

Design Patent ProGuide – Titles  
Updated February 3, 2026

By: Robert G. Oake, Jr.  
©2026 All Rights Reserved

---

Quick Reference Guide

DO:

1. Do use a title that clearly identifies a single, specific article of manufacture. The title must name a recognized article that can be understood without reference to functional characteristics or performance attributes.
2. Do use the name by which the article is generally known to the public. Internal project names, coded product identifiers, or proprietary shorthand that do not describe the article itself commonly draw objections for indefiniteness or misdescription.
3. Do ensure the title matches the claim language exactly. The article designation in the title must be identical to the article recited in the single design claim, without variation in wording, plurality, or scope.
4. Do ensure the title is fully supported by the drawings. Every article implied by the title must be visually disclosed in the drawings. If the drawings do not show an assembly, set, or combination, the title must not suggest one.
5. Do use singular or plural form consistently with what is shown. If the drawings depict a single article, use a singular title. If they depict a coordinated pair or set, the title should expressly identify that relationship (e.g., “pair of,” “set of”).
6. Do remove functional, structural, or performance descriptors from the title. Terms that describe how an article works, is oriented, or achieves a result should be omitted in favor of a neutral article name.
7. Do amend the title promptly when an examiner raises an indefiniteness or misdescription objection. Title defects are formal issues that are typically cured by correction, not argument.
8. Do confirm title consistency after any amendment to the drawings or specification. Changes made elsewhere in the application can render a previously acceptable title misdescriptive or unsupported.
9. Do treat title amendments as substantive acts with potential prosecution history consequences. Even though title amendments are often required, they become part of the record and should be made narrowly and deliberately.

10. Do consider the article of manufacture carefully at filing, as titles generally cannot be broadened later without raising new matter concerns.
11. Do use standardized article terminology consistent with USPTO classification practice when possible.

## DON'T

1. Don't use open-ended or catch-all language such as "etc.," "or the like," "and the like," "and/or," or similar terms that suggest multiple undisclosed articles.
2. Don't include functional, operational, or result-oriented language (e.g., "low profile," "for improved grip," "with strain relief," "adjustable," "ergonomic") in the title.
3. Don't describe combinations, assemblies, or systems unless the drawings clearly disclose and support those relationships as the claimed design.
4. Don't use marketing, promotional, or comparative language in the title, including terms implying novelty, advantage, or superiority.
5. Don't broaden the title during prosecution unless the originally filed drawings clearly support the broader article designation. Late broadening may raise new-matter concerns.
6. Don't assume the title is insignificant. The title contributes to public notice and may later be referenced in claim construction or enforcement disputes.
7. Don't leave inconsistencies unresolved between the title, claim, preamble, or figure descriptions. Even minor mismatches can result in formal objections or future ambiguity.
8. Don't use acronyms or abbreviations in the title unless they are universally recognized as generic article names.
9. Don't include dimensions, measurements, or size descriptors (e.g., "large," "10-inch") in the title.
10. Don't include the word "Design" in the title (e.g., "Design for a Chair"). The claim already specifies that the subject matter is a design, and including "Design" in the title is redundant and commonly rejected.

## 1. Introduction and Theory

The title of a design patent is deceptively simple. On its face, it is only a short phrase identifying the article in which the design is embodied. Yet the title plays a critical role in defining the scope of the patent, guiding examination, facilitating classification, and ultimately shaping how courts and competitors interpret the patent's reach. Unlike utility patents, where claims are the primary battleground, the design patent's single claim is expressed in a fixed form tied to the title. This unique structure makes the title more than a mere formality. It anchors the claim to a particular article of manufacture.

From the examiner's perspective, the title aids in developing a complete field of search and ensures that the application is properly classified and assigned. A clear and accurate title also promotes notice to the public, signaling what type of article the patent covers and how the design may be used. Broad or vague titles risk undermining both the clarity of the claim and the reliability of the patent system, as illustrated in decisions such as *Curver Luxembourg v. Home Expressions*, where the Federal Circuit tethered scope to the article named in the title.

Theoretically, the title reflects the balance between flexibility in design expression and precision in claim scope. The law requires that the title "designate the particular article" (37 C.F.R. § 1.153), but it also recognizes that the design is embodied in or applied to an article, not defined by words alone. Thus, while the drawings remain the heart of the claim, the title supplies the legal boundary line by linking the design to an article of manufacture. In this sense, the title is both a practical tool of examination and a theoretical guardrail of scope. Careful attention to drafting a proper title therefore protects the integrity of the claim and reduces the risk of later narrowing, rejection, or misinterpretation.

## 2. Recommended Form

2.1 Because the title is part of the single claim in a design patent, the safest and clearest practice is to use a simple, direct form:

--[Article]--

The article should be named by the term generally known and used by the public, without adjectives, functional language, or extraneous detail. The form should be singular, unless the design is explicitly directed to a set, pair, or combination of articles. Each occurrence of the title should be consistent throughout the application, except in the oath or declaration.

2.2 Examples of recommended title forms include:

Chair  
Wheel for Automobile  
Display Screen or Portion Thereof with Graphical User Interface  
Set of Coffee Mugs  
Combined Fan and Light  
Gate

2.3 Where necessary, descriptors such as “or portion thereof” may be included to correspond with the drawings and disclosure. Combination articles should be expressed with “Combined” or “With,” not with slashes or ambiguous phrasing. Titles must identify the article itself, not its structural features (e.g., “Connector,” not “Low Profile Right Angle Connector With Strain Relief”).

2.4 A properly drafted title in this form satisfies 37 C.F.R. § 1.153 and MPEP § 1503.01, facilitates examination and classification, and provides clear public notice of the scope of the design.

### 3. Rules and Guidance for Titles

A careful analysis of design patent prosecution histories reveals that Examiners are not entirely consistent in their application of the rules regarding titles. To acknowledge these inconsistencies and to avoid errors such as representing a variable practice as a mandatory rule, this ProGuide classifies title rules and requirements into four tiers based on their legal force and consistency of examiner practice. Understanding these tiers helps practitioners identify which requirements are absolute, which allow strategic choices, and how to navigate Examiner discretion effectively

TIER	DESCRIPTION
MANDATORY	Statutory or regulatory requirements with no flexibility. Violations result in rejection or objection that MUST be cured by amendment. No examiner discretion.
ESTABLISHED PRACTICE	Official USPTO guidance that examiners are instructed to follow consistently. Deviations are rare and typically corrected on appeal or supervisor review.
VARIABLE PRACTICE	Common patterns exist, but examiner interpretation varies within acceptable bounds. Multiple approaches may be acceptable depending on the examiner.
EXAMINER DISCRETION	Outcomes genuinely vary by examiner judgment. Wide range of acceptable approaches exists. Strategic flexibility is greatest here.

#### 3.1 A Title must Designate a Particular Article of Manufacture

**MANDATORY** 35 U.S.C. § 171; 37 C.F.R. § 1.153(a)

Under 35 U.S.C. § 171, a design patent protects an ornamental design for an article of manufacture. The implementing regulation, 37 C.F.R. § 1.153(a), requires that the title of the design must designate the particular article. Any failure to designate a particular article renders the claim defective and must be cured by amendment. [4.18](#), [4.28](#)

3.2 A Title must Identify the Article by the Name Generally Known and Used by the Public to Assist Examiners in Searching, Facilitate Proper Classification and Assignment, and Promote Public Notice after Issuance.

**ESTABLISHED PRACTICE** MPEP § 1503.01

USPTO examination guidance explains that the title serves several institutional functions. It identifies the article in which the design is embodied by the name generally known and used by the public, assists examiners in developing a complete field of search, facilitates proper classification and assignment, and promotes public notice after issuance. Examiners are instructed to follow this guidance consistently. Titles that are overly broad, vague, or detached from recognized article terminology (e.g., “adapter ring” or “apparatus”) are routinely objected to because they hinder classification and searching. While examiners may afford applicants latitude in phrasing, they will require correction where the title fails to serve these institutional purposes. [4.23](#)

3.3 Correspondence Between Title and Claim

**MANDATORY** 37 C.F.R. § 1.153; 35 U.S.C. § 112(b)

Because the single design claim must identify the article by name, the title and the claim must correspond exactly. Any discrepancy between the article named in the title and the article recited in the claim renders the claim indefinite. If the title and claim differ in wording, plurality, or scope, the examiner is required to object and demand correction. Such defects cannot be cured by explanation or argument and must be resolved by amendment. [4.24](#)

3.4 Misdescriptive or Inaccurate Title

**ESTABLISHED PRACTICE** MPEP § 1503.01; 35 U.S.C. § 112(b)

The title of a design patent must accurately identify the article of manufacture shown in the drawings by the name generally known and used by the public. Examiners are instructed to require amendment of the title (and corresponding claim language) where the title is clearly misdescriptive, inaccurate, or unclear, including where it suggests an article, component, configuration, or functional identity that is not supported by the visual disclosure. Whether a title is clearly misdescriptive is often judgment-based and different examiners may tolerate different levels of specificity or characterization. [4.2](#), [4.6](#), [4.12](#), [4.18](#), [4.20](#), [4.28](#)

3.5 Title May Not Be Directed to Less Than the Claimed Design Shown in Full Lines

**ESTABLISHED PRACTICE** MPEP § 1503.01; 35 U.S.C. § 112(b)

The title of a design patent must designate an article of manufacture that is at least as broad as the claimed design shown in full lines in the drawings. While the title may properly be directed to the entire article embodying the design even where the claimed design is limited to only a portion of that article, the title may not be directed to less than the claimed design depicted in full lines. A title that recites only a subcomponent or narrower article designation than what is actually claimed is objectionable because it mischaracterizes the scope of the claim, creates ambiguity as to the subject matter of the design, and may render the claim indefinite under 35 U.S.C. § 112(b). [4.22](#)

### 3.6 Multi-Part and Combination Articles

**ESTABLISHED PRACTICE** MPEP § 1503.01; USPTO classification practice

When a design is embodied in an article comprising multiple interacting parts, or when the drawings depict a coordinated pair, set, or combination, the title must clearly define the entity as a whole. Acceptable formulations include “set,” “pair,” “combined,” or “unit assembly.” Examiners routinely object to titles that imply multiple independent articles without identifying a unified relationship. While phrasing choices may vary slightly, the requirement to clearly identify combinations or sets is consistently enforced in examination. [4.2](#), [4.21](#), [4.22](#)

### 3.7 Amendments to Titles and New-Matter Limits

**MANDATORY** 35 U.S.C. § 132(a); 35 U.S.C. § 112(a)

Amendments to a design patent title are permitted only when they have clear antecedent basis in the originally filed disclosure. A title amendment that broadens or changes the article of manufacture beyond what was originally disclosed constitutes impermissible new matter. When a title amendment is proper, the amended title must be made consistently throughout the application, including the claim and specification, except in the oath or declaration. Examiners lack discretion to allow unsupported title amendments. [4.10](#), [4.11](#)

### 3.8 Open-Ended Language Applied to the Article

**MANDATORY** 35 U.S.C. § 112(b); *Ex parte Pappas*

Titles that use open-ended language such as “or the like” to describe the article itself (e.g., “Door or the like”) are indefinite as a matter of law. Such language fails to designate a particular article of manufacture and renders the claim indefinite. This defect must be cured by amendment. Argument cannot overcome the defect. [4.1](#)

### 3.9 Functional and Structural Descriptors

**ESTABLISHED PRACTICE** MPEP § 1503.01(II)(B)

Titles may not include functional or structural features, such as orientation, performance characteristics, or internal construction. Examiners consistently object to titles incorporating such language, even when factually accurate. For more on Functional and Structural Descriptors, see [Miscellaneous Note 5.1](#).

Borderline cases exist where a descriptor identifies a recognized subspecies of an article (e.g., “Folding Chair”) or helps to clarify the disclosure as a whole (e.g., Musical Baby Bottle), but this does not negate the general prohibition. Examiner tolerance in such cases is limited and does not transform the rule into a discretionary one. [4.3](#), [4.14](#), [4.15](#), [4.19](#), [4.22](#)

### 3.10 Examiners Sometimes Object to Titles for “Proper Grammatical Syntax”

**VARIABLE PRACTICE** Observed Examiner Practice

In some cases, Examiners object to titles and related specification references for “proper grammatical syntax” and require minor edits to the title throughout the application. These objections are typically framed as formal title/specification objections and are often accompanied by a citation to 37 C.F.R. § 1.153. Although the underlying goal is typically title clarity and consistency, the specific edits required may vary depending on examiner preference. Common changes may include (1) adding or removing hyphens, (2) correcting capitalization, and (3) inserting or removing minor articles such as “a” or “an.” [4.8](#)

### 3.11 Gerund-Based and Verb-Driven Titles

**VARIABLE PRACTICE** Observed examiner objections

Examiners frequently object to titles incorporating gerunds or verb-based terms (e.g., “holding,” “storing,” “retaining”) when such language describes what the article does rather than what it is. However, some functional nouns (e.g., “Card Holder,” “Tool Holder”) are accepted when they are intrinsic to identifying the article itself. Whether such language is accepted depends on whether the term functions as a recognized article name or merely describes operation. Outcomes vary by examiner. [4.29](#)

### 3.12 Proper Names, Branding, and Product Identifiers

**ESTABLISHED PRACTICE** 37 C.F.R. § 1.153; MPEP § 1503.01

Design patent titles must identify the article of manufacture by the name generally known and used by the public. Proper names, brand names, trademarks, or model identifiers constitute extraneous subject matter and are routinely objected to as misdescriptive or indefinite. Examiner tolerance for branding in titles is extremely limited, and amendments are routinely required. [4.5](#), [4.16](#), [4.17](#)

### 3.13 Identification of an Article of Manufacture for GUIs and Icons

**MANDATORY** 35 U.S.C. § 171; 35 U.S.C. § 112(b); USPTO GUI practice

A design directed to a computer-generated icon or graphical user interface must identify an article of manufacture in the title. Titles naming only the graphical content (e.g., “Display,” “Icon,” “Graphical User Interface”) without reference to a display screen are indefinite and non-statutory. This defect requires amendment and cannot be cured by argument. [4.19](#), [4.25](#)

### 3.14 Singular Article Requirement and Improper Pluralization

**MANDATORY** 37 C.F.R. § 1.153(a)

Where the drawings disclose a single article, the title must be singular. Plural titles are permitted only when the drawings clearly depict and support a coordinated set, pair, or combination, which must be expressly stated in the title. Improper pluralization renders the claim indefinite and must be corrected. [4.4](#), [4.9](#), [4.15](#), [4.26](#)

### 3.15 Consistency of the Title Throughout the Application

**MANDATORY** 37 C.F.R. § 1.153

The title must be used consistently throughout the application wherever it appears, including the claim, specification, figure descriptions and application data sheet. Any inconsistency in article designation requires a global amendment to standardize the title. [4.30](#)

### 3.16 Titles Describing State of Use Rather Than the Article

**MANDATORY** 35 U.S.C. § 171; 35 U.S.C. § 112(b)

A design patent title must identify the article of manufacture itself, not the manner in which it is used. Titles describing use, operational context, or method of use rather than the article are improper and render the claim indefinite. [4.31](#)

### 3.17 Descriptive Overreach (Materials, Performance, Characteristics)

**ESTABLISHED PRACTICE** MPEP § 1503.01(II)

Descriptive adjectives in a title that imply materials, functionality, environmental attributes, or performance characteristics are treated as legally improper unless inherent in the article’s generally recognized name. Even factually accurate descriptors are routinely required to be removed. [4.32](#)

### 3.18 International Design Applications Designating the United States

**MANDATORY** 37 C.F.R. § 1.1067

International design applications designating the United States are subject to the same title requirements as domestic applications. There is no separate or relaxed standard.



### 3.19 “Combined” Titles for Integrated Articles

#### **ESTABLISHED PRACTICE** MPEP § 1503.01

Examiners generally permit the use of the term “combined” in a title when the drawings depict a single integrated article that includes multiple components forming a unified structure. In such cases, “combined” is treated as identifying a recognized article of manufacture rather than an indefinite “set” or system. However, if the drawings suggest separable articles sold or used independently, Examiners may require the title to be recited as a “set” or “combination of” articles rather than a “combined” article. [4.21](#)

### 3.20 Specialized Medical Article Names Are Acceptable When They Identify a Recognized Article Class

#### **VARIABLE PRACTICE** Observed examiner treatment

Examiners may accept specialized or industry-specific article terminology (including medical device terminology) when the term identifies a recognized article class rather than merely describing intended use or functional purpose. Where the terminology is commonly understood as the name of the article itself (rather than a result or method), Examiners may treat the title as proper even if the term contains a descriptive modifier associated with the field of use. [4.33](#)

### 3.21 Examiners Sometimes Object if the Title is a Non-Countable Noun

#### **VARIABLE PRACTICE** Observed Examiner Practice

A non-countable (or uncountable) noun is a word representing a substance, concept, or quality that cannot be divided into separate, countable elements. These nouns do not have plural forms (e.g., you cannot say “three furnitures”) and always take a singular verb, such as *water*, *rice*, *furniture*, and *luggage*. Examiners will sometimes object and require a countable noun to be substituted. For example, luggage case (or suitcase) for luggage. [4.13](#)

### 3.22 “Combination [X] and [Y]” Titles When Both Components Are Claimed

#### **ESTABLISHED PRACTICE** Observed examiner treatment

When the drawings depict two distinct components in full lines and the design resides in their combined appearance, the title may properly recite “Combination [X] and [Y].” Examiners generally accept this phrasing when neither component is merely environmental structure and both are presented as part of the claimed design. [4.15](#)

### 3.23 Use of “With” Language to Describe Structural Components

#### **VARIABLE PRACTICE** Observed examiner treatment

Examiners may permit the use of the term “with” in a title when it describes a structural component relationship clearly shown in the drawings (e.g., “X with Y”). However, Examiners may object to “with” language when it is used to imply a functional result, performance feature, or intended purpose rather than a structural element that is visibly disclosed. [4.17](#)

### 3.24 Examiner May Require American (U.S.) Spelling in Titles

**VARIABLE PRACTICE** Observed examiner practice

Examiners may object to titles that use non-American spelling (e.g., British spelling) and require amendment to American spelling for clarity and proper grammatical syntax in the United States. In some cases, the Examiner may state that the non-American spelling has a potentially different meaning in the United States and may not accurately describe the article of manufacture. This objection is typically treated as a formal title correction under 37 C.F.R. § 1.153 and may require amendment throughout the application (original oath or declaration excepted). [4.6](#)

### 3.25 Indefinite Articles (“A,” “An,” “The”) Are Not Treated as Part of the Title

**ESTABLISHED PRACTICE** MPEP § 606

Examiners may object to titles that include an indefinite article (e.g., “a” or “an”) or definite article (e.g., “the”) because such articles are not considered part of the title of an invention. Where an article is included, the Examiner may require amendment of the title throughout the application (original oath or declaration excepted) to delete the article. Example [4.7](#)

## 4. Application of the Rules in Rejections and Objections

### 4.1 Indefinite Title Using Open-Ended Language

In Application 29/798,676, the original title was “Jewelry, such as a Bracelet, Wristlet, Bangle or the Like”. The Examiner rejected the title because it failed to designate a particular article of manufacture. The examiner explained that the phrase “or the like” renders the title indefinite because it does not clearly identify a single, recognized article as required by 37 C.F.R. § 1.153. The applicant amended the title to “Jewelry Item”, removing the open-ended language and identifying a specific article consistent with the drawings.

This example shows an application of **MANDATORY** [Rule 3.8](#) (Open-Ended Language Applied to the Article), which treats phrases such as “or the like” as rendering the title indefinite when they are used to define the article of manufacture itself.

### 4.2 Misdescriptive Title Referring to Multiple Articles

In Application 29/969,624, the original title was “Fan Light.” The Examiner objected to the title because it was misdescriptive and could lead to confusion as to the subject matter of the claim. The Examiner explained that “Fan Light” refers to multiple articles, and further stated that when a design is embodied in an article having multiple functions or comprising multiple independent parts or articles that interact with each other, the title must clearly define the parts as a single entity, such as by using wording like “combined,” “combination,” “set,” “pair,” “unit,” or “assembly.” The Examiner required that the title be replaced throughout the application (original oath or declaration excepted) with a proper title, giving examples such as “Combined Fan and Light” or “Fan with Light.” The applicant amended the title to “FAN WITH LIGHT,” adopting the Examiner’s suggested formulation.

This example shows an application of **ESTABLISHED PRACTICE** [Rule 3.4](#) (Misdescriptive or Inaccurate Title), which treats titles as objectionable where they inaccurately or ambiguously characterize the article shown and risk confusion as to claim scope, and **ESTABLISHED PRACTICE** [Rule 3.6](#) (Multi-Part and Combination Articles), which requires that combination-article titles be expressed clearly as a single unified entity (e.g., “combined” / “with”) rather than implying multiple articles without clear consolidation.

#### 4.3 Functional and Structural Language Improperly Included in the Title

In Application 29/879,037, the original title was “Low Profile Right Angle Connector with Strain Relief.” The Examiner objected that the title improperly included functional and structural descriptors. The Examiner explained that terms such as “low profile,” “right angle,” and “with strain relief” describe how the article functions or is constructed, rather than merely identifying the article. The applicant amended the title to “Angled XLR Connector,” removing the functional and structural language and conforming the title to design patent practice.

This example shows an application of **ESTABLISHED PRACTICE** [Rule 3.9](#) (Functional and Structural Descriptors), which prohibits functional or structural features from being included in a design patent title, even where the language is factually accurate.

#### 4.4 Improper Use of Plural Form Where a Single Article Was Shown

In Application 29/882,958, the original title was “Wheels for Automobile.” The Examiner objected that the title was improper because it was plural while the drawings depicted only a single wheel. The Examiner stated that the title must reflect the article actually shown in the drawings. The applicant amended the title to “Wheel for Automobile.”

This example shows an application of **MANDATORY** [Rule 3.14](#) (Singular Article Requirement and Improper Pluralization), which requires that the title be singular unless the drawings clearly disclose and support a coordinated set or pair.

#### 4.5 Title Objection for Inclusion of Trade Name/Model Designation

In Application 29/824,844, the Applicant's original title was "Wireless Power Supply Tattoo Pen (HP07)." The Examiner objected because the title appeared to include a trade name that was not directed to an article of manufacture, explaining that the title must correspond to the name of the article in which the design is embodied "by the name generally known and used by the public." The Examiner suggested the corrected title "Wireless Power Supply Tattoo Pen." The Applicant amended the title by deleting the parenthetical designation "(HP07)" and recited the title as "Wireless Power Supply Tattoo Pen."

This example shows an application of **ESTABLISHED PRACTICE** [Rule 3.12](#) (Prohibition on Trade Names and Model Designations in Titles), which requires that titles identify the article of manufacture by the name generally known and used by the public and excludes internal product identifiers, trade names, and model numbers.

#### 4.6 Title Objection Requiring U.S. Spelling

In Application 35/513,224, the Applicant's title included the word "Castor," which the Examiner objected to because it was spelled using U.K. spelling. The Examiner explained that the U.S. variant "Caster" should be used to describe the type of wheel for clarity and stated that "Castor" in the United States has a potentially different meaning and may not describe the article of manufacture accurately. The Examiner also objected to the phrase "for hospital bed" because the drawings did not show a hospital bed, explaining that the title must be descriptive, accurate, clear, and correspond to the name of the article in which the design is embodied or applied under MPEP § 1503.01. The Applicant amended the title to "Caster Cover."

This example shows an application of **VARIABLE PRACTICE** [Rule 3.24](#) (Examiner May Require American (U.S.) Spelling in Titles) and further illustrates that Examiners may require removal of descriptive phrases that are not supported by the drawings as required by **ESTABLISHED PRACTICE** [Rule 3.4](#). The requirement for American spellings appears to be variable because not all Examiners object to non-American spellings in titles. For example, Tyre (Tire) (Pat. Nos. D1032493; D995406), Aeroplane (Airplane) (Pat. Nos. D1068622; D1008889), and Jewellery (Jewelry) (Pat. Nos. D1060106; D1058411).

#### 4.7 Title Objection Requiring Removal of Indefinite Article ("A")

In Application 29/862,872, the Applicant's title included the indefinite article "a." The Examiner objected to the title and stated that "the title includes the indefinite article 'a' which is not considered as part of the title of an invention," and required that the title be amended throughout the application (original oath or declaration excepted) to remove the indefinite article. In response, the Applicant amended the title to "CLIP-ON POUCH."

This example shows an application of **ESTABLISHED PRACTICE** [Rule 3.25](#) (Indefinite Articles ("A," "An," "The") Are Not Treated as Part of the Title), which reflects that the USPTO does not treat indefinite articles as part of a design title and requires their removal as a formal correction.

Note that Examiners may require the use of an article such as “a” before the article name in the figure descriptions (e.g., “FIG. 1 is a perspective view of a \_\_\_”). Do not confuse this requirement with the title itself, which should not include an indefinite article because “a” is not considered part of the title. *See* 29/747,362 (Catheter Handle changed to “A Catheter Handle” then back to Catheter Handle).

#### 4.8 Title Objection Requiring Proper Grammatical Syntax

In some cases, Examiners object to the title for “proper grammatical syntax.” These objections are generally treated as formal title corrections and may require changes to hyphenation, capitalization, and minor grammatical structure. In Application 29/770,958, the Examiner required amendment of the title to correct hyphenation (e.g., “Micro Dosing Device” amended to “Micro-Dosing Device”). In Application 29/839,415, the Examiner required amendment of the title to add the article “a” for proper grammatical syntax (e.g., “Wall-Mountable Rack with a Square Planar Plate for Receiving Indicia”). In Application 35/509,002, the Examiner amended the title to capitalize the article name, i.e., “Air humidifier” was amended to “Air Humidifier.”

These examples show an application of **VARIABLE PRACTICE** [Rule 3.10](#) (Proper Grammatical Syntax), which reflects that some Examiners may require minor title edits such as hyphenation, capitalization, and article insertion, as part of a formal title objection, even where the title otherwise identifies the article of manufacture.

#### 4.9 Title Objection/Rejection for Plural Article Name (Plural → Singular Required)

In Application 29/929,872, the Applicant’s original title and claim were directed to a plural article, i.e., “electronic cigarettes and parts of electronic cigarettes.” During prosecution, the Examiner objected to the title and explained that a design application must be directed to a single article of manufacture, and that plural wording such as “electronic cigarettes” improperly identifies more than one article. The Examiner required that the title be amended to read: “Electronic Cigarette.”

This example shows an application of **MANDATORY** [Rule 3.14](#) (Title Must Identify a Single Article of Manufacture (Singular Form)), reflecting that plural titles are improper because a design patent must be directed to an article of manufacture and not multiple articles.

#### 4.10 Title Amendment Created New Matter (Improper Title Broadening)

In Application 29/929,872, the Examiner issued a rejection under 35 U.S.C. § 112(a) after the Applicant amended the title to “Electronic Cigarettes and Part for Electronic Cigarettes.” The Examiner explained that the amended title improperly changed the scope of the claim by removing information originally in the parent disclosure and by introducing new matter relating to “Part for Electronic Cigarettes,” which was not originally supported in the parent application. The Examiner emphasized that amendments to the title must have antecedent basis in the original disclosure and may not introduce new matter. The Examiner required correction of the title and suggested amendment to the singular title “Electronic Cigarette.”

This example shows an application of **MANDATORY Rule 3.7** (Title Amendments Must Be Supported by the Original Disclosure and May Not Introduce New Matter), and illustrates that amending a title can create a written description/new matter problem if the amended article name is not clearly supported by the original disclosure.

#### 4.11 Title Amendment Can Create New Matter and Trigger § 112 Rejections

In Application 29/926,264 (Pin Extractor), the Examiner initially issued a rejection under 35 U.S.C. § 112(b), stating that the disclosure of the article was too ambiguous to permit proper examination and searching under 37 C.F.R. § 1.104. The Examiner explained that the title “Pin Extractor” was overly broad and could refer to multiple unrelated fields (e.g., hinge pins, surgical pins, electrical connector pins, etc.), and requested that the Applicant provide a clearer explanation of the nature and intended use of the article. The Examiner specifically instructed that this additional information must be provided in the form of remarks, and “must not be inserted in the specification, or added to the title.”

Rather than limiting the clarification to remarks, the Applicant amended the title from “Pin Extractor” to “Electrical Connector Pin Removal Tool,” and also amended the preamble to recite that the design was for “a pin extractor, an electrical connector pin removal tool.” The Examiner responded that the new title was unacceptable because it contained new matter, explaining that the original disclosure did not provide antecedent basis for the reference to an “electrical connector.” The Examiner stated that information about the nature and intended use was only supposed to be provided in remarks, and was not supposed to be introduced into the formal disclosure by altering the title or specification. The Examiner therefore reverted the title back to its original form (“Pin Extractor”) while indicating that the claim was otherwise in condition for allowance.

This example shows that amending a title to add functional or field-specific descriptive language may be treated as an improper attempt to add new matter, particularly where the original disclosure does not expressly support the added terminology. It also shows that practitioners should distinguish between (1) providing clarifying intended-use information in remarks (which is often permissible and requested), and (2) inserting that information into the title or specification (which may trigger a written description/new matter objection).

This example shows an application of **MANDATORY Rule 3.7** (Title Amendments Must Be Supported by the Original Disclosure and May Not Introduce New Matter) and also illustrates that Examiners may treat a title amendment as a substantive disclosure change rather than a mere formal correction. *See also* Practice and Enforcement Notes [5.2](#) and [5.3](#).

#### 4.12 Title Must Identify the Article by a Name Generally Known and Used by the Public

In Application No. 29/923,200, the original title was “Comb.” The drawings showed that the article was an attachment, so the Examiner objected that the title did not identify the article



by a name generally known and used by the public. The Examiner required the title to be amended to “Comb Attachment.”

This example illustrates that even a common term like “Comb” may be considered insufficient if it does not clearly identify the specific article of manufacture shown in the drawings. Under MPEP § 1503.01(I), the title must designate the article using a name generally known and used by the public, and the Examiner may require a more specific article designation where the drawings suggest the design is not the entire article but rather a component or accessory. This example shows an application of **MANDATORY** [Rule 3.4](#) (Title must properly identify the article of manufacture) (MPEP § 1503.01(I)).

#### 4.13 Examiner May Object if the Title Uses a Non-Countable Noun (e.g., “Luggage”)

In Application No. 29/900,337, the Applicant used the title “Luggage.” The Examiner objected that the title was improper because the title of a design must designate a particular article of manufacture as required by 37 C.F.R. § 1.153 and 35 U.S.C. § 171, and the claim must be directed to the ornamental design for an article (i.e., a countable noun) as shown and described. The Examiner explained that “luggage” is a non-countable noun and therefore does not properly take the indefinite article “a” in the claim, making the title unsuitable for proper claim construction. The Examiner suggested “Luggage Case” or “Suitcase.” The Applicant amended the title to “Luggage Case.”

This example illustrates that Examiners may object to titles using non-countable nouns because they do not fit the required claim format (“the ornamental design for a/an [article]”). In such cases, the Examiner may require amendment to a countable noun that identifies a particular article of manufacture. This example shows an application of **VARIABLE PRACTICE** [Rule 3.21](#) (Non-countable nouns may be rejected as improper titles). This is a variable practice because over one hundred United States design patents have issued with the title “Luggage.”

#### 4.14 Functional or Structural Descriptors May Be Permitted in Limited Cases

In Application No. 29/895,659, the Applicant used the title “Musical Baby Bottle.” The Examiner noted that the term “musical” could appear to be directed to the functional nature of the claimed design, which is generally improper under MPEP § 1503.01(II) because titles should not include functional or structural characteristics. However, the Examiner explained that in this case the descriptor “musical” helped clarify the nature and intended use of the claimed article and was therefore beneficial toward clarifying the disclosure as a whole. The Examiner permitted the title “Musical Baby Bottle.”

This example illustrates a borderline situation where a title descriptor that could be interpreted as functional may nevertheless be allowed when it clarifies the article of manufacture and improves the Examiner’s understanding of the disclosure. Even so, this type of acceptance is limited and does not negate the general rule that titles should avoid functional or structural descriptors. This example shows application of **ESTABLISHED PRACTICE** [Rule 3.9](#) (Functional and structural descriptors in titles are generally improper but may be tolerated in limited cases) (MPEP § 1503.01(II)(B)).

#### 4.15 Examiner May Object to Titles Directed to Multiple Articles and to Structural Manufacturing Descriptors

In Application No. 29/876,313, the Applicant used the title “Co-Molded Electrical Junction Box and Cover.” The Examiner objected to the title on two grounds. First, the Examiner explained that the title appeared to be directed to more than one article (“junction box” and “cover”), which is improper because design patents are directed to a single article of manufacture under 35 U.S.C. § 171 and a design application is restricted to a single claim under 37 C.F.R. § 1.153. Second, the Examiner stated that the term “co-molded” was an improper structural or manufacturing feature. The Examiner required amendment to a title identifying a single article and eliminating the structural descriptor. The Examiner suggested “Combination Electrical Junction Box and Cover,” which the Applicant adopted.

This example illustrates that Examiners may object when a title (1) appears to claim multiple separate articles, and/or (2) includes manufacturing or structural descriptors such as “co-molded,” even if the descriptor may be technically accurate. This example shows application of [ESTABLISHED PRACTICE Rule 3.9](#) (Titles should not include functional or structural descriptors), [MANDATORY Rule 3.14](#) (Singular Article Requirement and Improper Pluralization), and [ESTABLISHED PRACTICE Rule 3.22](#) (Combination [X] and [Y] Titles When Both Components Are Claimed).

#### 4.16 Examiner May Object if the Title Includes a Model Number or Trade Name

In Application No. 29/824,844, the Applicant used the title “Wireless Power Supply Tattoo Pen (HP07).” The Examiner objected because the title appeared to include a trade name or model designation (“HP07”). The Examiner suggested “Wireless Power Supply Tattoo Pen,” which was adopted by the Applicant.

This example illustrates that Examiners may object when a title includes a model number, product code, or trade designation that does not identify the article of manufacture itself. In such cases, the Applicant is typically required to amend the title to remove the extraneous designation and retain only the generally recognized article name. This example shows application of [ESTABLISHED PRACTICE Rule 3.12](#) (Title must identify the article by a name generally known and used by the public; trade names and model numbers are improper) (MPEP § 1503.01(I)).

#### 4.17 Examiner May Object if the Title Includes a Trade or Brand Name

In Application No. 29/859,502, the Applicant used the title “Superior Essentials Magnetic Attachable Bookmark with Ribbon.” The Examiner objected to the title because it included a trade or brand name (“Superior Essentials”). The Examiner suggested “Bookmark” or “Bookmark with Ribbon” and the Applicant chose Bookmark with Ribbon.

This example illustrates that Examiners may object when a title includes trade names, brand names, or marketing language. This example shows application of [ESTABLISHED](#)



**PRACTICE** [Rule 3.12](#) (Title must identify the article by a name generally known and used by the public; trade names and model numbers are improper) (MPEP § 1503.01(I)). This example also shows application of **VARIABLE PRACTICE** [Rule 3.23](#) (Use of “With” Language to Describe Structural Components).

#### 4.18 Objection for Misdescriptive or Inaccurate Title

In Application No. 29/819,040, the applicant originally titled the design “Interior environment for a bus.” The Examiner objected that the title was misdescriptive, inaccurate, or unclear under MPEP § 1503.01(I) because an “interior environment” is not an article of manufacture. The Examiner explained that the title must identify a recognized article of manufacture in which the claimed design is embodied or to which it is applied under 35 U.S.C. § 171, and must use a name generally known and used by the public. The Examiner indicated that the appropriate article of manufacture appeared to be a bus interior and required amendment of the title. The Examiner required the title to be amended to reflect an actual article of manufacture rather than an abstract or conceptual phrase such as “interior environment.”

This example illustrates application of **MANDATORY** [Rule 3.1](#) (A Title must Designate a Particular Article of Manufacture) because the title of a design must designate a particular article of manufacture, and failure to designate a particular article renders the claim defective. This example also shows application of **ESTABLISHED PRACTICE** [Rule 3.4](#) (misdescriptive or inaccurate title) and illustrates that titles suggesting a setting, atmosphere, or general environment, rather than a tangible manufactured article, may be treated as inaccurate or misdescriptive and require correction under MPEP § 1503.01 and 35 U.S.C. § 112(b).

#### 4.19 Proper Identification of an Article of Manufacture for GUIs and Icons

In Application No. 29/816,282, the applicant originally titled the design “Graphical user interface for a display screen that shows ecological impact data.” The Examiner objected because the title failed to clearly direct the claim to the design for a known article of manufacture. The Examiner emphasized that the title must identify the particular article of manufacture by listing it first, so that the claim language, which incorporates the title, properly recites an ornamental design “for” a qualifying article of manufacture.

Although the title referenced a “display screen,” the Examiner noted that a “graphical user interface” is generally understood as surface ornamentation and is not itself an article of manufacture, citing MPEP § 1504.01(a)(I)(A). The Examiner further inferred from the broken line showing of a display screen in the drawings that the intended article of manufacture was a display screen and explained that the objection could be overcome by revising the title so that the article of manufacture (“display screen”) is recited first.

The Examiner also objected that the title contained extraneous descriptive subject matter, because the phrase “that shows ecological impact data” improperly described the intended functional context of the interface rather than the ornamental design itself, citing *Ex parte Spiegel* and MPEP § 1503.01(II)(B). The Examiner required amendment of the title and suggested “Display screen with graphical user interface,” which the Applicant adopted.

This prosecution history illustrates that GUI and icon design applications must identify a qualifying article of manufacture in the title, typically by reciting the display screen first, and must avoid descriptive language that characterizes what the GUI “shows” or does, because such functional description renders the title indefinite or improper under USPTO GUI practice and 35 U.S.C. § 112(b). This example shows application of **MANDATORY** Rule [3.13](#) (Identification of an Article of Manufacture for GUIs and Icons) and **ESTABLISHED PRACTICE** Rule [3.9](#) (Functional and Structural Descriptors).

#### 4.20 Typographical Error in Title Requires Amendment

In Application No. 35/521,978, the original title was “Nozzle for hair drier.” The Examiner objected to the title because it contained a typographical error. The Examiner explained that, for proper spelling, the title must be amended to read “Nozzle for hair dryer.” The applicant corrected the spelling of the article name by replacing “drier” with “dryer,” thereby clarifying that the claimed article is a component used with a hair dryer appliance.

This example is an application of **ESTABLISHED PRACTICE** Rule [3.4](#) and illustrates that even minor spelling errors in the title may result in a formal objection requiring amendment, and that the USPTO may require applicants to use the standard and commonly accepted spelling of the identified article of manufacture.

#### 4.21 Use of “Combined” for an Article Comprising Multiple Interacting Parts

In Application No. 29/902,800, the original title was “RIFLE UPPER AND LOWER RECEIVERS.” The Examiner objected because the title was directed to more than one article of manufacture. The Examiner explained that when a design is embodied in an article comprising multiple independent parts or interacting articles, the title must clearly define the parts as a single unified entity, such as a “combined” article, “combination,” “set,” “pair,” or “unit assembly. The title was amended to “Combined Rifle Upper and Lower Receiver.”

This example illustrates application of **ESTABLISHED PRACTICE** Rule [3.6](#) (Multi-Part and Combination Articles) that when drawings depict multiple interacting parts, the title must be drafted to clearly define the claimed design as a single entity, rather than multiple separate articles. This example further illustrates application of **ESTABLISHED PRACTICE** Rule [3.19](#) (“Combined” Titles for Integrated Articles) that Examiners generally permit the use of the term “combined” when the drawings depict an integrated article comprised of multiple components forming a single unified structure.

#### 4.22 Title Directed to Less Than the Claimed Design, Multi-Part Combination Article, Structural Descriptor

In Application No. 35/510,499, the original title was “Closure device for silicone baking pans.” The Examiner objected because the title suggested that only a closure device was the claimed design, while the photographs appeared to illustrate the entire silicone baking pan. The Examiner explained that while a title may properly be directed to the entire article embodying

the design even where only a portion is claimed, the title may not be directed to less than the claimed design shown in full lines. The Examiner further noted that the term “silicone” does not pertain to the ornamental design and instead refers to material or manufacturing characteristics and should be removed from the title. The applicant amended the title to “Baking Pan and Closure Device Combination,” which clarified that the claimed design was directed to the baking pan together with the closure device as a single coordinated article.

This example illustrates application of [ESTABLISHED PRACTICE Rule 3.5](#) (Title May Not Be Directed to Less Than the Claimed Design Shown in Full Lines), that the title must be at least as broad as the claimed design depicted in full lines, and cannot be directed to only a subcomponent when the drawings suggest that a larger article is claimed. This example further illustrates application of [ESTABLISHED PRACTICE Rule 3.6](#) (Multi-Part and Combination Articles) that when the drawings depict multiple interacting components, the title must clearly define the claimed design as a unified entity, such as a “combination,” “set,” or similar formulation. Finally, this example illustrates application of [ESTABLISHED PRACTICE Rule 3.9](#) (Functional and Structural Descriptors) that material descriptors such as “silicone” are objectionable because they describe construction or composition rather than the ornamental appearance of the article.

#### 4.23 Title Must Identify the Article by the Name Generally Known and Used by the Public

In Application No. 29/901,028, the original title was “GAME MANUAL TRENCHING TOOL.” The Examiner rejected the title, explaining that it failed to properly identify the article in which the design is embodied by a name generally known and used by the public. The Examiner stated that it was unclear how the word “game” contributed to the description and scope of the claimed design, and that the inclusion of such wording hindered the Examiner’s ability to develop a complete field of search and properly classify the application. The Examiner required the title to be amended to “MANUAL TRENCHING TOOL.”

This example illustrates application of [ESTABLISHED PRACTICE Rule 3.2](#) (Identify the Article by the Name Generally Known and Used by the Public) because the title must serve institutional functions of examination, classification, and public notice by identifying the article of manufacture using terminology generally recognized and used by the public, and that titles containing unclear or unnecessary wording may render the claim indefinite and require correction.

#### 4.24 Title Must Correspond Exactly with the Claim

In Application No. 29/876,479, the original title was “Portable Pet Waste Container.” The Examiner objected to the title because it was not consistently used throughout the application. The title recited “Portable Pet Waste Container” while the claim recited a “pet waste storage container.” The Examiner explained that a design title must correspond with the claim and provided a corrected title of “Pet Waste Storage Container.”

This example illustrates application of **MANDATORY** [Rule 3.3](#) (Correspondence Between Title and Claim) that the title and the single design claim must correspond exactly, and that discrepancies in wording, even where minor, must be corrected by amendment because they render the claim indefinite and create ambiguity regarding the identity of the claimed article.

#### 4.25 Failure to Identify an Article of Manufacture for a Computer-Generated Icon

In Application 29/899,980, the original title was “User Interface for Payment Processes.” The Examiner objected that the title was indefinite because it failed to identify an article of manufacture and did not indicate that the claimed design was embodied in a display screen. The Examiner explained that a design directed to a computer-generated icon or graphical user interface must be tied to an article such as a display screen. The applicant amended the title to “Display Screen or Portion Thereof with Graphical User Interface,” clarifying the article of manufacture.

This example shows an application of **MANDATORY** [Rule 3.13](#) (Identification of an Article of Manufacture for GUIs and Icons), which requires that screen-based designs expressly identify the article of manufacture in the title.

#### 4.26 Improper Pluralization Where a Single Article Was Disclosed

In Application 29/904,691, the original title was “Pet Bowls.” The Examiner objected that the title was improper because it did not clearly define the parts of the article as a single entity. The applicant amended the title to “Pet Feeder.”

This example shows an application of Mandatory Rule [3.14](#) (Singular Article Requirement and Improper Pluralization), which requires the title to match the number of articles actually shown in the drawings.

#### 4.27 Over-Descriptive Title Treated as a Category of Products

In Application No. 29/919,618, the original title was “men’s quarter zip textured sweater.” The Examiner objected because the title failed to properly designate a particular article of manufacture. The Examiner stated “men’s quarter zip textured sweater” is not an article, but instead is a category of products, and therefore does not properly identify a single article of manufacture. The Examiner recommended that the title be amended to a recognized article name, such as “Sweater” or “Turtleneck Sweater.” In response, the applicant amended the title to “Sweater.”

This example illustrates application of **VARIABLE PRACTICE** [Rule 3.10](#) (User-Based Descriptors) that descriptors such as “men’s” may be objectionable where they merely identify an intended user class rather than defining a recognized article of manufacture, and that overly detailed phrasing may be treated as describing a category of products rather than a single article. *See also* Application No. 29/812,834 (“Shadow Adult Urn” changed to “Urn” following objection).

#### 4.28 User-Based Descriptor (“Medical”) Treated as Improper and Potentially Claim-Limiting

In Application No. 35/520,531, the applicant originally identified the article as “Lamp for medical purposes [lighting].” The Examiner objected to the title for inconsistency and improper form, explaining that the title must identify the article in which the design is embodied by a name generally known and used by the public. The Examiner further stated that including the bracketed term “[lighting]” was improper because it did not specify an article of manufacture and should be removed.

The Examiner objected to the phrase “for medical purposes” because it describes intended use rather than identifying the article itself. The Examiner suggested that the applicant instead identify the article as a specific type of lamp, such as “Medical Lamp,” or alternatively use a broader title such as “Lamp” or “Light.” Importantly, the Examiner noted that inclusion of descriptive terms such as “medical” may be unnecessarily limiting to the claim. In response, the applicant amended the title to simply “Lamp,” removing the user-based descriptor and intended use language.

This example illustrates application of **MANDATORY** [Rule 3.1](#) (A Title must Designate a Particular Article of Manufacture) that terms such as “medical” may be treated as improper where they function as an intended-use descriptor rather than a recognized article designation, and further illustrates that user-based descriptors may be discouraged because they can unnecessarily narrow the scope of the claim.

#### 4.29 Gerund-Based Title Term (“Holding”) Treated as Functional and Misdescriptive

In Application No. 29/762,819, the original title was “Aluminum Shelf.” The Examiner rejected the claim under 35 U.S.C. § 112(b), explaining that the precise nature of the article could not be determined from the title and drawings. The Examiner stated that it was unclear whether the claimed article was a price tag holder, label holder, or some other type of article, and required clarification for proper classification and examination.

In response, the applicant amended the title to “ALUMINUM SHELF FOR HOLDING A LABEL.” The Examiner objected, stating that the amended title was misdescriptive and explaining that the title must designate the particular article which is the subject of the design. The Examiner further explained that the phrase “for holding a label” improperly emphasizes a functional feature that is of no concern in design patent practice.

The Examiner specifically objected to the gerund-based verb phrase “holding”, explaining that functional or structural features stressed by the applicant are neither permitted nor required in design cases, and suggested that the title instead be amended to a noun-based article designation, such as “ALUMINUM SHELF LABEL HOLDER.”

This example illustrates application of **VARIABLE PRACTICE** [Rule 3.11](#) (Gerund-Based and Verb-Driven Titles) that examiners may object to gerund-driven phrases such as “holding” where the wording describes what the article does rather than identifying what the

article is, and that applicants may be required to convert functional verb phrasing into a recognized noun-based article designation.

#### 4.30 Consistency of the Title Throughout the Application (Mandatory)

In Application 29/860,764, the Examiner objected because the title was not used consistently throughout the application. The Examiner noted that the Application Data Sheet (ADS) and the preamble of the specification identified the article as “EXTRUDER PORTION OF A PRINT HEAD,” but the figure descriptions used different wording including “EXTRUDER PORTION FOR A PRINT HEAD” and “EXTRUDER PORTION FOR THE PRINT HEAD.”

The Examiner explained that this inconsistency was improper because the title must correspond with the claim and must be consistently used wherever it appears in the application, including the ADS, specification, claim, and figure descriptions, as required by 37 C.F.R. § 1.153 and MPEP § 1503.01. The Examiner required the applicant to amend the figure descriptions and other references to make the title uniform throughout the application.

This prosecution history illustrates application of **MANDATORY** [Rule 3.15](#) (Consistency of the Title Throughout the Application), and that even minor wording changes (such as substituting “of” for “for,” or adding “the”) can trigger a formal objection.

#### 4.31 State of Use, Method-of-Use Language in Title

In Application 29/664,082, the original title was “Cavity Contour Pillow.” The Examiner objected and stated the phrase “Cavity Contour” was improper because it described physical structure and a method of use, rather than identifying the article of manufacture itself. The Examiner stated that this language was “unrelated and unnecessary” to properly understanding the article in which the ornamental design is embodied, and emphasized that the title must direct only to the article of manufacture rather than a use-based characterization. The Examiner suggested the amended title “Pillow,” which the Applicant adopted.

This prosecution history illustrates application of **MANDATORY** [Rule 3.16](#) (Titles Describing State of Use Rather Than the Article), because the Examiner treated the title as improper where it described how the article is used or what it is intended to accomplish, rather than simply naming the article of manufacture.

#### 4.32 Descriptive Overreach Using Material Language

In Application 29/847,367, the original title was “Wooden Bead Spinner.” The Examiner objected to the inclusion of the word “wooden” in the title under 37 C.F.R. § 1.153(a), explaining that the term improperly directed attention to the material composition of the article rather than the article itself. The Examiner stated that identifying the article as “wooden” was unnecessary to understanding the ornamental design and that the title must instead designate only the article of manufacture and its intended use. The Examiner suggested replacing the title with “Bead Spinner,” which the Applicant adopted.



This example illustrates the application of **ESTABLISHED PRACTICE** [Rule 3.17](#) (Descriptive Overreach—Materials, Performance, Characteristics). Even when a descriptor such as “wooden” may be factually accurate, examiners often require its removal because it describes what the article is made of, rather than identifying the article by its generally recognized name under MPEP § 1503.01(II).

#### 4.33 Specialized Medical Article Names Accepted as Recognized Article Class

In Application 29/869,933, the original title was “Decompression Needle Device.” The Examiner objected to the title on the ground that the phrase was not clearly descriptive of how the article is generally known and used by the public. The Examiner suggested amending the title to “IV Catheter.” The Applicant explained that the article shown was in fact a decompression needle used to puncture into lungs, and that it differed from an IV catheter because the needle is hard and hollow. Following this clarification, the Examiner agreed that “Decompression Needle Device” was an acceptable title for the application.

This prosecution history illustrates **VARIABLE PRACTICE** [Rule 3.20](#), because it shows that specialized medical terminology may be accepted when it identifies a recognized medical article class understood in the field, even if the terminology initially appears unusual or not commonly used outside the medical context. *See also* Application 29/757,832 (Dental Impression Tray).

### 5. Practice and Enforcement Notes

#### 5.1 Applicants may overcome Title Objections by Providing Past Examples

In some cases, Applicants have successfully overcome title objections by citing extensive prior examples of issued design patents using similar title language, particularly where the challenged wording arguably reflects how the article is commonly identified in the marketplace. For example, in Application 29/694,673, the Examiner objected to the applicant’s title “Plastic Food Container,” asserting that the inclusion of the word “plastic” was improper because material and structural features are “of no concern in design cases” and are “neither permitted nor required.” The Examiner required that the title be amended to simply “Food Container.”

In response, the applicant attempted to overcome the objection by pointing to numerous prior issued design patents that included the word “plastic” in their titles. The applicant argued that neither 37 C.F.R. § 1.153 nor MPEP § 1503.01 prohibits inclusion of a material descriptor in the title and further argued that a descriptive title assists both the USPTO and the public in understanding the nature and intended use of the article. The applicant also asserted that the USPTO had issued at least 1,059 design patents using the word “plastic” in the title, including many that used the phrase “plastic container,” and noted that multiple such patents had issued to the applicant itself. The Examiner withdrew the objections and the patent issued with the title “Plastic Food Container.”

#### 5.2 Providing the Nature and Intended Use of the Article in Remarks

When an Examiner requests clarification of the nature and intended use of the article (often in response to a § 112(b) indefiniteness rejection), practitioners should typically provide the explanation in remarks, rather than amending the title or specification to include additional functional or field-of-use language. If a title amendment is necessary, the practitioner should confirm that the added terminology is clearly supported by the original disclosure (e.g., drawings, specification language, or an expressly identified field). This prosecution history also demonstrates a common trap. Applicants often try to cure a “vague title” rejection by adding detail to the title. But if that detail is not explicitly supported in the original disclosure, the Examiner may treat the amendment as new matter, even if the intent is simply to clarify what the design relates to.

### 5.3 Nature and Intended Use Statements Can Narrow Enforcement Scope

Although design patent scope is primarily defined by the drawings, courts may also consider the title and specification as intrinsic evidence identifying the claimed article of manufacture. If a practitioner includes a detailed “nature and intended use” statement in the specification (e.g., “electrical connector pin removal tool”), an accused infringer may later argue that the patent is limited to that specific context or use, supporting a narrower claim construction or noninfringement position. By contrast, providing clarifying information only in prosecution remarks (to assist searching/classification) may reduce the risk that the patent itself is construed as expressly limited, although such remarks can still be cited in litigation as part of the prosecution history. Consider avoiding the use of unnecessarily narrow intended-use language in the specification unless strategically desirable, because it may provide defendants with arguments to limit the asserted design patent’s scope.

### 5.4 Functional and Structural Descriptive Language

#### 5.4.1 General Principle: Design Titles Should Identify the Article, Not Describe It

A design patent protects the look of an article, meaning the focus is on the ornamental visual appearance rather than the article’s functional operation, engineering construction, or performance characteristics. For that reason, the title in a design application is intended to identify what the article is, not how it works, how it is built, or how it is used. This is why the USPTO may object when a title contains functional or structural descriptors, even when the language is factually accurate. In title practice, the safest approach is to treat the title as a neutral naming label for the article of manufacture rather than a descriptive phrase.

These title objections can be highly variable. For example, some Examiners caution against the inclusion of materials in the claim title, *see, e.g.* Application No. 29/822,494 (“While latitude in the title of a design claim is permitted, the inclusion of materials in the claim title, i.e. wood, plastic, metal, etc, may lead to confusion as to the scope of the claimed design.”) (Golden Cosmetic Pot changed to Cosmetic Pot); Application 29/753,351 (Silicone head changed to Brush head); 29/857,699 (Clip-On Toothbrush Head Cover with Microban changed to Clip-On Toothbrush Head Cover); Application No. 29/730,243 (“The functional and/or structural features of the word “Plastic” in the title is of no concern in design cases, and are neither permitted nor



required.”) (Plastic Container changed to Container); Application No. 29/863,499 (Plastic Container changed to Container).

However, other Examiners routinely permit inclusion of materials in the claim title. *See, e.g.*, Application No. 29/728,878 (Plastic Container title allowed); Application No. 29/728,877 (Plastic Container title allowed); Application No. 29/676,989 (Plastic Container title allowed); Application No. 29/676,974 (Plastic Container title allowed); Application No. 29/676,979 (Plastic Container title allowed).

Similarly, some Examiners object to functional phrases such as “self-cleaning,” Application No. 29/730,054 (Self-Cleaning Litter Bix changed to Litter Box), while other Examiners permit it, see Application No. 29/672,998 (Self-Cleaning Tool title allowed).

There likely are exceptions to many of the title examples listed below. However, for Applicants that want the best chance of avoiding a USPTO objection and maximizing the potential enforcement scope of their design patent, these guidelines and examples should be considered.

#### 5.4.2 Quick Reference Guide to Descriptor Problems (Visual Summary Table)

The following table provides a practical framework for spotting title language that may possibly trigger an objection:

<u>Type</u>	<u>Asks</u>	<u>Examples (Objectionable)</u>	<u>Examples (Proper)</u>
Structural	How is it made?	Co-Molded Box; Welded Frame	Box; Frame
Material	What’s it made of?	Wooden Bead Spinner; Metal Guard	Bead Spinner; Guard
Internal Construction	What’s inside?	Insulated Cup; Spring-Loaded Latch	Cup; Latch
Functional	What does it do?	Self-Cleaning Brush; Locking Lid	Brush; Lid
Ornamental Styling	What does it look like?	Ribbed Bottle; Fluted Vase	Bottle; Vase

This table reflects a recurring Examiner approach: if a word answers anything other than “what is the article,” it is often treated as improper descriptive language.

#### 5.4.3 Structural Descriptors (Construction and Engineering Reality)

A structural feature, in the context of title practice, is wording that describes how the product is constructed, what it is made of, how it is assembled, how it is manufactured, what internal components it contains, how parts are connected, or what the article contains inside.

Even if the language is technically correct, Examiners often view it as a utility-type description because it is directed to the engineering reality of the product rather than the ornamental design.

#### 5.4.4 Manufacturing and Assembly Terminology (Common Structural Triggers)

Structural descriptors may include manufacturing or assembly terminology such as co-molded, injection molded, extruded, welded, riveted, cast, 3D-printed, laminated, stitched, sewn, bonded, heat-sealed, snap-fit, hinged, clipped, magnetically attached, or screw-mounted. For example, the title “Co-Molded Electrical Junction Box” may be objectionable because “co-molded” describes the manufacturing technique rather than merely identifying the article.

#### 5.4.5 Material Descriptors (Composition-Based Titles)

Structural descriptors also commonly appear as material descriptors, which identify what the article is made of rather than the article itself. Examples include metal, plastic, rubber, silicone, carbon fiber, glass, ceramic, wood, leather, stainless steel, and aluminum. Examiners may object to titles such as “Metal Bottle,” “Silicone Baby Bottle,” or “Carbon Fiber Helmet,” because even though the material may be accurate, the design patent is not directed to the material composition of the article. Instead, the title should typically identify the article simply as “Bottle,” “Baby Bottle,” or “Helmet,” leaving material information out of the title.

#### 5.4.6 Internal Construction and Component Descriptors

Another common category of structural title problems arises from internal construction or component descriptors, which describe what is inside the product or how it is internally built. Examples include double-walled, insulated, hollow, reinforced, layered, multi-compartment, spring-loaded, battery-powered, wired, circuit-containing, shock-absorbing, air-filled, and foam-lined. Titles such as “Insulated Cup,” “Spring-Loaded Latch,” or “Battery-Powered Lantern” may be objectionable because these terms describe internal structure or functional performance rather than the article of manufacture in a neutral way.

#### 5.4.7 Functional Descriptors (Performance and Operation Language)

Functional descriptors are closely related and generally refer to language that describes what the article does or how it performs. Examples include musical, self-cleaning, locking, rotating, adjustable, expandable, foldable (sometimes borderline), collapsible, waterproof, rechargeable, heated, cooling, and sound-amplifying. Examiners may object to titles such as “Self-Cleaning Toothbrush,” “Locking Container,” or “Adjustable Stand,” because these are classic utility-type phrases that describe function rather than identifying the article itself.

#### 5.4.8 Ornamental Styling Descriptors (Usually Also Unnecessary)

An ornamental feature is different from a structural or functional feature because it relates directly to the visual appearance of the design, such as surface ornamentation, contour shape, decorative patterning, geometric ridges, fluting, knurling, aesthetic grooves, sculptural curvature, symmetry, styling lines, arrangement of holes, or proportions. However, even though

these are ornamental features and design patents are directed to ornamentation, titles typically should not describe ornamental features either. The title is not intended to describe what the design looks like; it is intended to name the article. Accordingly, Examiners may object to titles that include ornamental styling language, such as “Ribbed Bottle,” “Fluted Vase,” “Decorative Chair,” or “Patterned Shoe Sole,” even though those terms are appearance-based rather than functional.

#### 5.4.9 Examples: Acceptable vs. Commonly Objectionable Titles

In general, acceptable title practice uses a simple article name that identifies the article of manufacture, such as “Bottle,” “Baby Bottle,” “Chair,” “Lighting Fixture,” “Electrical Junction Box,” “Handle,” or “Cover.” In contrast, titles may be objectionable when they include structural or functional language, such as:

- “Co-Molded Electrical Junction Box” (manufacturing method)
- “Metal Bottle” (material)
- “Insulated Cup” (internal structure/function)
- “Spring-Loaded Latch” (internal structure/function)
- “Battery-Powered Lantern” (functional/internal)
- “Self-Cleaning Brush” (functional)
- “Heated Blanket” (functional)

Titles may also be objectionable when they include appearance descriptors, even though the design is ornamental, such as “Ribbed Bottle,” “Fluted Vase,” “Decorative Chair,” or “Patterned Shoe Sole.”

#### 5.4.10 Borderline Exceptions: Recognized Product Subspecies

Borderline exceptions occur where a descriptor is tolerated because it identifies a recognized subspecies that has become its own article category. The key distinction is whether the term functions as an *article identifier* or merely as an *adjective*. Certain descriptors are often tolerated because they identify a recognized product category, such as:

- “Folding Chair” (recognized furniture category)
- “Rocking Chair” (distinct from other chairs)
- “Convertible Sofa” (specific product type)
- “Swivel Chair” (recognized chair category)

These terms are sometimes accepted because they answer “what is it,” rather than merely describing “what does it do.” A “folding chair,” for example, is understood as a type of chair, not merely “a chair that folds.” However, Examiner tolerance varies. Even these recognized subspecies may draw objections depending on the Examiner. When in doubt, the safest practice is to use the simpler title form and provide clarification in remarks if needed.

#### 5.4.11 Special Example: Functional Term Allowed to Clarify Intended Use

Another borderline example is “Musical Baby Bottle,” which includes a term that appears functional. In that prosecution, the Examiner acknowledged that the term “musical” could appear directed to function, but concluded that it helped clarify the nature and intended use of the article and was therefore beneficial toward clarifying the disclosure as a whole. The Examiner permitted the term to remain and stated that any objection to the title was obviated. This should be treated as an exception rather than a general rule, and it does not negate the USPTO’s overall position that functional and structural descriptors should generally be avoided in design titles.

#### 5.4.12 Practical Drafting Test: The “What Is It” Rule

A useful drafting test is to evaluate each word in the title and ask whether the word answers “what is it.” If it does, the word is more likely to be acceptable. If the word instead answers “how is it made,” it is likely a structural descriptor and therefore objectionable. If the word answers “what does it do,” it is likely a functional descriptor and therefore objectionable. If the word answers “what does it look like,” it is likely an ornamental styling descriptor and is usually unnecessary and may also draw an objection. This approach provides a practical framework for avoiding title problems before filing.

Example Application:

Title: “Battery-Powered Rechargeable LED Camping Lantern”

Analysis:

- “Battery-Powered” → “How does it work?” → Remove
- “Rechargeable” → “What does it do?” → Remove
- “LED” → “What’s inside?” → Remove
- “Camping” → “How is it used?” → Remove
- “Lantern” → “What is it?” → KEEP

Result: “Lantern”

#### 5.4.13 Common Trigger Phrases and Drafting Pitfalls

Common examples of language that may trigger Examiner objections include structural manufacturing terms such as “Welded Frame,” “Molded Housing,” “Cast Bracket,” “Stitched Cover,” and “Bonded Layer Panel,” as well as material descriptors such as “Plastic Container,” “Rubber Mat,” “Metal Guard,” and “Glass Cover.” Examiners may also object to internal construction language such as “Double-Walled Cup,” “Multi-Layer Filter,” “Insulated Bottle,” “Spring-Loaded Clip,” or “Battery-Operated Lamp,” and functional wording such as “Locking Lid,” “Adjustable Stand,” “Collapsible Basket,” “Self-Draining Tray,” or “Rechargeable Flashlight.”

These examples illustrate that Examiners often treat structural and functional descriptors as improper because they shift the title toward describing utility concepts rather than simply naming the article.

#### 5.4.14 Strategic Considerations in Title Drafting

While the rules prohibit functional and structural descriptors, practitioners must sometimes balance multiple practical concerns in choosing the best title.

**Classification Concerns.** A generic title like “Tool” may require extensive remarks to enable proper classification. In such cases, a slightly more specific but still neutral term (e.g., “Hand Tool” or “Cutting Tool”) may provide sufficient guidance without triggering objections.

**Enforcement Scope.** As discussed in *Curver Luxembourg* (see Section 5.5), narrower titles may restrict enforcement scope. When the drawings support a broad article designation, practitioners should generally use the broadest proper term available.

**Portfolio Strategy.** For families of related designs, consistent title terminology across applications may simplify portfolio management and reduce unnecessary prosecution inconsistencies.

**Examiner Relationship and Negotiation.** Where an Examiner suggests a specific title that is proper but narrower than necessary, counsel should consider whether accepting the suggestion is strategically sound or whether a broader alternative should be proposed.

The key principle is to use the broadest neutral article name that (1) is fully supported by the drawings, (2) complies with USPTO requirements, and (3) serves enforcement objectives.

#### 5.4.15 Summary

In sum, structural descriptors generally sound like they belong in a utility patent specification, such as language describing construction, composition, assembly, or internal components. The title in a design patent application should usually be limited to a neutral identification of the article of manufacture itself, without technical descriptors, performance descriptions, manufacturing terms, or ornamental styling language.

### 5.5 Title Choice and Title Amendments Can Narrow Enforcement Scope

Although design patent scope is primarily defined by the drawings, the title is not merely an administrative label. Because the single design claim incorporates the title by reference (i.e., “The ornamental design for a [title], as shown and described”), the title becomes part of the intrinsic record and may later influence claim construction and infringement analysis. This enforcement significance has become especially important after the Federal Circuit’s decision in *Curver Luxembourg, SARL v. Home Expressions Inc.*, which confirmed that design patents protect designs only as applied to the particular article of manufacture identified in the title.

In *Curver Luxembourg*, the patentee owned U.S. Design Patent No. D677,946, titled “Pattern for a Chair.” The patent drawings depicted a repeating Y-shaped weave pattern. Curver sued Home Expressions for selling baskets that allegedly incorporated the same ornamental

pattern. The Federal Circuit held that the baskets could not infringe because the design patent was directed to a chair, not the surface pattern in the abstract. The court emphasized that “the design patent is granted only for the design for an article of manufacture, not the design per se,” and treated the article named in the title as a limiting feature of the claim. *Curver* demonstrates that even where an accused product is visually identical in ornamental appearance, infringement may fail if the accused product is not the same or a sufficiently similar article of manufacture. This enforcement risk becomes more significant when the title is amended during prosecution.

Title amendments are often treated as routine or formal corrections, particularly where an Examiner objects that the title is indefinite, misdescriptive, overly broad, or unsupported by the drawings. However, once a title is narrowed, the amendment becomes part of the prosecution history and may later be used by an accused infringer to argue that the applicant surrendered broader scope or affirmatively limited the claimed article of manufacture. For example, if an applicant amends a title from “Container” to “Pet Food Container” to satisfy an Examiner’s objection, a defendant selling human food containers may argue that the patentee disclaimed non-pet containers and is estopped from asserting the design against containers outside the pet category. Similarly, if an applicant amends “Lamp” to “Medical Examination Lamp” to overcome a perceived classification or clarity concern, an accused infringer may later argue that the patentee limited the claim to medical lamps and cannot enforce the patent against decorative household lamps, even if the ornamental appearance is substantially identical. In practice, these narrowing effects can operate as prosecution history disclaimer even if the amendment was not intended to surrender subject matter.

In addition, *Curver* highlights that enforcement may turn on whether the accused product is the same or a substantially similar article of manufacture. While *Curver* did not provide a rigid test for determining when articles are sufficiently similar, the Federal Circuit indicated that similarity depends on the relationship between the articles in terms of appearance and function and whether an ordinary observer or skilled artisan would view the articles as closely related within the same general category. Examples of likely similar articles include “bottle” and “water bottle,” “chair” and “stool,” and “lamp” and “desk lamp.” Examples of likely dissimilar articles include “chair” and “basket” (as in *Curver*), “automotive wheel” and “bicycle wheel,” and “medical syringe” and “caulking gun.” This similarity inquiry is fact-dependent, but it reinforces that title selection can be outcome-determinative when an accused product falls into an adjacent category.

Because remarks and explanatory statements also become part of the intrinsic record, practitioners should avoid unnecessarily detailed “nature and intended use” descriptions that could later be characterized as disclaimers. Even where clarification is required to satisfy an Examiner’s search and classification concerns, the safest approach is often to provide the explanation in remarks without inserting narrowing field-of-use language into the title or specification unless absolutely necessary and clearly supported by the original disclosure. If a title amendment is required, it should be drafted as narrowly as possible to satisfy the Examiner while avoiding unnecessary narrowing terminology that could later be treated as claim-limiting.

Practitioners should also recognize that overly narrow titles can unintentionally restrict enforcement scope. Titles that contain unnecessary user-based descriptors, field-of-use language,

marketing descriptors, or technical performance characteristics may later provide accused infringers with a straightforward noninfringement defense. For example, a title such as “Men’s Athletic Running Shoe with Mesh Upper” will almost certainly be narrower than necessary and invites arguments that the patent is limited to men’s athletic running shoes rather than shoes generally. Similarly, “Wireless Bluetooth-Enabled Over-Ear Headphones” is unnecessarily specific and may be weaker for enforcement than the broader title “Headphones.” In most cases, the best practice is to select the broadest neutral article name that is supported by the drawings as filed, and to treat title drafting and title amendments as substantive enforcement decisions rather than mere prosecution housekeeping.

Ultimately, *Curver* confirms that title practice is not simply a formality. The title can act as a tether that restricts the enforceable scope of the design patent to a particular article category, and title amendments may later be used as evidence of surrendered scope. For that reason, practitioners should draft and amend titles with the same strategic care applied to broken-line claiming, since both operate as boundary-setting mechanisms that define what the design patent ultimately protects.

Exhibit 1  
(Checklist)

Use the following checklist to evaluate whether a design patent title is proper under 35 U.S.C. § 171, 35 U.S.C. § 112(b), and 37 C.F.R. §§ 1.153 and 1.1067.

A. Article Identification

- ☐ The title identifies a single, specific article of manufacture.
- ☐ The article named in the title is a recognized object, not an abstract concept.
- ☐ The title does not imply multiple undisclosed articles or alternatives.
- ☐ The title does not rely on context outside the drawings to be understood.

B. Consistency Across the Application

- ☐ The title matches the claim language word-for-word.
- ☐ The title is consistent with the preamble (if a preamble is used).
- ☐ The title is consistent with the figure descriptions.
- ☐ The title remains accurate after any amendment to drawings or specification.
- ☐ Singular or plural form in the title matches what is actually shown.

C. Drawing Support

- ☐ Every article implied by the title is clearly shown in the drawings.
- ☐ The title does not describe an assembly, set, or combination unless the drawings support it.
- ☐ The title does not imply internal structure or components not visually disclosed.
- ☐ The title does not rely on hidden, functional, or internal features to be accurate.

D. Prohibited Language Review

- ☐ The title does not include functional or performance language.
- ☐ The title does not include structural descriptors unnecessary to identify the article.
- ☐ The title does not include marketing or promotional terms.
- ☐ The title does not include open-ended phrases (e.g., “or the like,” “and/or”).
- ☐ The title does not include relative or comparative terms (e.g., “improved,” “low-profile”).
- ☐ The title does not include trade dress concepts or stylistic descriptors.
- ☐ The title does not include ornamental adjectives that should be shown visually.
- ☐ The title does not include material composition unless necessary to identify the article.

E. Plurality, Sets, and Pairs



- ☐ If a single article is shown, the title uses singular form only.
- ☐ If a coordinated pair or set is shown, the title expressly identifies that relationship.
- ☐ The title does not imply a set or plurality when only one article is depicted.

F. Amendment and Prosecution Strategy

- ☐ Any title amendment was made to cure a specific objection, not to broaden scope.
- ☐ The amended title is fully supported by the originally filed drawings.
- ☐ No withdrawn or rejected title language remains elsewhere in the specification.
- ☐ The prosecution record does not contain conflicting descriptions of the article.

G. Litigation and Public Notice Awareness

- ☐ The title avoids unnecessary narrowing that could limit enforcement scope.
- ☐ The title avoids ambiguity that could create claim construction disputes.
- ☐ The title provides clear public notice of what the design is — and is not.

H. Final Quality Control

- ☐ The title complies with 37 C.F.R. § 1.153 and § 1.1067 (if applicable).
- ☐ The title is mechanically correct and would survive form-paragraph review.
- ☐ The title has been reviewed after final amendments and before allowance.
- ☐ The title has been verified against relevant classification definitions.
- ☐ Examiner-suggested title alternatives have been evaluated and documented.
- ☐ The title does not begin with an article such as “A” or “An”.
- ☐ The title has been reviewed to confirm it does not include a registered trademark.
- ☐ If only a portion of an article is claimed, the title still identifies the complete article (e.g., “Handle for a Tool”).

## Appendix 2 (Questions and Answers)

Q1: Does the title define the scope of the design patent?

A: Yes. While the drawings provide the substance of the claim, the title anchors that claim to a specific article of manufacture. Courts, including the Federal Circuit in *Curver Luxembourg v. Home Expressions*, have limited the scope of a design patent based on the article identified in the title. An imprecise or vague title can therefore narrow or undermine enforceability.

Q2: Can I include functional or structural features in the title?

A: No. Titles may not include functional or structural detail. For example, “Low Profile Right Angle XLR Connector With Strain Relief” is objectionable because “low profile,” “right angle,” and “with strain relief” describe functional or structural characteristics. Proper titles must identify only the article itself, such as “Connector” or “XLR Connector.”

Q3: What if my design covers a set or multiple coordinated parts?

A: The title must expressly state that it is a set, pair, or combination. Examples include “Set of Coffee Mugs,” “Pair of Earrings,” or “Combined Fan and Light.” Without this language, a title like “Fan Light” is indefinite and will be rejected.

Q4: Should I use singular or plural in a title?

A: Titles must designate a singular article unless the claim is explicitly directed to a set, pair, or combination. “Wheel for Automobile” is proper. “Wheels for Automobile” is objectionable unless the design is explicitly for a set of wheels, in which case the title must say “Set of Wheels for Automobile.”

Q5: May I amend the title during prosecution?

A: Yes, but only if the amendment has clear antecedent basis in the original disclosure. Title amendments that broaden or alter the article beyond what was disclosed introduce new matter and are improper under 35 U.S.C. § 112(a). When permitted, amendments must be made consistently throughout the application, except in the oath or declaration. When a title is amended during prosecution, corresponding updates must also be made to the preamble and the claim to preserve exact linguistic symmetry. Failure to update all three locations commonly results in formal objections for inconsistency.

Q6: What happens if the title is too broad or generic?

A: Examiners often object to titles like “mount,” “adapter ring,” or “beauty apparatus” because they provide little notice to the public and hinder proper classification. The applicant will be required to amend to a more descriptive title, such as “satellite receiver holder”

or “blackhead extraction tool.” While a generic title may be accepted in some circumstances, it frequently triggers a requirement for a brief nature and intended use statement to enable proper classification and examination.

Q7: Can I use “or the like” in a title?

A: Only in limited circumstances. It is improper to use “or the like” when describing the article itself (e.g., “Door or the like”), as this renders the claim indefinite. It is acceptable when describing the environment of the article (e.g., “Door for cabinets, houses, or the like”), so long as the article itself is clearly identified.

Q8: How are titles for computer-generated icons handled?

A: A design for a computer-generated icon is only statutory subject matter when shown on a screen, monitor, or display panel. Titles like “Display Screen or Portion Thereof with Graphical User Interface” are proper. A title that only names the icon without reference to the article of manufacture (e.g., “Graphical User Interface”) will be rejected.

Q9: What if the drawings and title do not match?

A: The title and claim must correspond with the article shown in the drawings. If the drawings show a mirror but the title reads “Window,” the inconsistency must be corrected under 37 C.F.R. § 1.153.

Q10: Can the examiner amend the title directly?

A: Yes, with applicant authorization. Examiners often make examiner’s amendments by telephone or interview when the issue is straightforward. For example, “Part of Measuring Device Except for Measuring Time” was amended with consent to “Combined Control Unit and Display Instrument for Level Sensors.”

Q11: What if my design spans multiple potential categories (e.g., shelf vs. basket)?

A: The title must accurately match the article. If the drawings are ambiguous, examiners may require the applicant to clarify by amending the title to the article most clearly supported. A design that could resemble both a shelf and a bin must be titled either “Shelf” or “Bin,” not both, unless originally disclosed as a set.

Q12: How does indefiniteness under 35 U.S.C. § 112(b) apply to titles?

A: Section 112(b) requires that the claim “particularly point out and distinctly claim” the invention. Because the title is part of the claim, an indefinite title makes the claim itself indefinite. Phrases like “Part of Measuring Device Except for Measuring Time” leave the scope uncertain and must be amended to a clear article designation.

Q13: Are international applications treated differently?

A: No. International design applications designating the United States must comply with U.S. law. Under 37 C.F.R. § 1.1067, titles must designate the article in terms generally known and used by the public, just as in domestic applications.

Q14: Can I avoid rejection by explaining the article in a separate paper?

A: No. Examiner guidance and case law make clear that an ambiguous or indefinite title cannot be cured by explanation outside the claim. The title itself must provide public notice of the article. Clarification must be made by amending the title, not by supplying an explanatory statement.

Q15: Why do examiners insist on narrow, descriptive titles when the drawings show the design?

A: Because the title aids in classification, searching, and public notice. While the drawings show the design, the title provides the framework for understanding the claim. Without a clear and accurate title, the claim risks being indefinite, misclassified, or misinterpreted.

Q16: Can the title be broader than the drawings if the drawings show only one embodiment?

A: No. The title must be fully supported by the drawings as filed. If the drawings depict only a specific article or configuration, the title cannot suggest a broader category, assembly, or alternative article not visually disclosed. A title broader than the drawings may be objected to as indefinite or unsupported and may raise new matter concerns if amended later.

Q17: Is it permissible to amend a title during prosecution?

A: Yes. Title amendments are permitted and commonly required to correct indefiniteness, misdescription, or inconsistency with the drawings. However, title amendments must be supported by the originally filed drawings and should not broaden the identified article of manufacture. Proposed title amendments that introduce new concepts or assemblies not shown in the drawings may be rejected or withdrawn to avoid new matter issues.

Q18: Does changing the title affect the claim?

A: Yes. Because the design claim recites the article identified in the title, any title amendment must be reflected identically in the claim language. Failure to update the claim to match the amended title will result in an objection for inconsistency.

Q19: Can a title describe a set, pair, or combination of articles?

A: Yes, but only if the drawings clearly disclose and support that relationship. Titles identifying a “pair,” “set,” or “combination” must correspond to drawings showing multiple

coordinated articles. If the drawings depict only a single article, the title must not imply plurality or combination.

Q20: Should practitioners argue against a title objection or simply amend?

A: In most cases, title objections are formal and are best resolved by amendment rather than argument. Examiner objections based on indefiniteness, misdescription, or unsupported language are mechanical in nature and are rarely overcome through persuasion alone.

Q21: Can title language later limit enforcement of a design patent?

A: While the drawings define the ornamental scope of a design patent, the title contributes to public notice and may be considered in claim construction. Overly narrow or misdescriptive titles can create ambiguity or unintended limitations. Practitioners should therefore draft titles carefully and avoid unnecessary narrowing language.

Q22: Can a design patent title include trademarked terms or proprietary names?

A: Generally no. Titles should use generic article names rather than trademarks, brand identifiers, or proprietary designations. Even where a trademarked term has become colloquially common, best practice is to use the generic name of the article to avoid ambiguity and unnecessary objections.

Q23: When should a title include “or Portion Thereof”?

A: The title should reflect “portion thereof” when the design is clearly limited to a portion of an article rather than the complete article. For screen-based designs and computer-generated icons, “Display Screen or Portion Thereof” is standard practice. The key requirement is consistency with what the drawings actually show.

Q24: Can the title differ between a parent and continuation application?

A: Yes, but with caution. Titles in continuation or divisional applications must remain supported by the original drawings. Narrowing is generally permissible; broadening may raise new matter and priority issues.

### Appendix 3 (Limitations)

This ProGuide addresses title requirements for U.S. design patent applications under 35 U.S.C. § 171, 35 U.S.C. § 112(b), and 37 C.F.R. §§ 1.153 and 1.1067, as interpreted through USPTO examination practice and MPEP guidance. It is limited to the identification, form, and amendment of titles and does not address other aspects of design patentability.

This ProGuide does not provide guidance on substantive infringement analysis, validity determinations, or claim construction outcomes in litigation. While courts may rely on the title when interpreting the scope of a design patent, particularly in conjunction with the drawings, this guide does not attempt to predict or resolve how a particular title will be construed in an enforcement context.

This ProGuide does not advise on strategic breadth versus narrowness of a title beyond compliance with statutory and regulatory requirements. Decisions regarding whether to pursue broader or narrower article designations are application-specific and depend on prosecution strategy, portfolio considerations, and risk tolerance, none of which are addressed here.

This ProGuide does not override or supplant examiner-specific instructions. Where an examiner requires a particular amendment, wording, or correction to a title, those instructions control, even if they differ from general guidance summarized in this document.

This ProGuide does not address foreign design law, except to note that international design applications designating the United States must comply with U.S. title requirements under 37 C.F.R. § 1.1067 upon U.S. examination.

This ProGuide does not analyze priority claims, ownership issues, inventorship, or Application Data Sheet practice, except to the limited extent necessary to explain consistency requirements when a title is amended.

Finally, the prosecution history examples included in this ProGuide are provided for educational and illustrative purposes only. They reflect common examiner objections and applicant responses but do not guarantee similar treatment in other applications, art units, or examination contexts.

Appendix 4  
(Selected MPEP, CFR, and Statutory References)

A. MPEP Sections

1503.01

A preamble, if included, should state the name of the applicant, the title of the design, and a brief description of the nature and intended use of the article in which the design is embodied (37 CFR 1.154).

The title of the design identifies the article in which the design is embodied by the name generally known and used by the public and may contribute to defining the scope of the claim. *See* MPEP § 1504.04, subsection I.A. *See Curver Luxembourg, SARL v. Home Expressions, Inc.*, 938 F.3d 1334, 1340, 2019 USPQ2d 341902 (Fed. Cir. 2019) ("[I]dentifying the article of manufacture serves to notify the public about the general scope of protection afforded by the design patent"). The title may be directed to the entire article embodying the design while the claimed design shown in full lines in the drawings may be directed to only a portion of the article. However, the title may not be directed to less than the claimed design shown in full lines in the drawings. A title descriptive of the actual article aids the examiner in developing a complete field of search of the prior art and further aids in the proper assignment of new applications to the appropriate class, subclass, and patent examiner, and the proper classification of the patent upon allowance of the application. It also helps the public in understanding the nature and use of the article embodying the design after the patent has been issued. For example, a broad title such as "Adapter Ring" provides little or no information as to the nature and intended use of the article embodying the design. If a broad title is used, the description of the nature and intended use of the design may be incorporated into the preamble.

When a design is embodied in an article having multiple functions or comprises multiple independent parts or articles that interact with each other, the title must clearly define them as a single entity, for example, combined or combination, set, pair, unit assembly.

Since 37 CFR 1.153 requires that the title must designate the particular article, and since the claim must be in formal terms to the "ornamental design for the article (specifying name) as shown, or as shown and described," the title and claim must correspond. When the article named in the title does not correspond to the article named in the claim, the examiner should object to the inconsistency under 37 CFR 1.153 and require correction.

However, it is emphasized that, under 35 U.S.C. 112(b), the claim defines "the subject matter which the inventor or joint inventor regards as the invention" (emphasis added); (or for applications filed prior to September 16, 2012, under the second paragraph of pre-AIA 35 U.S.C. 112 the claim defines "the subject matter which the applicant regards as his invention"), that is, the ornamental design to be embodied in or applied to an article. Thus, the examiner should afford the applicant substantial latitude in the language of the title/claim. The examiner should require amendment of the title/claim if the language is clearly misdescriptive, inaccurate, or unclear (i.e., the language would result in a rejection of the claim under 35 U.S.C. 112(b), (or for

applications filed prior to September 16, 2012, pre-AIA 35 U.S.C. 112, second paragraph); see MPEP § 1504.04, subsection II). The use of language such as "or the like" or "or similar article" in the title when directed to the environment of the article embodying the design will not be the basis for a rejection of the claim under 35 U.S.C. 112(b), (or for applications filed prior to September 16, 2012, 35 U.S.C. 112, second paragraph). However, such language is indefinite when it refers to the area of articles defining the subject matter of the design. An acceptable title would be "door for cabinets, houses, or the like," while the title "door or the like" would be unacceptable and the claim will be rejected under 35 U.S.C. 112(b), (or for applications filed prior to September 16, 2012, pre-AIA 35 U.S.C. 112, second paragraph). Ex parte Pappas, 23 USPQ2d 1636 (Bd. Pat. App. & Inter. 1992). See also MPEP § 1504.04; subsection II.

Amendments to the title, whether directed to the article in which the design is embodied or its environment, must have antecedent basis in the original disclosure and may not introduce new matter. Ex parte Strijland, 26 USPQ2d 1259 (Bd. Pat. App. & Inter. 1992). If an amendment to the title is directed to the environment in which the design is used and the amendment would introduce new matter, the examiner should object to the amendment under 35 U.S.C. 132. If an amendment to the title is directed to the article in which the design is embodied and the amendment would introduce new matter, in addition to the objection under 35 U.S.C. 132, the claim must be rejected under 35 U.S.C. 112(a) (or for applications filed prior to September 16, 2012, the first paragraph of pre-AIA 35 U.S.C. 112).

Any amendment to the language of the title should also be made at each occurrence thereof throughout the application, except in the oath or declaration. If the title of the article is not present in the original figure descriptions, it is not necessary to incorporate the title into the descriptions as part of any amendment to the language of the title.

The practice set forth above regarding the title of the design is generally applicable to international design applications designating the United States. The requirement for a title in an international design application designating the United States is set forth in 37 CFR 1.1067 and corresponds to the requirement set forth in 37 CFR 1.153. See MPEP § 2920.04(a).

## B. CFR Sections

### 37 CFR 1.153 – Title, Description and Claim

*(Post-AIA – for applications filed on or after September 16, 2012)*

(a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

*(Pre-AIA – for applications filed prior to September 16, 2012)*

(a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the



ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

#### 37 CFR 1.154 – Arrangement of Application Elements

(b)(1) Preamble, stating the name of the applicant, title of the design, and a brief description of the nature and intended use of the article in which the design is embodied.

This codifies the requirement that the preamble include the title of the design and its intended use.

#### Form Paragraph 15.05.01 – Title of Design Invention

The title of a design must designate the name of the article in which the design is embodied or applied to. In addition, the title must correspond with the claim. See MPEP § 1503.01 and 37 CFR 1.153 or MPEP § 2920.04(a) and 37 CFR 1.1067.

#### International Design Applications – 37 CFR 1.1067

The requirement for a title in an international design application designating the United States is set forth in 37 CFR 1.1067 and corresponds to the requirement set forth in 37 CFR 1.153. See MPEP § 2920.04(a).