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181211 Geneva 20, Switzerland
World Intellectual Property
Organization(WIPO)International Bureau

Geneva Act of the Hague Agreement
Concerning the International Registration of Industrial Designs

NOTIFICATION OF REFUSAL

To the International Bureau of World Intellectual Property Organization (WIPO)
under Article 12 of the Geneva Act and under Rule 18(2) of the Common Regulations

1. Office making the notification

Korean Intellectual Property Office (KIPO)
189 Cheongsu-ro, Seo-gu, Daejeon Metropolitan City, 35208, Republic of Korea

2. Number of the international registration

DM/088502

3. Date of publication (Int. Design bulletin)

2016.06.10

4. Holder of the international registration

(a) name: RADO UHREN AG(RADO WATCH CO. LTD.)(MONTRES RADO SA)
(b) address: Bielstrasse 45,CH-2543 Lengnau, Switzerland

5. The scope of the refusal

- ☐ All design(s) included in the international registration
☒ The design(s) no. 1, 2, 3, 4 of the international registration

6. Date on which a refusal was pronounced

2017.02.01.

7. Time limit for response

2017.04.01.

8. Guidance as to future procedure

(1) Where the holder receives this notification, the protection of the international registration is to be refused for the design(s) that this refusal is directed against, unless the holder submits to KIPO, through a representative whose address is in the Republic of Korea, a written opinion (amendment) within two months from the date on which this provisional refusal was pronounced. The time limit is indicated under 7 above.

(2) Regarding the time limit, the holder may request the extension of time to submit a written opinion (amendment) to KIPO. The extension will be granted four times for a period of one month, respectively. This request should be made within the given time limit through the above representative.

9. Ground(s) for refusal

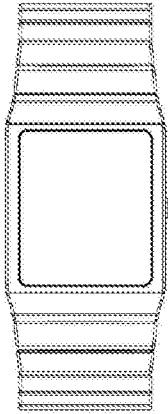
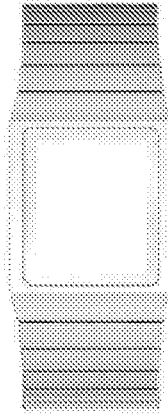
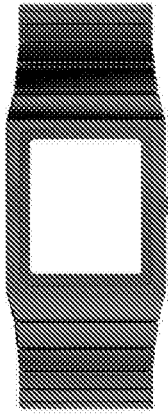
- ☒ The design no. 1

This design applied for design registration may not obtain a design registration under Article 62(1) of the Design Protection Act, since it does not comply with Article 46(2) of the Design Protection Act, for the reasons listed below.

- This design is similar to the design No. 2 and No. 3 of the present International Registration (DM/088502).

For the reason, the applicant is to select a single design between them and to report it within the designated time limit under Article 46(5) of the Design Protection Act. Any design may not obtain a design registration under Article 46(2) of the same Act, since it is deemed that no selection is made by the applicant where there was no report within the designated time limit.

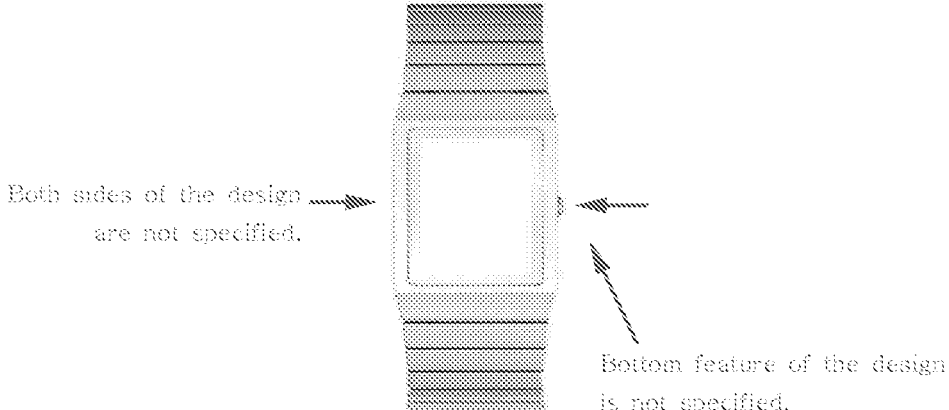
However, each design may obtain a design registration under Article 35(1), where the applicant decides one of these designs as a principal design and the other(s) as a related design(s) and then the design(s) seeking to designate as a related design(s) is amended to a related design(s) indicating a principal design.

	Applied design	the present International Registration(DM/088502)	
	M001	M002	M003
representation			

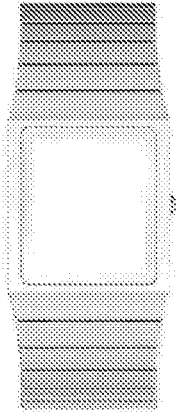
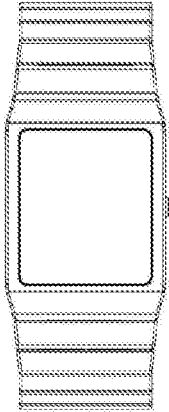
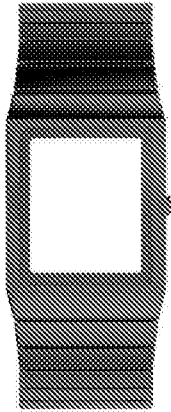
■ The design no. 2

This design applied for design registration may not obtain a design registration under Article 62(1) of the Design Protection Act, since it does not comply with Article 33(1) and 46(2) of the Design Protection Act, for the reasons listed below.

- Overall form of the design may not be definitely and completely grasped from the submitted drawings. However, this reason for rejection may be overcome when the design becomes definite by an amendment. The amendment should not change the gist and the identity of the design perceived from the originally filed drawings.

	2.1
representation	

- This design is similar to the design No. 1 and No. 3 of the present International Registration (DM/088502).

	Applied design	the present International Registration(DM/088502)	
	M002	M001	M003
representation			

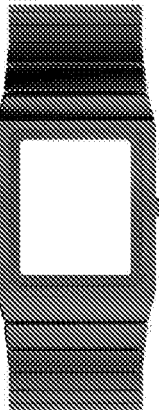
For the reason, the applicant is to select a single design between them and to report it within the designated time limit under Article 46(5) of the Design Protection Act. Any design may not obtain a design registration under Article 46(2) of the same Act, since it is deemed that no selection is made by the applicant where there was no report within the designated time limit.

However, each design may obtain a design registration under Article 35(1), where the applicant decides one of these designs as a principal design and the other(s) as a related design(s) and then the design(s) seeking to designate as a related design(s) is amended to a related design(s) indicating a principal design.

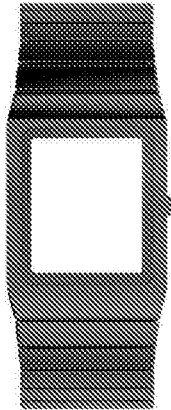
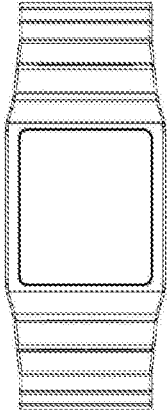
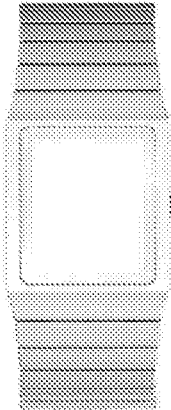
■ The design no. 3

This design applied for design registration may not obtain a design registration under Article 62(1) of the Design Protection Act, since it does not comply with Article 33(1) and 46(2) of the Design Protection Act, for the reasons listed below:

- Overall form of the design may not be definitely and completely grasped from the submitted drawings. However, this reason for rejection may be overcome when the design becomes definite by an amendment. The amendment should not change the gist and the identity of the design perceived from the originally filed drawings.

3.1	
representation	 <p>Both sides of the design are not specified.</p> <p>Bottom feature of the design is not specified.</p>

- This design is similar to the design No. 1 and No. 2 of the present International Registration (DM/088502).

	Applied design	the present International Registration(DM/088502)	
	M003	M001	M002
representation			

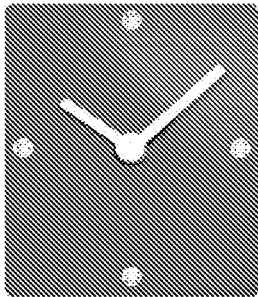

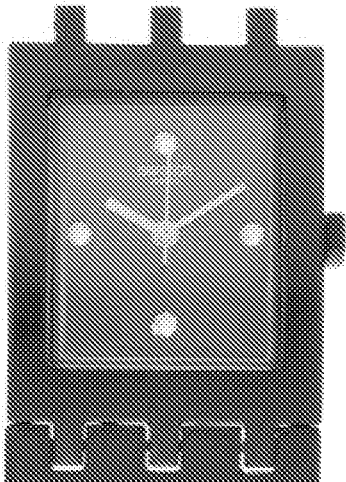
For the reason, the applicant is to select a single design between them and to report it within the designated time limit under Article 46(5) of the Design Protection Act. Any design may not obtain a design registration under Article 46(2) of the same Act, since it is deemed that no selection is made by the applicant where there was no report within the designated time limit.

However, each design may obtain a design registration under Article 35(1), where the applicant decides one of these designs as a principal design and the other(s) as a related design(s) and then the design(s) seeking to designate as a related design(s) is amended to a related design(s) indicating a principal design.

■ The design no. 4

This design applied for design registration may not obtain a design registration under Article 62(1) of the Design Protection Act, since it does not comply with Article 33(1)(iii) of the Design Protection Act, for the reason(s) listed below.

- This design is similar to an earlier design (International Registration DM/086019 M001) that was publicly known or publicly used on September 25, 2015 that is prior to the application date.

	Applied design	Prior design	Enlarged drawing
			

< Information of an earlier design >

- International registration number : DM/086019 M001
- Date of the registration : March 24, 2015
- Date of publication : September 25, 2015
- Name of holder : SWATCH AG

< Corresponding provisions of Korean design law >

◎ Article 33(1) (Requirements for Design Registration)

Industrially applicable designs can be registered unless they fall under any of the following subparagraphs:

1. Where there is a design publicly known or publicly worked in the Republic of Korea or in a foreign country prior to the application for design registration.
2. Where there is a design which has been carried in a publication distributed in the Republic of Korea or in a foreign country, or which has become utilizable by the public through telecommunication lines prior to the application for design registration.
3. Where there is a design similar to a design referred to in subparagraph 1 or 2 of this Article.

◎ Article 35(1) (Related Designs)

Any owner of design right or applicant for design registration shall be entitled to register the design(hereinafter referred to as "related design") which is similar only to his/her registered design or design for which an application for registration(hereinafter referred to as "principal design") has been filed, as a related design, notwithstanding each subparagraph of Article 33(1) and Article 46(1) and (2) of the Design Protection Act, provided the related design is filed within one year from the filing date of the principal design.

◎ Article 46(2),(5) (Earlier Application)

- (2) If two or more applications are filed on the same date for the registration of an identical or similar design, only one applicant whom the applicants for design registration agree to select from among them may have his/her design registered. If the applicants for design registration fail to reach an agreement or it is impossible for them to make an agreement, none of the applicants may have his/her design registered.
- (5) In cases falling under paragraph (2), the Commissioner of the Korean Intellectual Property Office shall order the applicant to report, to him/her, on the results of their agreement within a specified period, and it shall be deemed that the applicants fail to reach agreement under paragraph (2), if they fail to report the results thereof within the period.

◎ Article 62(1) (Decisions to Reject Application for Design Registration)

An examiner shall decide to reject an application for design registration in any of the following cases:

1. If an applicant has no right to have a design registered under the body of Article 3 (1) or is ineligible for design registration under the proviso to the aforesaid paragraph;
2. If an applicant is ineligible for design registration under any provision of Articles 27, 33 through 35, 37 (4), 39 through 42, and 46 (1) and (2);
3. If an application contravenes a treaty.

10. Official Seal or Signature by the Office

2017.02.01.

KIPO Examiner
KIPO Examiner

RYU, Hojeong
SOHN, Eun Mi



※ If the holder has any questions or needs assistance in responding to this notification, please contact the examiner.
e-mail: kipohague@korea.kr, telephone: (82) (42) 481 8382, fax: (82) (42) 472 7470