. https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_shoi/document/16-shiryou/03.pdf (accessed: 3 December 2025) (in Japanese)



Figure 1: Judicial Precedents Concerning the Requirements for Design Registration of Images Used in Virtual Spaces[5]

As discussed in detail later, the amendment to Article 2(1)(iii) of the Unfair Competition Prevention Act 1993 introduced regulations against the imitation of forms of goods that cross between physical and virtual spaces, enacted in 2023. However, this provision merely provides short-term protection for approximately three years, and is considered to have a limited scope of protection. Furthermore, given that copyright protection for the design of useful articles is relatively limited in Japan, as is the short-term protection under Article 2(1)(iii) of UCPA 1993, some commentators have suggested that protection for virtual objects may be insufficient[6].

Creations intended from the outset for use as virtual objects include both those designed and used exclusively for virtual environments, and those first created virtually but potentially usable in physical space. In either case, they undergo a different creative process compared to useful articles or architecture designed for use in physical space. This process is closer to that of creating works of fine art, and their legal regulation should (at least in part) be subject to copyright law. Prior to the concrete discussions on amendments to the Design Act 1959, within the government-appointed conference body, there were opinions suggesting that the criteria for determining the copyrightability of applied art would apply to virtual objects that could be used in the physical space[7]. Conversely, there were also views that the freedom of creation for virtual objects is greater than that for designs in physical space, making it easier for them to be recognised as copyrightable works[8]. Why is Design Act 1959, rather than Copyright Act 1970, on the table as the main means of protecting virtual objects for a longer period in Japan?

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[5] Japan Patent Office (n 4) 13.

[6] E.g., Yasuto Komada “NFT goods and Article 2(1)(iii) of the Unfair Competition Prevention Act” in Ryu Takabayashi and others (eds.), *Intellectual Property Law Annual Report 2023-2024* (Nihon-Hyoronsha 2023) 7-8. (In Japanese)

[7] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other Matters in the Metaverse “Review of Issues concerning New Legal Challenges Concerning Content and Other Matters in the Metaverse” (May 2023) 10. (in Japanese)

[8] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other Matters in the Metaverse (n 7) 10.

This paper identifies the backdrop and reasons for limiting copyright protection for useful articles and architectural works and clarifies the roles that the Design Act and the Copyright Act should play in relation to creations intended from the outset for use as virtual objects.

2. Brief Overview of Design-related Law in Japan

Design-related law in Japan includes the Design Act 1959, the Trademark Act 1959, the Copyright Act 1970, and the Unfair Competition Prevention Act (UCPA) 1993 (Figure 2).

As mentioned above, in order to consider protection for new creations of virtual objects, this paper will not examine the law of signs, namely the Trademark Act 1959 and indications protection under Article 2(1)(i) and (ii) of UCPA 1993.

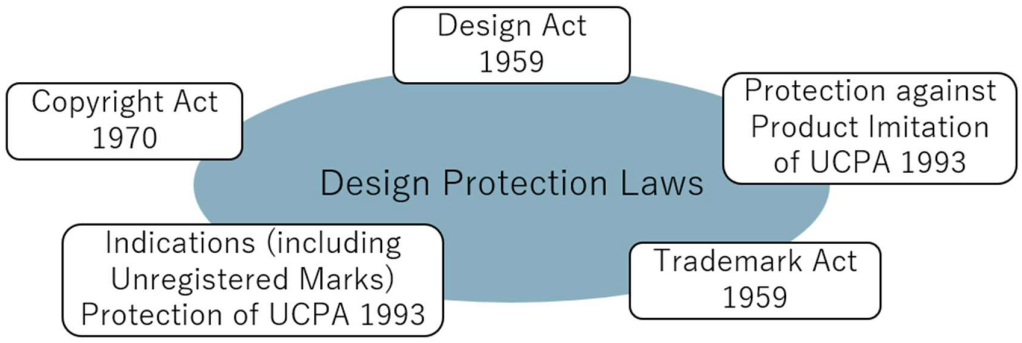


Figure 2: Overview of design-related law in Japan

2.1. Design Act 1959

The Design Act 1959 has a design registration system with substantive examination, which has a structure similar to that of the Patent Act, and provides protection for a maximum of 25 years. Historically, the Design Act was intended to protect industrial designs, covering the designs of articles. The 2019 amendment to the Act expanded the subject matter protected under the Design Act to include image designs and the designs of architecture[9].

Regarding image designs, the amendment was intended to protect operation images and display images, whether or not they are recorded on an article, and whether or not they are displayed on an article[10]. As noted above, even after the 2019 amendment, the subject matter

[9] For details, see e.g. Tatsuyuki SUEMUNE "Recent Legislation in Japan: Amendment to the Design Act 1959" (2020) Waseda Bulletin of Comparative Law vol.39 pp.169-175. http://hdl.handle.net/2065/00074432 (in English)

[10] Design System Subcommittee, Intellectual Property Committee, Industrial Structure Council, METI, *Review of the Design System Contributing to Strengthening Industrial Competitiveness* (February 2019) 3. https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_shoi/document/isyou_seido_190215_minaoshi/01.pdf (in Japanese)

is limited to graphic images “used in the operation of a device or displayed as a result of the device performing its function” (Article 2(1) of the Act). This means that graphic images used as wallpapers, as well as those appearing in movies and games, are excluded from the scope of protection under the Design Act 1959.

The other category of subject matter added—architectural design—is not entirely new to design law. As mentioned above, prior to the amendment, only the shape or equivalent features of articles were considered subject to protection. Furthermore, under commonly accepted doctrine, “articles” was understood to mean movable tangible objects[11]. Consequently, it was said that the design of architecture did not fall within the scope of protection under the Act because architecture consists of immovable tangible objects. However, it should be noted that even prior to the amendment, there were some views that architectural designs could be interpreted as falling within the scope of protection under the Design Act[12]. Furthermore, prefabricated buildings such as built-up houses, when mass-produced industrially and treated as movable property at the time of sale, were classified as “articles”, thus making them eligible for registration even prior to the amendment (Figure 3).



[Registration number] D1070744

[Registration date] Heisei 12(2000) February 18 (2000.2.18)

[Article to the design]

Built-up house

[Filing date]

Heisei 9(1997) May 23 (1997.5.23)

Figure 3: Case of a built-up house design (architectural design registration)

Built-up houses were originally intended to be small-scale, but in practice, even large structures resembling hotels were registered (Figure 4)[13]. It is significant that the 2019 amendment directly protects the design of buildings as subject matter, irrespective of whether they are tangible movable property.

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[11] See, e.g., Ryoji Saito, *Isho-ho Gaisetsu* (Revised edn, Yuhikaku 1995) 57-58. See also Judgement of Osaka High Ct. on 29 September 2004 (Heisei 15 (ne) 3575) (*Sekisui House* case) (as obiter dictum); Judgement of Tokyo District Ct. on 2 November 2020 (Heisei 30 (wa) 26166) (after the amendment in 2019).

[12] See Tatsuki Shibuya, *Chitekizaisan-ho Kogi II* (2nd edn, Yuhikaku 2007) 551; Yoshiyuki Tamura, *Intellectual Property Law* (5th edn, Yuhikaku 2010) 363. (in Japanese)

[13] Masami Harada “Kaisei-Isho-ho ni matsuwaru Jitsumu no Kento” (2020) Design Protect vol.127 p.13.



[Registration number]

D1271033

[Registration date] Heisei 18(2006) March 31 (2006.3.31)

[Article to the design]

Built-up house

[Filing date] Heisei 17(2005) July 21 (2005.7.21)

Cited: J-Platpat

Figure 4: Case of a large-scale built-up house design (architectural design registration)

2.2. Copyright Act 1970

The Copyright Act 1970 plays a partial role in providing design protection. The definition of "work" under the Act is "a creatively produced expression of thoughts or sentiments that falls within the literary, academic, artistic, or musical domain[14]" (Article 2(1)(i) of the Act). Also, the works exemplified by this Act include "paintings, woodblock prints, sculptures, and other works of fine art" and "works of architecture"[15] (Article 10(1)(iv) and (v) of the Act).

Although the ultimate purpose of the Act is to "contribute to cultural development" (Article 1 of the Act), some creations intended for practical use may also be protected as cultural products. In Japan, as in other countries, there exists the difficult question of whether works intended for practical use can be protected as "copyrighted works", and, if so, to what extent. Indeed, this is the issue of "applied art"[16].

Traditionally, the criteria for determining the copyrightability of designs for useful articles, as used in prevailing lower court decisions, seemed to require a higher level of originality than that required for ordinary copyrightable works. These criteria are understood to have been influenced by the "Stufentheorie" of German law, and have been criticised by academic commentators, mainly because the underlying circumstances of that theory are not applicable in Japan. Currently, the predominant line of court judgements follow criteria considered to be

[14] Translation cited from Japan Law Translation, "Copyright Act（Act No. 48 of 1970）" (Last Version：Act No. 52 of 2021). https://www.japaneselawtranslation.go.jp/en/laws/view/4207 (accessed: 19 December 2025)

[15] Translation citied from Japan Law Translation (n 14).

[16] For a detailed analysis in English regarding the subject matter under Japanese Design Law and Copyright Law, see Masahiro Motoyama "Substantive Comparison of the Subject Matter of Design Right Protection and That of Copyright Protection in Japan : Differences in and Characteristics of Their Respective 'Creation'" (2020) Studies of Most-Advanced Technology-Related Law vol.19 p.65ff.

https://kokushikan.repo.nii.ac.jp/records/15266

similar to the “separability” test in the US[17]. However, while the criteria used by courts are largely unified, difficulties remain in applying them to specific cases, much like the situation in the United States. As will be discussed later, as case law accumulates, analysis based on categorisation of the creations according to their nature in question is receiving increasing attention[18].

Notably, despite the existence of extensive statutory limitations on copyright (especially Article 46 of the Act) and exceptions to the right to integrity (Article 20(2)(ii) of the Act) specific to works of architecture, the criteria for determining the copyrightability of works of architecture are the same as those for applied art[19]. Court rulings to date have recognised the copyrightability of museum buildings[20], a garden forming an integral part of a building[21], and a garden within a complex that includes high-rise buildings (Figure 5[22]).

[17] The leading case is Judgement of IP High Ct. on 28 August 2014, Hanrei-jiho vol. 2238 p.91 (*Fashion Show* case).

[18] Yuriko Inoue “3D Printer ni kansuru Chosakuken Mondai” DESIGN PROTECT vol.105 p.14; Yoshiyuki Tamura “Oyo-bijyutsu no Chosakubutsusei ga Kotei sareta Jirei” Business Homu vol.15 no.11 p.96.

[19] *Sekisui House* case (n 11) (requiring a higher level of originality.); Judgement of Tokyo District Ct. on 17 October 2014 (Heisei 25 (wa) 22468), Judgement of IP High Ct. on 8 December 2021 (Reiwa 3 (ne) 10044), Judgement of Tokyo District Ct. on 25 November 2022 (Reiwa 3 (yo) 22075) (adopting the criteria similar to “separability” test.).

[20] Judgement of Tokyo District Ct. on 25 November 2022 (Reiwa 3 (yo) 22075).

[21] Judgement of Tokyo District Ct. on 11 June 2003, Hanrei-jiho vol. 1840 p.106 (*Noguchi-room* case).

[22] Judgement of Osaka District Ct. on 6 September 2013, Hanrei-jiho vol. 2222 p.93 (*Shin-Umeda-City* case).

（別紙図面2）

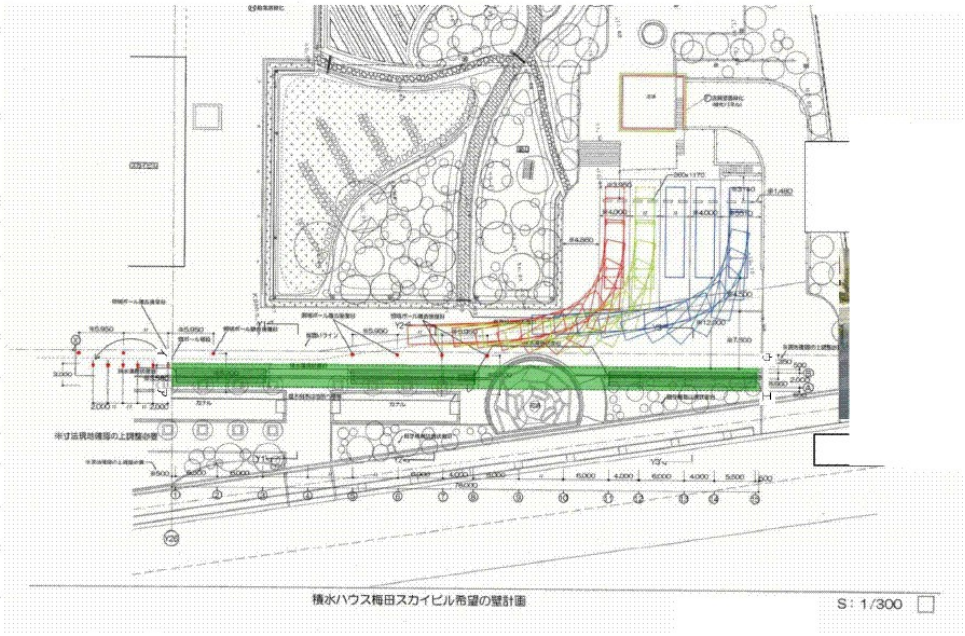


Figure 5: Case of copyrightability of Shin-Umeda city

Conversely, they have not recognised copyrightability in ordinary residential houses (Figure 6[23]and Figure 7[24]).

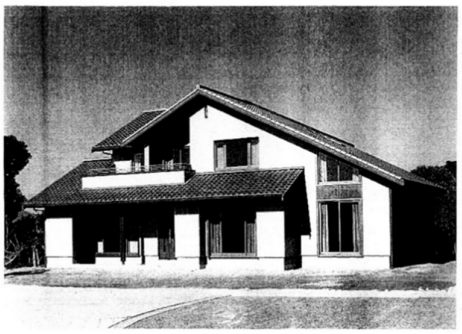


Figure 6: Case of Sekisui House

[23] *Sekisui House* case (n 11).

[24] Judgement of Tokyo District Ct. on 17 October 2014 (Heisei 25 (wa) 22468).


（別紙３）

原　告　写　真　目　録

1　原告斜め写真

2　原告正面写真

Figure 7: Case of ordinary residential house

2.3. Protection against Product Imitations under UCPA 1993

The UCPA 1993 defines “the act of transferring, leasing, displaying for the purpose of transfer or lease, exporting, importing, or providing through telecommunications lines, goods that imitate the form of another person's goods (excluding what is indispensable to their functioning)[25]” as an “unfair competition” (Article 2(1)(iii) of the Act). This provision functions as a de facto unregistered design protection system for a limited period (approximately three years[26]). The purpose of this provision is to prevent the market advantage gained by a first mover, who has invested substantial financial resources and effort, from being significantly diminished by third-party imitation[27].

The claimant under this provision is considered to be “the person who developed and

[25] Translation cited from Japan Law Translation, “Unfair Competition Prevention Act（Act No. 47 of 1993）” (Last Version：Act No. 51 of 2023). https://www.japaneselawtranslation.go.jp/en/laws/view/4920 (accessed: 19 December 2025)

[26] The protection shall terminate three years “since the date they were first sold in Japan” (Article 19(1)(vi)(a) of the Act).

[27] Intellectual Property Policy Office, METI (ed.), *Chikujo-kaisetsu Fusei-Kyoso-Boshi-ho* (ver. In force on 1 April 2024) 88-89. https://www.meti.go.jp/policy/economy/chizai/chiteki/pdf/Chikujo.pdf. For a detailed explanation in English, see Yoshiyuki Tamura "Protection of the first mover advantage: Regulation against imitation of the product configuration in Japan" in Nari Lee and others (eds.) *Intellectual Property, Unfair Competition and Publicity* (Edward Elgar 2014) 216ff.

commercialised the product that was the subject of the imitation and placed it on the market[28]". While designers may invest effort and resources in creating designs, it is a separate matter whether they can be said to have invested the costs and effort required for product development. Consequently, it is possible that designers may not necessarily act as the claimant. However, in a case where designers who exhibited a test-tube-shaped humidifier powered via an uninsulated power cord at an exhibition sued the defendant for imitating it based on this provision, the court upheld the designers' claim (Figure 8)[29].



Figure 8: Case of Humidifier

The question arises as to what constitutes "the form of another person's goods". Although there is a case concerning the form of architecture, the court did not directly address whether architecture constitutes goods[30].

Previously, the question also arose as to whether intangible objects such as images and screen designs constituted "the form of another person's goods". In the *Digital Pedometer* case[31], in comparing the form of the claimants' product with that of the defendants', the court also considered the fact that "a liquid crystal display section is located on the front left side, and this display section is divided into three parts" (Figure 9). Consequently, the court found substantial similarity in the forms of both products. Additionally, there is a court ruling that held that the display screen shown upon launching a software application, as well as the screen layout displayed when using various functions, constitute "the form of another person's goods"[32].

[28] Judgement of Tokyo District Ct. on 28 January 1999, Hanrei-jiho vol. 1677 p.127 (*Caddie bag* case).

[29] Judgement of IP High Ct. on 30 November 2016, Hanrei-jiho vol. 2338 p.96 (*Humidifier* case).

[30] *Sekisui House* case (n 11).

[31] Judgement of Tokyo District Ct. on 17 June 2011 (Heisei 22 (wa) 15903).

[32] Judgement of Tokyo District Ct. on 17 August 2018 (Heisei 29 (wa) 21145) (*Educational Software* case).

原告商品（正面視）



被告商品（正面視）



Figure 9: Case of the Digital Pedometer

The 2023 amendment added “providing through telecommunications lines” to the acts constituting the provision. This was intended to extend the scope of application to include the provision of imitative goods over networks[33]. In addition, in the commentary by the Intellectual Property Policy Office of METI, it is explicitly stated that “the form of […] goods” includes intangible objects[34]. The Intellectual Property Policy Office of METI explains that the amendment, which added “providing through telecommunications lines”, enables Article 2(1)(iii) of the Act to restrain imitation of forms of goods that cross between the physical and virtual spaces[35]. At present, this provision can be considered the most effective legal means against imitation of designs that cross between physical and virtual spaces.

3. Issue of Copyright Protection of Applied Art

Under the former Copyright Act 1899, it was generally considered that while works of artistic craftsmanship were protected, other works intended for mass production were excluded from copyright protection[36]. During the legislative process of the current law, Copyright Act 1970,

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[33] Unfair Competition Subcommittee, Intellectual Property Committee, Industrial Structure Council, METI, *Digital-ka ni tomonau Business no Tayoka wo humaeta Husei-Kyoso-Boshi-ho no Arikata* (March 2023) 9-10.

[34] See Intellectual Property Policy Office, METI (n 27) 41.

[35] See Intellectual Property Policy Office, METI (n 27) 43.

[36] See Yutaka Kimura, “Oyobijyutsu no Hogo” in Akira Moriizumi (ed.) *Certain Issues in Civil Law and Copyright Law: Festschrift in honour of Handa Masao sensei* (Hogaku-Shoin 1993) 584 (in Japanese); Masahiro Motoyama “Oyobijyutsu-Mondai no Honshitsu to Sono-Tenkai” Ryu Takabayashi and others (eds.), *Gendai-Chitekizaisan-ho-Koza 1: Chitekizaisan-ho no Rironteki-Tankyu* (Nihon-Hyoronsha 2012) 309-311.

discussions were held on how to provide protection for applied art[37]. Consequently, the legislature established Article 2(2): "As used in this Act, an 'artistic work' includes a work of artistic craftsmanship[38]".

There is a controversy over whether Article 2(2) is intended to exclude applied art other than "works of artistic craftsmanship" from protection. On the one hand, some scholars interpret the objective of Article 2(2) as indicating that, among works not automatically covered by the category of fine art, only works of artistic craftsmanship are protected[39]. On the other hand, others contend that the provision merely stipulates, out of caution, that works of artistic craftsmanship are included within works of fine art and does not deny protection for applied art other than works of artistic craftsmanship[40]. Recent leading lower court decisions have not adopted the position that applied art other than works of artistic craftsmanship is not eligible for protection (i.e., the former position has been rejected)[41]. As Article 2(2) is not conclusive, one must resort to interpretation of the general definition of "work" as stated in Article 2(1)(i).

Two points are highlighted as the background to the controversy surrounding copyright protection for applied art: concerns that such protection might undermine the fundamental principles of other intellectual property laws, particularly the Design Act; and concerns regarding the potential negative effects of copyright protection[42].

Here, we turn to lower court decisions concerning the copyrightability of applied art. Classification methods for lower court decisions have been proposed based on: (i) the normative criteria articulated by courts, or (ii) categorisation according to the nature of the subject matter in question.

3.1. Normative Criteria Articulated by Courts

3.1.1. Traditional Approach—Inspired by German Theory

Regarding (i), the previously dominant view in court rulings was that, in order to protect applied art, it must be regarded as equivalent to fine art, for example through the presence of aesthetic appreciation or aesthetic originality, i.e. by judging aesthetic quality. As mentioned above, this approach tended to be seen as requiring a higher level of originality than that required for ordinary copyrightable works. Indeed, even in cases adopting this standard, courts

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[37] For an interpretation of copyright protection for applied art with the emphasis on legislative history, see e.g. Masahiro Motoyama "The Copyright/Design Interface in Japan" in Estelle Derclaye (ed.) *The Copyright/Design Interface: Past, Present and Future* (CUP 2018)417-418. (in English)

[38] Translation cited from Japan Law Translation (n 14).

[39] E.g., Tadashi Takata, *Isho* (Yuhikaku 1969) 21-22; Moriyuki Kato, *Chosakuken-ho Chikujo-kogi* (7th edn, CRIC 2021) 73.

[40] E.g., Yoshiyuki Tamura, *Copyright Law* (2nd edn, Yuhikaku 2001) 32-33. (in Japanese)

[41] E.g., *Fashion Show* case (n 16); Judgement of IP High Ct. on 14 April 2015, Hanrei-jiho vol. 2267 p.91 (*TRIPP TRAPP Ⅱ* case).

[42] Toshiya Kaneko "Copyright Protection of Applied Art in Japan: From the Viewpoint Categorical Approach" (2017) Copyright Law Journal no.43 p.88. (in Japanese)

might affirm copyrightability, as in the case of the Buddhist altar sculpture shown below, a prototype for mass production in plastic[43] (Figure 10). However, this approach has been criticised for unduly narrowing the scope of copyright protection. Moreover, as mentioned earlier, this approach is understood to have been influenced by the "Stufentheorie" of German law, and has been criticised mainly because the circumstances underlying that theory are not applicable in Japan.

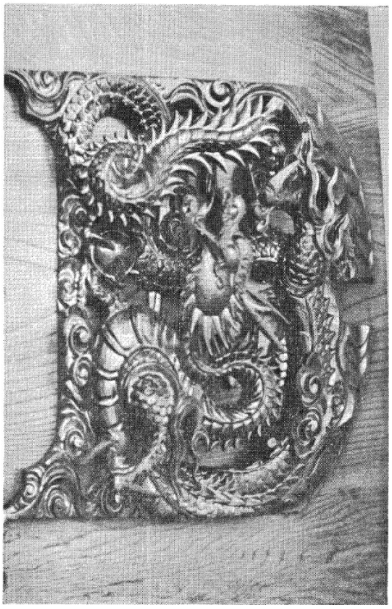


Figure 10：Case of the Buddhist altar sculpture

3.1.2. Modern Approach—Separability Standard

Recently, the prevailing approach in lower court cases has been to adopt a separability standard modelled on the separability standard under US law. A leading judgement adopting this approach is the *Fashion Show* case[44]. In that case, the IP High Court presented the following criteria: "even in the case of an object of applied art produced for practical purposes, if it is possible to separate the configuration necessary for practical purposes from the configuration with aesthetic qualities designed for aesthetic appreciation, said object can be considered to be objectively identical with a 'work of (pure) art in which thoughts or sentiments are creatively expressed.'[45]". Although certain variations in phrasing can be observed, this standard is now widely accepted by lower courts as a general rule.

Admittedly, while the separability standard is expressly provided for in the US Copyright Act

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[43] Judgement of Himeji Branch of Kobe District Ct. on 9 July 1979 (Showa 49 (wa) 291) (*Buddhist altar sculpture* case).

[44] *Fashion Show* case (n 17).

[45] Cited from the unofficial translation by the court: https://www.courts.go.jp/ip/eng/assets/ip/eng/chizai_en/chizai_en-pdf-1296.pdf

(17 U.S.C. § 101), the Japanese Copyright Act 1970 lacks a corresponding provision. The common view is that the basis for these criteria lies in the fourth element of the general definition of "work" under Article 2(1)(i) of the Copyright Act 1970: "falls within the literary, academic, artistic, or musical domain"[46].

This standard presents difficulties in application. One court ruling that has provoked controversy is the *Futon Fabric* case[47]. A design (shown below in Figure 11) was created for use in mass-produced clothing fabrics in general, without limitation to futon fabrics, and was subsequently applied to futon patterns. The claimant, as copyright holder of the design, brought proceedings against the defendants, alleging that the manufacture and sale of futons bearing the defendants' pattern (Figure 12) infringed the claimant's copyright. The issue was whether the design in question constituted a copyrightable work.



Figure 11: Design of use in mass-produced clothing fabrics in general

[46] E.g., Ryu Takabayashi, *Copyright Law from the Ground Up* (6th edn, Yuhikaku 2025) 44. (in Japanese)

[47] Judgement of Osaka High Ct. on 27 April 2023, Hanrei-jiho vol. 2602 p.86.



Figure 12: Design of the Futon Fabric

The court denied copyrightability. The court adopted the “separability” standard as the criterion for judging the design in question. However, the main reason appears to be that the components were arranged and drawn so that the pattern could be made continuous through repetition, in order to create a large repeating pattern for use on clothing and futons.

The judgement has been subject to substantial academic criticism[48]. Focusing on each part of the pattern, it is clear that it would constitute a copyrightable work. Why should it lose copyright protection merely because the pattern is repeated? In my view, courts have interpreted the separability test too strictly. This judgement is a good example of this tendency.

3.1.3. Another Possible Approach?—A Liberal Interpretation of the Copyrightability of Applied Art

In the *TRIPP TRAPP Ⅱ* case, the court emphasised that the copyrightability of applied art should not be treated separately from that of other works, and expressed the view that the copyrightability of applied art should be broadly recognised[49]. Consequently, the copyrightability of the chair was affirmed (Figure 13). This was an exceptionally rare instance in which copyrightability was recognised for a highly functional useful article. This approach seems to have been inspired by the concept of “l'unité de l'art” in French copyright law or EU

[48] E.g., Takabayashi (n 46) 49 n.9.

[49] *TRIPP TRAPP Ⅱ* case (n 41). See also Tatsuhiro Ueno “Cumulative Protection for Applied Art and the Role of Copyright” in Stefania Ercolani (ed.), *Applied Art under IP Law / Les arts appliqués dans la législation sur la propriété intellectuelle* (Aracne editrice 2018) 189-193. (in English)

case law such as *Cofemel*[50].



Figure 13: the copyrightability of the chair

However, as the separability standard became more widely accepted, the IP High Court subsequently denied the copyrightability of the same chair under that standard[51]. As illustrated by this case, there appear to be no recent lower court cases that follow the *TRIPP TRAPP Ⅱ* decision.

3.2. Categorisation according to the Nature of the Subject Matter in Question

The criteria for judgement discussed above do not provide concrete guidance on whether particular subject matter is copyrightable. Thus, classification based on the conclusions reached regarding copyrightability of particular subject matter becomes significant[52].

According to Professor Yoshiyuki Tamura's classification, lower court decisions can be categorised into three groups: (i) two-dimensional illustrations or designs, (ii) three-dimensional stuffed toys and figurines, and similar items, and (iii) highly functional useful

[50] Case C-683/17 *Cofemel – Sociedade de Vestuário SA v G-Star Raw CV* ECLI:EU:C:2019:721.

[51] Judgement of IP High Ct. on 25 September 2024 (Reiwa 5 (ne) 10111) (*TRIPP TRAPP Ⅲ* case).

[52] Inoue (n 18) 14, Tamura (n 18) 96.

articles[53].

Regarding category (i), the standard criteria for determining the copyrightability of works, as applied to other types of works, are normally used[54]. For example, an illustration later used as a T-shirt design was found to be copyrightable (Figure 14)[55].

In exceptional cases, such as *Futon Fabric*, copyrightability of works falling within this category may be denied.



Figure 14: copyrightability of T-shirt design

Category (ii) is one where the conclusion is difficult to predict, as decisions on whether the work qualifies as *copyright*table have been divided. In this category, a judgement denying the copyrightability of a slide modelled on an octopus's shape, intended as playground equipment for a park, has drawn attention (Figure 15)[56]. Some commentators have argued that copyrightability should have been affirmed in this case[57].



Figure 15: copyrightability of a slide modelled on an octopus's shape

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[53] Yoshiyuki Tamura “Oyo-bijyutu no Chosakubutsusei” in Makiko Takabe and others (eds.) *Pioneering the Future of Intellectual Property Law: Festschrift in honour of Mimura Ryoichi sensei* (Nihon-Hyoronsha 2024) 495ff. (in Japanese)

[54] Tamura (n 53) 498.

[55] Judgement of Osaka District Ct. on 18 April 2019 (Heisei 28 (wa) 8552).

[56] Judgement of IP High Ct. on 8 Dec 2021 (Reiwa 3 (ne) 10044) (*Octopus-shaped Slide* case).

[57] E.g. Tamura (n 53) 505.

The last category—highly functional useful articles—tends to be denied copyright protection as a matter of principle[58]. For example, the copyrightability of the chair discussed above[59] (despite an exceptional court ruling recognising its copyrightability; Figure 13) a canister[60] (Figure 16), and similar items has been denied.

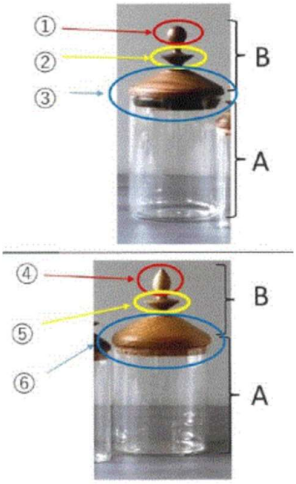


Figure 16: Case of canister (Cited: LEX/DB)

As an exception, however, there is a court decision affirming the copyrightability of a lampshade (Figure 17)[61]. Lighting equipment, among useful articles, may enjoy copyright protection because the constraints imposed by functional requirements are considered relatively limited[62].

[58] Tamura (n 53) 499.

[59] *TRIPP TRAPP Ⅲ* case (n 51).

[60] Judgement of Osaka District Ct. on 2 July 2024 (Reiwa 5 (wa) 5412).

[61] Judgement of Tokyo District Ct. on 29 January 2020 (Heisei 30 (wa) 30795).

[62] Tatsuyuki Suemune “Case Review” (2020) Copyright no.715 p.53 (in Japanese).



Figure 17: Copyrightability of a lampshade

3.3. Reproduction/Adaptation from Two-Dimensional Works to Three-Dimensional

In manufacturing, as part of the design process, it is common to create drawings and/or blueprints of a product design prior to production. If drawings and/or blueprints are regarded as copyrightable, and the manufacture of the products depicted therein is considered to constitute reproduction of the copyrighted work, this would effectively mean that copyright protection is granted for functional products based on the copyright in the drawings and/or blueprints[63]. In other words, copyright in drawings and/or blueprints would allow one to circumvent the applied art issue.

UK copyright law has an explicit provision stating that the act of making an article from a design document, such as drawings, does not constitute copyright infringement in respect of a design for anything other than an artistic work or a typeface (section 51 of CDPA 1988)[64]. Japanese copyright law, however, lacks such a provision. A recent court ruling is relevant to this issue.

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[63] Tatsuyuki Suemune “Zumen-to ni egakareta Design to Chosakuken-hogo wo meguru Ichikosatsu” in Kazuhiro Ando and others (eds.) *Toward New Horizons in Intellectual Property Jurisprudence: Festschrift in honour of Takabayashi Ryu sensei* (Nihon-Hyoronsha 2022) 333-334. (in Japanese)

[64] Section 51(1) of CDPA 1988 states that “It is not an infringement of any copyright in a design document or model recording or embodying a design for anything other than an artistic work or a typeface to make an article to the design or to copy an article made to the design.”

In the *Painting Depicting a Clock* case[65], the claimant argued that the painting depicting a clock (Figure 18) was protected by copyright and filed suit against the defendant for copyright infringement based on the sale of a clock product (not the painting; Figure 19). The claimant's painting was created for the purpose of manufacturing the claimant's products.



Figure 18: Claimant's Painting Depicting a Clock

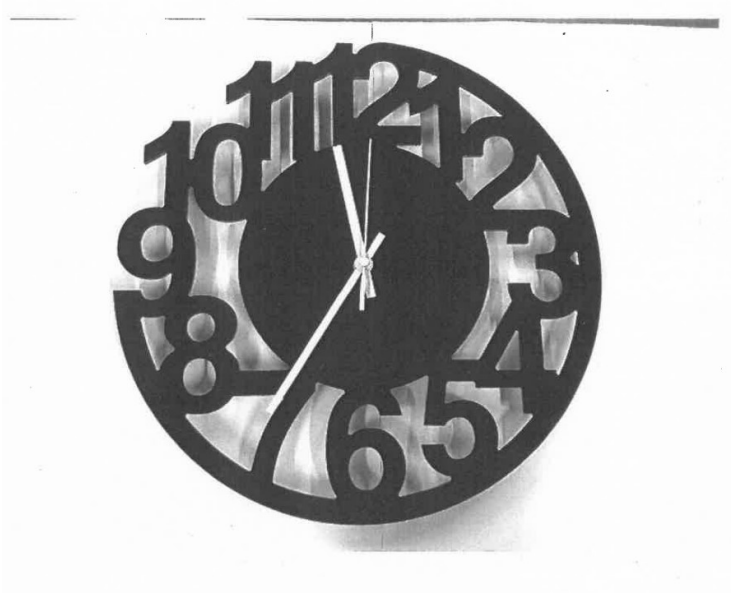


Figure 19:Defendant's Clock Product

The court denied the copyrightability of the claimant's painting, applying the separability standard as though the clock depicted in the painting were to be manufactured as a product. It means that the court evaluated the copyrightability of the claimant's painting by considering

[65] Judgement of Osaka District Ct. on 24 June 2021, Hanrei-jiho vol. 2517 p.76.

whether the clock would satisfy the separability standard if the clock had been manufactured.

In my view, because of the lack of an equivalent to section 51 of UK's CDPA 1988, if the painting were protected, manufacturing products based on it could constitute copyright infringement. This means that filing suit based on copyright in paintings could function as a loophole to escape the separability standard[66]. For that reason, although the painting of the clock would normally be considered original as an ordinary picture, the court may have denied the copyrightability of the painting itself entirely.

However, some cases have adopted a different approach. In the *Streetlamp* case[67], while the court affirmed the copyrightability of the drawing in question, which depicted the streetlamp design (Figure 20), it denied infringement on the grounds that manufacturing and installing the streetlamp depicted in the drawing did not constitute physical replication of the original expression in the drawing's pictorial form.

However, the appellate court denied the copyrightability of the drawing itself[68].

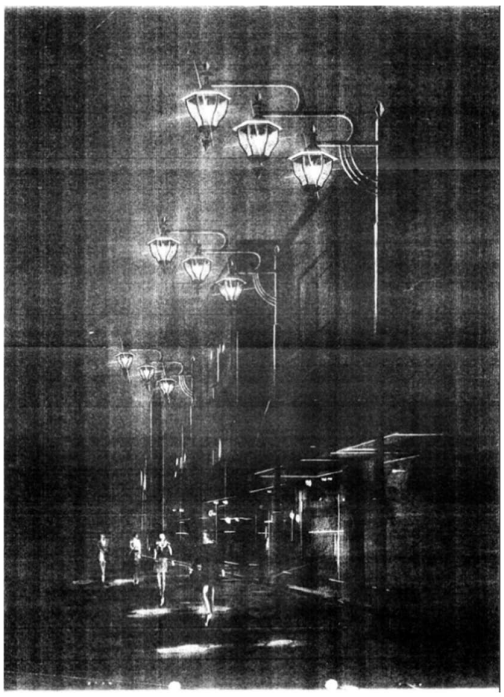


Figure 20: Case of the Streetlamp

Although it did not determine the copyrightability of the drawing (Figure 21)—that is, it did not deny its copyrightability per se—the judgement in the *Edison's Chopsticks* case adopted a

[66] See Yoshiyuki Tamura "'Fashion IP Law' no Kanosei: IP Channeling toiu Kanten karano Approach" (2025) Copyright no.770 pp.16-17 (in Japanese).

[67] Judgement of Osaka District Ct. on 6 June 2000 (Heisei 11 (wa) 2377).

[68] Judgement of Osaka High Ct. on 23 January 2001 (Heisei 12 (ne) 2393).

similar approach[69].

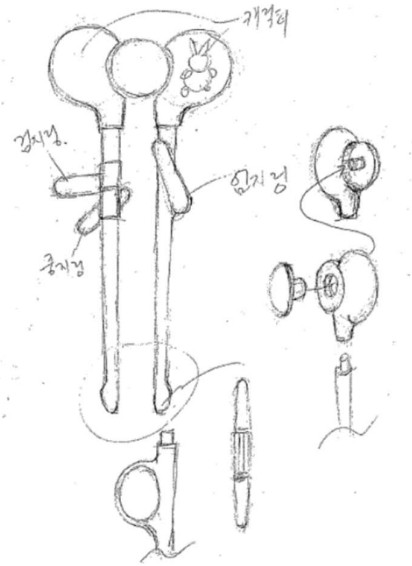


Figure 21: Case of the Edison's Chopsticks

When a painting is copied as a two-dimensional reproduction, the approach taken in the *Painting Depicting a Clock* case denies the copyrightability of the work itself, meaning that such reproduction does not constitute copyright infringement. Conversely, the approach in the *Streetlamp* and *Edison's Chopsticks* cases denies that manufacturing products from the original painting constitutes copyright infringement, while allowing two-dimensional reproduction of the original painting itself to be considered copyright infringement. In my view, the latter approach is preferable.

4. Legal Protection of Virtual Objects

4.1. Copyright

When addressing cases where designs of physical-world products are imitated in virtual spaces, and responding to demands for design protection of useful articles used in both real and virtual contexts, copyright law—which can provide protection beyond media boundaries—would likely be the first choice. However, as we have seen, matters are not straightforward when considering the issues of applied art and judicial decisions concerning the reproduction from two-dimensional works to three-dimensional forms.

In light of materials from the relevant government conferences[70], whether copyright protection

[69] Judgement of Tokyo District Ct. on 27 April 2016 (Heisei 27 (wa) 27220).

[70] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other

covers designs perceived as “useful articles” depends on whether creation occurs in virtual space first or in the physical world first (Figure 22).

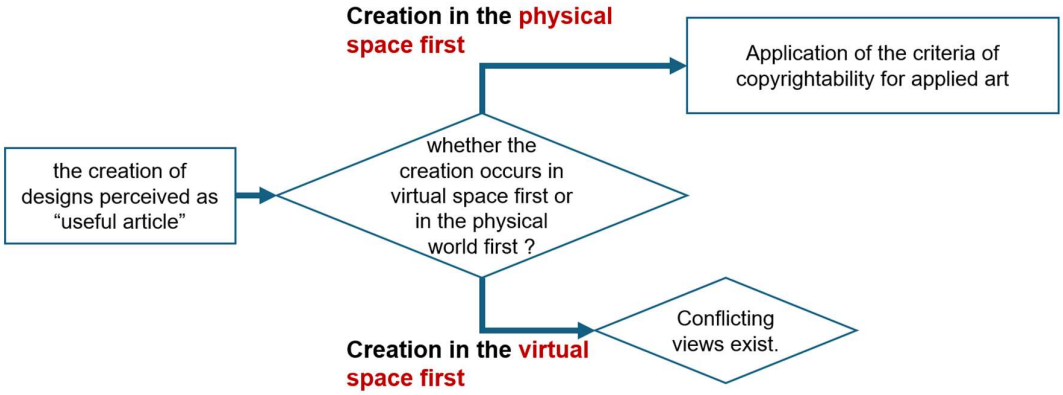


Figure 22: the creation of designs perceived as useful article

A design first created as a highly functional useful article in the physical world would typically be deemed to lack copyrightability under the criteria for applied art. Accordingly, where designs of physical-world products are imitated in virtual spaces, creators likely cannot rely on copyright protection. Other legal protections would be desirable; as mentioned earlier, the amendment in 2023 to Article 2(1)(iii) of the UCPA 1993 partially addresses this need for protection[71]. Of course, among applied art, particularly subject matter falling within categories (i) two-dimensional illustrations or designs and (ii) three-dimensional stuffed toys and figurines, etc. (see Section 3.2) could be affirmed as copyrightable works.

Whether designs perceived as “useful articles” that are newly created in virtual spaces can be copyrightable remains controversial. Within the government-established conference, it has been stated that for items such as 3D clothing designs—which are actually usable as designs for useful articles in the physical world—the criteria for determining the copyrightability of applied art would apply, regardless of whether they are intended to be used in the physical world or in virtual spaces[72]. It was also noted that, free from the functional constraints of the physical world, a higher degree of creative freedom would enable designs that could not be

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Matters in the Metaverse (n 7) 10-11; Japan Patent Office “*isho-seido ni kansuru kentokadai ni tsuite* [On Issues for considerations concerning the design system]” material of the 18th Design System Subcommittee, Intellectual Property Committee, Industrial Structure Council (3 April 2025) 13-18. https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_shoi/document/18-shiryou/03_shiryo-1.pdf (accessed: 10 December 2025) (in Japanese)

[71] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other Matters in the Metaverse (n 7) 13.

[72] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other Matters in the Metaverse (n 7) 10.

realised as useful articles in the physical space[73].

This approach is unfavourable to copyright protection for designs that are actually usable as designs for useful articles in the physical world. If virtual designs perceived as "useful articles" were protected by copyright, there is concern that their three-dimensional reproduction in the physical world could circumvent the criteria for applied art. This approach is clearly based on the *Painting Depicting a Clock* case.

This paper argues that copyright should play a more prominent role in protecting designs perceived as "useful articles" that are newly created in virtual spaces[74]. There are two reasons for this position regarding the protection of useful articles.

First, if we reconsider the court cases discussed above concerning three-dimensional reproduction in physical space, copyright provides an effective means of protection. Following the alternative approach shown in the *Streetlamp* and *Edison's Chopsticks* cases would allow designs perceived as "useful articles" newly created in virtual spaces to be protected as copyrighted works, while still permitting three-dimensional reproduction in physical space to be considered non-infringing.

Second, if the separability standard, such as that articulated in the *Fashion Show* case[75], is to be applied to designs perceived as "useful articles" newly created in virtual spaces, considerable difficulty would arise in identifying "the configuration necessary for practical purposes". In the *Painting Depicting a Clock* case, the painting was created for the purpose of manufacturing a clock product in the physical world. This case is unlikely to provide guidance in this regard.

However, with respect to architectural works, "[i]t is permissible to exploit [them] in any way whatsoever except" by "reproducing an architectural work by means of construction, or making copies of an architectural work so reproduced available to the public by transferring them"[76] (Article 46(ii)). Therefore, at present, reproduction of architectural works in virtual space is considered non-infringing under this provision[77]. Indeed, while the 2019 amendment extended protection under the Design Act to architectural design, creations protected as architectural works under the Copyright Act existed prior to this amendment. Given that their use within virtual spaces has become economically and socially important, copyright protection for such

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[73] Public-Private Partnership Conference on Addressing New Legal Challenges Concerning Content and Other Matters in the Metaverse (n 7) 10.

[74] As views along the same lines, e.g., Naoya Ichimura "3DCG to Chosakuken" (2011) NBL no.964 pp.104-105, Kentaro Okamoto "Metaverse ni okeru Genjitsu no Saigen to sono Kenri-Mondai" (2022) AD Studies vol.8 p.35, Yuichiro Kuwano "Metaverse to Chosaku-ken" (15 June 2022) Tokkyo News no.15674 p.5. On the other hand, as an opposing view, see Tamura (n 2) 114-116.

[75] *Fashion Show* case (n 17).

[76] Translation citied from Japan Law Translation (n 14).

[77] See Dinusha Mendis and Tatsuhiro Ueno "'Mind the (Virtual) Gap': A Critical Analysis of UK and Japanese Copyright Exceptions Relating to Immersive Environments and the Metaverse" (2025) IIC [4.2] https://doi.org/10.1007/s40319-025-01645-x

creations should extend to their reproduction within virtual spaces. In my view, it is necessary to revise Article 46 of the Copyright Act 1970 to extend copyright protection for works of architecture to their reproduction in virtual space[78].

4.2. Protection against Product Imitations under UCPA 1993

As mentioned in the previous section, according to views expressed in the government-established conference, copyright protection was regarded as insufficient for addressing cases where designs of physical-world products are imitated in virtual spaces and for responding to demands for design protection of useful articles used in both real and virtual contexts.

To address these issues, Article 2(1)(iii) of the UCPA 1993 was amended in 2023. This amendment added "providing through telecommunications lines" to the prohibited acts under this provision. The Intellectual Property Policy Office of METI explains that the amendment, which added "providing through telecommunications lines", enables Article 2(1)(iii) of the Act to restrain imitation of forms of goods that cross between physical and virtual spaces[79].

This provision was amended prior to the discussions on amending the Design Act, as it was considered to regulate only imitative acts and thereby minimise any chilling effect on the creative activities of others[80].

However, since there are certain limitations to the protection available under this provision, discussions are being held regarding amendments to the Design Act 1959[81]. The scope of protection is limited to "substantial similarity"[82] (generally considered narrower than the "similarity" requirement under the Design Act). Furthermore, in cases of imitation that cross between physical and virtual spaces, the threshold for this requirement could be higher than imitation within the same space[83]. Additionally, this provision offers only short-term protection

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[78] Tatsuyuki Suemune "Yoto Kino kara Kirihanasaeta Keitai no Riyo to Hoteki-kisei" in Kunifumi Saito and others (eds.), *Human-centered Intellectual Property Law* (Keiso-Shobo 2025) 142-145.

[79] See Intellectual Property Policy Office, METI (n 27) 43.

[80] "No 15 of Records of Committee of Economy, Trade and Industry, the 211th Session of the Diet" (17 May 2023) p.16 (Koichi Hamano, Commissioner, Japan Patent Office)

[81] See Japan Patent Office (n 70) 13.

[82] See Article 2(5) of UCPA 1993.

[83] See e.g. Masaya Seki "Protection for Designs of Metaverse Objects and Its Impact on Creative Activities - Focusing on Design Act and Unfair Competition Prevention Act §2(1)(iii) -" (2023) Patent Studies no.75 pp40-44 (in Japanese); Hiroya Aoki "Virtual-Kukan ni okeru Object ni kansuru Isho-ken to Chosaku-ken, Deadcopy Kisei"in Masaya Seki and others (eds.), *Virtual-Kukan no Business to Chizai-Homu no Kyokasho* (Nihon-Horei 2024) pp.86-87; Hiroya Aoki "Kaso-Kukan to Fusei-Kyoso-Boshi-ho jyo no Keitai Moho Kisei" in Shiraki Yuichi and others (eds.) *Saikin no Chitekizaisan ni okeru Shokadai: Festschrift in honour of Fujimoto Noboru sensei* (Hatsumei Suishin Kyokai 2024) pp.200-202.

(approximately three years[84]).

4.3. Design Right

Protection of designs for useful articles, where copyright protection would be unlikely, could partially rely on Article 2(1)(iii) of the UCPA 1993, but would primarily need to rely on the Design Act 1959. However, at present, effective protection of virtual objects under the Design Act remains difficult.

In cases where designs of physical-world products are imitated in virtual spaces, the obstacle is that, contrary to UK registered design right[85], the scope of protection of a design right under Japanese law is limited to use on identical or similar articles[86]. In other words, the effect of a design right in physical space would not ordinarily extend to the replication of that design in virtual space[87]. For example, using an automobile design for a toy car in virtual space without permission would not constitute infringement of the design right.

Additionally, regarding demands for design protection of useful articles used in both real and virtual contexts, the question arises whether the Design Act could provide effective protection for designs perceived as “useful articles” newly created in virtual spaces. In other words, the question is whether they can be protected as image designs.

As already mentioned, the subject matter eligible for registration as a graphic image design is limited to graphic images “used in the operation of a device or displayed as a result of the device performing its function[88]” (Article 2(1) of the Act). According to the Japan Patent Office[89], even images of pens in virtual space with similar shapes or equivalent features, as shown below, depend on their function to determine eligibility for design protection. The pen on the left is assumed to be one that allows a user to select the image of the pen and, by operating the controller, draw lines in virtual space. The image of this pen constitutes a graphic image “used in the operation of a device or displayed as a result of the device performing its function” and is therefore eligible for protection under the Design Act. On the other hand, the pen on the right is assumed to be one merely displayed in virtual space, serving only as decoration. The image of this pen cannot be protected under the Design Act as a graphic design since it is neither “used in the operation of a device” nor “displayed as a result of the device performing its function”.

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[84] The protection shall terminate three years “since the date they were first sold in Japan” (Article 19(1)(vi)(a) of UCPA 1993).

[85] *Green Lane Products Ltd v PMS International Group Ltd*, [2008] EWCA Civ 358; [2008] F.S.R. 28 (CA) [27] (Jacob J.). See also Lionel Bently and others, *Intellectual Property Law* (6th edn, OUP 2022) 797-798.

[86] *Hose* case (n 1).

[87] See (n 2).

[88] Translation cited from Japan Law Translation (n 3).

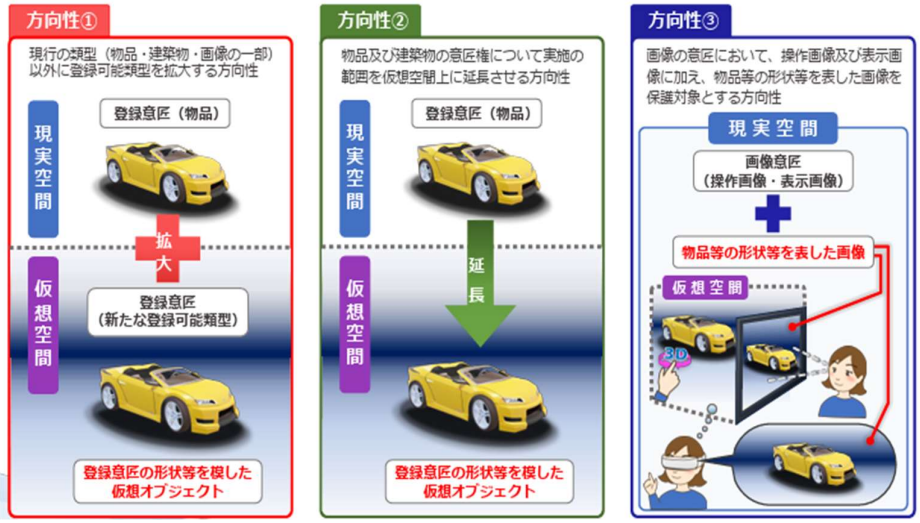
[89] Japan Patent Office (n 4) 13.



Figure 23: Judicial Precedents Concerning the Requirements for Design Registration of Images Used in Virtual Spaces[90]

Therefore, virtual objects that are image designs but are neither “used in the operation of a device” nor “displayed as a result of the device performing its function” could be covered by neither copyright nor by design right.

As of the time of writing (December 2025), discussions in the Design System Subcommittee of the Intellectual Property Committee under the Industrial Structure Council of METI and JPO concerning a proposed amendment to the Design Act 1959 are ongoing[91]. Three possible directions for amendment have been proposed (Figure 24)[92].



[90] Japan Patent Office (n 4) 13.

[91] Japan Patent Office “isho-seido ni kansuru kentokadai ni tsuite [On Issues for considerations concerning the design system]” material of the 21st Design System Subcommittee, Intellectual Property Committee, Industrial Structure Council (15 December 2025). https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_shoi/document/21-shiryou/03_shiryo-1.pdf (accessed: 19 December 2025) (in Japanese)

[92] Japan Patent Office (n 70) 29.

Figure 24: Three directions for legal protection of virtual objects discussed by the subcommittee (as of Dec 2025).

The first direction (shown on the left side of Figure 24) is to add a new category to protect virtual objects, in addition to the existing registrable categories: designs of articles, designs of architecture, and image designs.

The second direction (shown in the centre of Figure 24) is to extend the effect of design rights for articles and architecture to virtual spaces.

The third direction (shown on the right side of Figure 24) is that, within the category of image designs, images depicting the shape or equivalent features of articles and architecture—in addition to the existing graphic images "used in the operation of a device or displayed as a result of the device performing its function"—would become subject to protection.

The second direction would represent a significant shift from the prevailing understanding of the scope of design rights, which limits the scope of protection of a design right to use on identical or similar articles[93]. Furthermore, it could increase the burden of conducting clearance searches to avoid infringement[94]. Moreover, the first direction would require design registration applications for new categories of designs—in addition to those for articles and architecture—thereby increasing the administrative burden of filing[95].

Considering the search burden required to avoid infringement and the potential chilling effect on creators' creative activities, the subcommittee's discussions have focused on the third direction[96]. The scope of the proposed addition—"images depicting the shape or equivalent features of articles and architecture"—would not extend to the design of articles or architecture[97], consistent with the prevailing understanding of the scope of design rights. The burden of conducting clearance searches to avoid infringement would also be relatively reduced[98].

A typical example of virtual objects under consideration for protection—image designs that are neither "used in the operation of a device" nor "displayed as a result of the device performing its function"—would be content images, such as those in games.

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[93] Japan Patent Office "*isho-seido ni kansuru kentokadai ni tsuite* [On Issues for considerations concerning the design system]" material of the 17th Design System Subcommittee, Intellectual Property Committee, Industrial Structure Council (10 February 2025) 25. https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/isho_shoi/document/17-shiryou/03_shiryo-1.pdf (accessed: 11 December 2025) (in Japanese)

[94] Japan Patent Office (n 93) 25.

[95] Japan Patent Office (n 93) 23.

[96] Japan Patent Office (n 70) 40.

[97] Japan Patent Office (n 70) 30.

[98] Japan Patent Office (n 70) 31.

However, when image designs became eligible for protection under the 2019 amendments, the subject matter was limited to graphic images "used in the operation of a device or displayed as a result of the device performing its function". This language was intended to exclude content images from registrable subject matter[99]. The current discussions on amendments may raise concerns regarding consistency with the policy decisions made in the 2019 amendments[100].

5. Conclusion

As noted, this paper has examined the backdrop and reasons for limited copyright protection for useful articles and architectural works in Japan. It has also attempted to clarify the roles that the Design Act and the Copyright Act should play in relation to creations intended from the outset for use as virtual objects.

The primary explanation is that Japanese courts have long recognised copyright protection for applied art only in a restrictive manner, applying elaborate theories, and that amendments to the relevant laws have been made to respect this judicial policy stance and to ensure that its objectives are realised. Considering important values such as legal certainty and predictability, these responses can be regarded as reasonable.

On the other hand, since copyright law can provide protection beyond media boundaries, it would be the first choice for protecting creations intended from the outset for use as virtual objects. As discussed above, in my view, copyright should play a more prominent role in protecting designs perceived as "useful articles" that are newly created in virtual spaces. Additionally, revising Article 46 of the Copyright Act 1970 to extend copyright protection for works of architecture to their reproduction in virtual space would be a viable option. Such measures would not disrupt the existing copyright law framework governing applied art in the physical world.

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[99] Design System Subcommittee (n 10) 3; Policy Planning Office, General Coordination Division, Policy Planning and Coordination Department, Japan Patent Office (ed.) *Explanatory Notes on the amendment to Patent Act, etc. in 2019* (2020) 77-78. (in Japanese)

[100] For a detailed analysis from various perspectives, see the forthcoming roundtable discussion article on the protection of virtual objects compiled in Ryu Takabayashi and others (eds.), *Intellectual Property Law Annual Report 2025-2026* (Nihon-Hyoronsha forthcoming) (in Japanese).



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