

Design Patent ProGuide – Broken Line Statements
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Quick Start Guide

DO:

Do expressly identify what the broken lines represent. Broken line statements must clearly state whether the broken lines depict unclaimed portions of the article, environmental structure, boundary lines, or other context, so that claim scope is unambiguous.

Do state that broken lines form no part of the claimed design. Use clear, affirmative language confirming that the broken-line subject matter is excluded from the claim.

Do ensure the broken line statement is consistent with the drawings. The written statement must accurately reflect how broken lines are actually used in the figures; mismatches routinely trigger objections.

Do place the broken line statement in the proper location. Broken line statements belong in the FEATURE DESCRIPTION section, not in the claim, preamble, or figure descriptions.

Do use standardized, examiner-accepted phrasing where possible. Conventional formulations reduce the likelihood of formal objections and unnecessary examiner scrutiny.

Do verify that broken lines do not introduce ambiguity about claim boundaries. If broken lines appear to define edges or contours, the statement must clarify their non-claiming purpose.

Do confirm that any amendment involving broken lines is fully supported by the originally filed drawings. Introducing or converting lines without original support risks new matter rejections.

Do reassess broken line statements after any drawing amendment. Any change to line treatment requires a corresponding review of the broken line statement for accuracy and completeness.

Do treat broken line statements as substantive, not boilerplate. Courts and examiners rely on these statements to determine claim scope; careless drafting can have lasting effects.

Do distinguish between ornamental stitching and structural stitching and select line styles accordingly.

Do consider whether broken lines are necessary at all; in some cases omission of unclaimed features is preferable.

Do verify that boundary lines define only the claimed design and do not create unexplained negative space.

Do ensure that any feature shown in broken lines in one view is shown in broken lines in every view in which it appears.

DON'T:

Don't place broken line statements in the claim. The claim must remain free of descriptive or explanatory text regarding broken lines.

Don't place broken line statements in the preamble or description of figures. Improper placement routinely results in formal objections requiring correction.

Don't use vague or conclusory language. Statements such as "broken lines are for illustration only" without specifying what they depict are insufficient.

Don't assume broken lines automatically exclude subject matter without explanation. Examiners expect an explicit statement identifying what is not claimed and why.

Don't introduce new broken lines during prosecution without careful analysis. Adding broken lines to overcome prior art may be construed as surrendering claim scope.

Don't convert solid lines to broken lines without considering prosecution history consequences. Such conversions may be treated as narrowing amendments with estoppel or disclaimer implications.

Don't rely on "for clarity" explanations if the substantive effect is narrowing. Courts evaluate substance over form; the stated reason does not control the legal effect.

Don't leave residual or contradictory broken line statements after amendments. Conflicting descriptions undermine claim clarity and invite additional objections.

Don't use broken lines to disguise functional disclaimers. Broken lines may exclude subject matter, but they cannot be used to reframe functional features improperly.

Don't treat broken line practice as merely formal or stylistic. Broken line usage directly affects claim scope, enforcement, and validity.

Don't use broken lines to depict optional features or alternative embodiments.

Don't rely on broken lines as a substitute for properly cropping views.

Don't assume examiner preferences are uniform across art units; be prepared to justify broken line treatment.

Don't apply surface shading to features shown entirely in broken lines. Shading is a claim-defining element and may imply that unclaimed subject matter forms part of the claimed design.

1. Introduction and Theory

The theory underlying broken line practice in design patent prosecution is relatively simple. Broken lines typically show portions of an article that form no part of the claimed design, unclaimed environment to the article, or boundaries of the claimed design. Broken lines also can represent stitching and fold lines. Despite these relatively simple concepts, numerous objections and rejections continue to issue over broken line statements in design patent applications. These objections and rejections often result from misunderstandings by design patent applicants and the confusion over broken line principles.

Note: This ProGuide is subject to certain limitations, which are set forth in Appendix 3 of this document.

2. Recommended Forms and Drafting Notes

2.1 Recommended Forms

At a minimum, a broken line statement must identify what is represented by the broken lines and define the relationship to the claimed design. Examples of recommended forms for common broken line statements are shown below.

2.1.1 When broken lines show portions of the [title] that form no part of the claimed design: The broken lines show portions of the [title] that form no part of the claimed design.

2.1.2 When broken lines show environment to the article and form no part of the claimed design: The broken lines show environment to the [title] and form no part of the claimed design.

2.1.3 When the broken lines represent boundaries to the claim: The broken lines show boundaries to the claim and form no part of the claimed design.

2.1.4 When equal-length broken lines show unclaimed portions and a specific figure shows environment: The equal-length broken lines depict portions of the [title] that form no part of the claimed design. In Fig. [X], the equal-length broken lines depict [describe

environment, e.g., a leg and foot] that form no part of the claimed design. All broken lines form no part of the claim.

2.2 Drafting Note on Grammar, Brevity, and Word Choice

A typical broken line statement begins with a subject noun phrase (The broken lines), a transitive verb (show), a direct object (portions), and a prepositional phrase (of the [title]) that modifies the direct object. This portion of the sentence identifies what is represented by the broken lines. The statement then typically includes a restrictive clause (that form no part of the claimed design) that begins with a relative pronoun (that). Alternatively, the statement can include language that begins with a conjunction (and). This portion of the sentence defines the relationship of the broken lines to the claimed design.

Many broken line statements contain verbs other than “show.” For example, the verbs “illustrate, depict, represent, indicate, and denote” often are used. Any of these verbs are acceptable. Some advantages of using the verb “show” are that it is a short, simple word and is similar to the word “shown,” as used in the claim statements “as shown,” or “as shown and described.”

Broken line statements often include the prepositional phrase “in the drawings,” or “in the drawing figures” after the subject noun phrase “the broken lines.” This phrase is unnecessary unless needed to identify a broken line in a particular drawing figure, such as “the broken lines in Fig. 2 show environment to the [title] and form no part of the claimed design.”

The relative pronoun “that” is sometimes replaced with the relative pronoun “which.” This is usually improper because the clause “that form no part of the claimed design” is a restrictive clause that is essential to the meaning of the broken line statement. The use of “which” indicates that the clause is nonrestrictive, or nonessential to the meaning of the statement.

The conjunction “and” is sometimes used instead of the relative pronoun “that” in a statement where the broken lines show portions of the [title]. That is improper. When “and” is used, the statement can be interpreted that only the broken lines form no part of the claimed design and not that the portions of the [title] shown by the broken lines form no part of the claimed design. By using the relative pronoun “that,” it is clear the portions of the [title] shown by the broken lines form no part of the claimed design.

2.3 Drafting Note on Word Order

The selection and order of words used in a broken line statement are important. Although there is some flexibility in the language that can be chosen, the necessary precision of a broken line statement requires that the language and its sequencing convey a certain meaning. When words are not placed in the proper order, the meaning of the broken line statement can change. For example, a proper broken line statement would be “the broken lines show portions of the [title] that form no part of the claimed design. When the word order is changed to “[p]ortions of the [title] shown in broken lines form no part of the claimed design,” this phrasing could be interpreted to mean that only some of the subject matter shown in broken lines, rather

than all broken-line subject matter, is unclaimed, creating ambiguity regarding claim scope. Therefore, some of the broken lines could be claimed according to this improper description.

2.4 Foreign-Origin Caution Note

Broken line statement language from foreign filings often does not comply with USPTO requirements. Common examples include the terms “phantom lines,” “for illustrative purposes only,” “illustrative of,” or “environmental structure” without reference to the article title. Some foreign-origin BLSs also omit the required “that form no part of the claimed design” language or describe unclaimed features as “not part of the invention.” Any such language should be revised to meet USPTO standards under 37 CFR 1.154 and MPEP § 1503.02(III).

2.5 Decision Tree

Does the drawing contain broken lines?

- └ No → Don't include a broken line statement
- └ Yes → Do the broken lines show:
 - └ Parts of the article itself? → "portions of the [title]"
 - └ Separate objects/context? → "environment to the [title]"
 - └ Claim boundaries? → "boundaries" + clarify negative space if needed
 - └ Claimed stitching/folds? → Identify as forming part of the claimed design
 - └ Multiple types? → Separately describe each type

3. Rules for Broken Line Statements

3.1 Clarity of Claim Scope

A broken line statement must clearly distinguish claimed from unclaimed subject matter so that the scope of the design is definite to the public, the examiner, and the courts.

3.2 Consistency Between Drawings and Statement

The meaning assigned to each type of broken line must be consistent across all drawing figures and must match the written broken line statement.

3.3 Single Purpose per Broken Line Type

Each type of broken line (style, weight, or pattern) should have only one meaning in the application to prevent claim interpretation problems. In certain circumstances, broken lines may depict claimed stitching or fold lines, while other broken lines in the same drawings depict unclaimed subject matter or environment. In such cases, the broken line statement must clearly and separately identify each type and purpose of broken line, referencing the article title, location, or figure as needed, so the scope of the claim is definite.

Rule 3.3(a) Stitching and Fold Lines

Stitching or fold lines must properly be described as such in the broken line statement. When stitching or fold lines depict functional or construction details only, they must be shown in broken lines and identified as unclaimed in the broken line statement. Failure to clearly distinguish ornamental stitching from structural stitching may result in claim ambiguity or improper narrowing.

3.4 Prohibition on Claim Expansion

The broken line statement cannot be used to reserve rights to unclaimed subject matter; it may only disclaim subject matter or explain the purpose of broken lines.

3.5 Alignment with Title

The broken line statement should always reference the article exactly as titled in the application to maintain consistency in classification, search, and claim interpretation.

3.6 Completeness Without Extraneous Detail

Every broken line use must be addressed in the statement, but the statement should not describe features not depicted in the drawings.

3.7 Express Identification Requirement

A broken line statement must expressly identify what the broken lines represent (e.g., portions of the article, environment to the article, boundaries, stitching, or fold lines).

3.8 Express Disclaimer Requirement

A broken line statement must expressly state that the subject matter shown in broken lines forms no part of the claimed design.

3.9 Article Identification Requirement

A broken line statement must identify the broken-line subject matter by reference to the exact title of the article used in the application, not by generic terms such as “article.”

3.10 Prohibition on Generic or Vague Descriptors

Broken line statements must not describe broken-line subject matter using vague or open-ended terms such as “features,” “elements,” “structure,” or “subject matter” without further identification.

3.11 Prohibition on Foreign-Origin Terminology

Broken line statements must not use non-USPTO terminology such as “phantom lines,” “for illustrative purposes only,” or “environmental structure” without proper identification tied to the article title.

3.12 Distinct Meaning Requirement for Multiple Broken Line Styles

If multiple broken line styles (e.g., dash-dash, dash-dot, thick vs. thin) appear in the drawings, the broken line statement must separately identify the purpose of each style.

Common Broken Line Styles:

— — — — (dash-dash or equal-length dashes)

— · — · (dash-dot)

— · · — (dash-dot-dot)

3.13 Boundary Line Identification Rule

When broken lines define the boundary of the claimed design, the broken line statement must identify those lines as boundary lines and must not describe them as portions of the article. Where boundary lines are used to define the limits of a partial design that does not correspond to a physical edge, the preferred convention is the use of dot-dash lines, rather than evenly broken lines. Evenly broken lines are reserved for unclaimed portions of the article or environmental context. Use of standard dashed lines as boundary indicators where no physical seam exists may create ambiguity, as examiners may interpret such lines as ornamental surface patterning rather than as a claim boundary.

3.14 Environment vs. Article Distinction Rule

Broken line statements must correctly distinguish between environmental subject matter and portions of the article itself. Portions of the article must not be characterized as environment. While the term “environmental structure” appears in examiner rejections and MPEP excerpts, its use without further identification is discouraged. When used, it must be coupled with clear language identifying the environment as separate from the article of manufacture, such as “environment to the [title],” to avoid ambiguity.

Rule 3.14(a) Distinguishing “Portions of the Article” from “Environment to the Article”

Portions of the article and environmental context must not be conflated. Use “portions of the [title]” when broken lines depict parts of the claimed article itself that are intentionally excluded from the claim. Use “environment to the [title]” when broken lines depict separate objects or contextual matter, such as a hand, stand, surface, background object, or adjacent article, that are not part of the article of

manufacture. Mischaracterizing unclaimed portions of the article as “environment,” or vice versa, may result in ambiguity regarding claim scope and formal objection.

3.15 No Optionality or Variability Language

A broken line statement must not include language suggesting that broken-line features are optional, interchangeable, or subject to variation.

3.16 No Claim Broadening or Reservation Language

A broken line statement must not suggest that unshown variations, alternative configurations, or broader embodiments are within the scope of the claimed design.

3.17 Drawing–Statement Functional Match Requirement

The broken line statement must accurately describe the functional role of the broken lines as they appear in the drawings (e.g., boundary, environment, unclaimed portion), not merely acknowledge their presence.

3.18 No Use of Broken Lines to Cure Drawing Defects

A broken line statement cannot be used to cure ambiguity caused by merging, indistinct, or inconsistent line work in the drawings.

3.19 Appropriate Use of Boundary Lines

Boundary lines are appropriate when the claimed design is limited to a portion of an article and the boundary itself defines the extent of the claimed surface ornamentation or shape. Boundary lines are not appropriate to merely exclude features that could instead be omitted or shown in broken lines. Boundary lines may coexist with broken lines, but the function of each must be clear: boundary lines define claim limits, while broken lines disclaim unclaimed subject matter.

Example: For a design directed to a decorative pattern on a portion of a shoe upper, boundary lines appropriately define where the pattern begins and ends on the shoe surface. The shoe itself would be shown in broken lines as “portions of the [title].”

3.20 Negative Space Clarification for Boundary Lines

When broken lines define the bounds of the claimed design (rather than depicting a physical edge of the article), the broken line statement should clarify that any negative space between the boundary lines and the solid-line design forms no part of the claimed design, where necessary to avoid ambiguity.

3.21 Shading on Broken-Line Surfaces

Surface shading must NOT be applied to any surface shown entirely in broken lines. Shading indicates a claimed surface, and broken lines indicate unclaimed subject matter. If minimal shading is needed to convey the three-dimensional contour where claimed structure meets unclaimed structure, such shading must only appear on the solid-line (claimed) portions and be clearly subordinate to the overall design.

3.22 Multiple Identical Articles

When multiple instances of the same article are shown in a single application, only one instance may represent the claimed design. Additional instances must be shown in broken lines and treated as environment to the claimed article, not as unclaimed portions of the article itself.

3.23 Hidden or Internal Features

Broken lines should not be used to depict internal or hidden surfaces that are not visible during normal use of the article. Design patents protect ornamental appearance, and internal structures that are never visible may raise questions regarding ornamentality under 35 U.S.C. § 171 or definiteness under § 112.

3.24 Legibility and Spacing of Broken Lines in Corrected Drawings

When an applicant converts subject matter from solid lines to broken lines (e.g., to remove indefinite or non-enabling elements from the claim), the broken lines must remain legible and properly spaced. If corrected broken lines are crowded, indistinct, or visually ambiguous, the drawing disclosure may remain indefinite and non-enabling under 35 U.S.C. § 112(a) and (b), and the USPTO may require revision to ensure the broken-line disclosure is clear and reproducible.

3.25 Use of the Phrase “as well as”

The phrase “as well as” commonly gives rise to indefiniteness concerns as it can imply that there may be other broken lines or broken line types elsewhere in the disclosure that have additional meanings or purposes, which can render the claim indefinite.

4. Application of the Rules in Rejections and Objections

Many rejections to broken line statements are common and typically result from language choice that fails to satisfy the two basic requirements of precisely identifying what is represented by the broken lines and defining their relationship to the claimed design. Common rejections and recommended forms to overcome the rejections are set forth below

4.1 Using the Phrase “For Illustrative Purposes Only”

Example: “The broken lines are for illustrative purposes only and form no part of the claimed design.”

Recommended form: “The broken lines show portions of the [title] that form no part of the claimed design.” Rule 3.7, Rule 3.8, Rule 3.10, Rule 3.11

4.2 Using the Term “Environmental” Without Further Description

Example: “The broken lines shown are environmental only and form no part of the claimed design.”

Recommended form (when broken lines depict parts of the article): “The broken lines show portions of the [title] that form no part of the claimed design.”

Recommended form (when broken lines depict separate contextual objects): “The broken lines show environment to the [title] and form no part of the claimed design.” Rule 3.7, Rule 3.8, Rule 3.14

4.3 Failing to Describe Multiple Broken-Line Types with Separate Meanings

Example: “The broken lines show environmental structure and boundaries and form no part of the claimed design.”

Recommended form: “The dash-dash broken lines show portions of the [title] that form no part of the claimed design. The dash-dot broken lines show boundaries and form no part of the claimed design.” Rule 3.3, Rule 3.12, Rule 3.13, Rule 3.17

4.4 Failing to State That the Broken Lines Form No Part of the Claimed Design

Example: “The dash-dot-dash broken lines in the drawings depict the boundaries of the claimed design.”

Recommended form: “The dash-dot-dash broken lines in the drawings depict boundaries of the claimed design and form no part of the claimed design.” Rule 3.8, Rule 3.13, Rule 3.19

4.5 Failing to Name the Article of Manufacture

Example: “The broken lines form no part of the claimed design” or “The broken lines show portions of the article that form no part of the claimed design.”

Recommended form: “The broken lines show portions of the [title] that form no part of the claimed design.” Rule 3.5, Rule 3.9

4.6 Failing to Describe the Purpose of All Broken Lines in the Drawings

Example (two earphones shown): “The broken lines in the drawings depict portions of the earphone with charging case that form no part of the claimed design.”

Recommended form: “The broken lines on the earphone and charging case depict portions of the earphone with charging case that form no part of the claimed design. In [figure], the broken lines showing an additional earphone depict environment to the earphone with charging case and form no part of the claimed design.” Rule 3.6, Rule 3.14, Rule 3.22

4.7 Using the Phrase “Illustrate Unclaimed Features”

Example: “The broken lines illustrate unclaimed features that form no part of the claimed design.”

Recommended form: “The broken lines show portions of the [title] that form no part of the claimed design.” Rule 3.7, Rule 3.8, Rule 3.10

4.8 Assigning Multiple Meanings Without Identifying Which Meaning Applies

Example: “The broken lines show unclaimed portions of a [title], which are included for the purpose of illustrating unclaimed environment only, and form no part of the claimed design.”

Recommended form: “The broken lines show portions of the [title] that form no part of the claimed design.” Rule 3.3, Rule 3.10, Rule 3.12

4.9 Describing Broken Lines as Both Portions of the Article and Environment

Example: “The broken lines show portions of the article in which the claimed design is embodied and/or for environment purposes only, but which form no part of the claimed design.”

Recommended forms (use the one that matches the drawings):

- “The broken lines show portions of the [title] that form no part of the claimed design.”
- “The broken lines show environment to the [title] and form no part of the claimed design.”
- “The dash-dash broken lines show portions of the [title] that form no part of the claimed design. The dash-dot broken lines show environment to the [title] and form no part of the claimed design.” Rule 3.3, Rule 3.12, Rule 3.14, Rule 3.17

4.10 Failing to Identify What the Broken Lines Represent and Failing to Define Their Claim Relationship

Example: “The broken lines show structure and environment.”

Recommended forms (use the one that matches the drawings):

- “The broken lines show portions of the [title] that form no part of the claimed design.”
- “The broken lines show environment to the [title] and form no part of the claimed design.”
- “The dash-dash broken lines show portions of the [title] that form no part of the claimed design. The dash-dot broken lines show environment to the [title] and form no part of the claimed design.” Rule 3.7, Rule 3.8, Rule 3.10, Rule 3.14

4.11 Broken-Line Statement Included When No Broken Lines Remain

In Application 29/719,100, the Examiner objected because the specification included a broken line statement even though the drawing figures, as then-presented, contained no broken lines. This typically occurred when figures containing broken lines were canceled during prosecution but the original broken line statement was not removed, leaving an unnecessary and potentially confusing feature description in the application.

The issue was corrected by canceling the broken line statement so the specification matched the drawing disclosure and did not describe broken lines that were not present. Rule 3.2, Rule 3.6, Rule 3.17

4.12 Broken Lines Present Without Any Broken-Line Statement

In Application 29/694,984, the Examiner objected because the drawing figures contained broken lines but the specification did not include a broken line statement defining their meaning. Without a statement identifying what the broken lines represented and clarifying their relationship to the claimed design (e.g., unclaimed portions, environment, boundaries, stitching, fold lines), the scope of the design disclosure was treated as unclear.

The issue was corrected by adding a broken line statement that defined the function of the broken lines shown in the drawings and clarified that the identified broken-line subject matter formed no part of the claimed design (or, where applicable, formed part of the claimed design). Rule 3.1, Rule 3.7, Rule 3.8

4.13 Improper Placement of Broken-Line Statement in the Specification

In Application 29/683,551, the Examiner objected because the broken line statement was not placed in the proper location within the specification. Broken line statements are feature descriptions and, consistent with standard design practice, should appear after the figure descriptions and before the claim statement so the disclosure reads in a conventional and organized sequence.

The issue was corrected by relocating the broken line statement so it appeared between the figure descriptions and the claim, in the proper specification order. Rule 3.6, Rule 3.17

4.14 Failure to Identify the Broken-Line Subject Matter and Define Its Claim Relationship

In Application 29/722,879, the Examiner objected because the broken line statement did not satisfy the two core requirements for broken line statements. A proper statement must (i) expressly identify what the broken lines represent (e.g., portions of the article, environment, boundaries, stitching, fold lines) and (ii) define the relationship of that identified subject matter to the claimed design by stating that it forms no part of the claimed design (or, where appropriate, forms part of the claimed design).

The issue was corrected by revising the broken line statement to expressly identify the broken-line subject matter shown in the drawings and to state, in clear claim-scope language, whether that subject matter formed part of the claimed design or formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.10, Rule 3.17

4.15 Single Broken-Line Style Assigned Multiple Meanings

In Application 29/738,155, the Examiner objected because a single broken line style was assigned multiple meanings, such as simultaneously indicating unclaimed portions of the article and unclaimed boundaries and/or environment. Assigning multiple purposes to one broken-line style was treated as contradictory and indefinite because it prevented a clear determination of what the broken lines were intended to depict and what was excluded from the claim.

The issue was corrected by revising the disclosure so that each broken-line style was mapped to a single purpose, with separate identification for each category of broken-line subject matter where multiple purposes were needed. Rule 3.3, Rule 3.12, Rule 3.17

4.16 Unnecessary Statement That the Claimed Design Is Shown in Solid Lines

In Application 29/638,654, the Examiner objected because the broken line statement included unnecessary language stating that the claimed design was shown in solid lines. Because it is already understood in design practice that solid lines depict the claimed design (absent an express contrary explanation), including this language was treated as superfluous and not an appropriate feature description.

The issue was corrected by deleting the unnecessary solid-line explanation and limiting the statement to describing the purpose of broken-line disclosure and its relationship to the claimed design. Rule 3.6

4.17 Redundant and Potentially Misleading “Unclaimed” Terminology

In Application 29/705,715, the Examiner objected because the broken line statement used redundant language, such as describing features as “unclaimed” while also stating they “form no part of the claimed design.” In addition to redundancy, “unclaimed” terminology can mischaracterize a design claim by suggesting that the design itself has “claimed” and “unclaimed” portions rather than treating broken-line subject matter as excluded from the claim.

The issue was corrected by revising the statement to use the standard formulation that identifies what the broken lines depict and states that the depicted subject matter forms no part of the claimed design, without unnecessary or potentially confusing “unclaimed” phrasing. Rule 3.6, Rule 3.10

4.18 Failure to Use the Exact Article Title in the Broken-Line Statement

In Application 29/731,713, the Examiner objected because the broken line statement used the generic term “article” rather than the exact title of the article of manufacture. Some

examiners require the statement to identify the article by its precise title so the feature description ties directly to the claim's article identification and improves public notice.

The issue was corrected by revising the statement to reference the article using the exact title and to state that the broken-line subject matter depicted portions of that titled article that formed no part of the claimed design. Rule 3.5, Rule 3.9

4.19 Improper Use of the Phrase "In Which the Design Is Embodied"

In Application 29/767,986, the Examiner objected because the broken line statement used the phrase "in which the design is embodied," which could be interpreted as implying that the claimed design was embodied in the broken-line features. This phrasing created ambiguity by suggesting that broken-line subject matter might relate to the claimed design rather than being excluded from it.

The issue was corrected by revising the statement to identify what the broken lines depicted and to state that the depicted broken-line subject matter formed no part of the claimed design, without using language that implied the design was embodied in broken lines. Rule 3.1, Rule 3.10, Rule 3.17

4.20 Nonconforming Use of Broken-Line Styles Compared to Conventional Practice

In Application 29/795,070, the Examiner objected because the broken-line conventions did not align with typical practice, where dashed broken lines ordinarily indicate unclaimed subject matter and dash-dot broken lines ordinarily indicate boundary lines. Although applicants may use varied broken-line styles, inconsistency with conventional patterns can trigger an objection where the disclosure fails to clearly identify each broken-line style and purpose.

The issue was corrected by clarifying the meaning of each broken-line style in the broken line statement and ensuring each style was consistently used and properly described as unclaimed subject matter or boundaries, as applicable. Rule 3.12, Rule 3.13, Rule 3.17

4.21 Incorrect Article Title Used in the Broken-Line Statement

In Application 29/715,708, the Examiner objected because the broken line statement did not contain the correct article title. A mismatch between the title used in the broken line statement and the application's claimed article of manufacture can create inconsistency in the specification and confusion regarding what the broken lines depict.

The issue was corrected by amending the broken line statement to include the correct article title and to describe the broken-line subject matter by reference to that title, with the appropriate "forms no part of the claimed design" relationship language. Rule 3.5, Rule 3.9

4.22 Broken-Line Statement States Only the Legal Conclusion Without Identifying What Is Shown

In Application 29/711,117, the Examiner objected because the broken line statement stated only that “broken lines form no part of the claimed design,” without expressly identifying what the broken lines depicted in the drawings. A compliant statement must identify the broken-line subject matter (e.g., portions of the titled article, environment, boundaries) and then state that the identified subject matter forms no part of the claimed design.

The issue was corrected by revising the statement to identify what the broken lines depicted and to state that the identified broken-line subject matter formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.10

4.23 Improper Use of Broken Lines to Depict Hidden Internal Parts

In Application [no application number provided], the drawings were objectionable because broken lines were used to depict internal parts, hidden planes, or surfaces that would not be visible through opaque material. Broken lines cannot be used to claim or illustrate concealed internal structure that cannot be seen in the article as manufactured and used.

The issue was corrected by revising the drawings to remove the hidden internal features from the disclosure or by depicting only visible surfaces consistent with design patent drawing requirements. Rule 3.23

4.24 Thin and Thick Broken Lines Used Without Differentiation

In Application 29/652,387, the Examiner objected because both thin and thick broken lines were used in the drawings but the broken line statement did not distinguish between them. Where multiple broken-line weights or styles are used, each must be separately identified and assigned a single purpose so the disclosure is definite and the claim scope is clear.

The issue was corrected by amending the broken line statement to distinguish between the thin and thick broken lines and to specify what each line type represented and whether each category formed part of or formed no part of the claimed design. Rule 3.3, Rule 3.12, Rule 3.17

4.25 Improper Use of “Phantom Lines” Terminology

In Application 35/510,164, and also in Application 29/743,001, the Examiner objected because the specification referred to broken lines as “phantom lines.” The term “phantom lines” is not used in current U.S. design patent practice as a defined term and can create confusion by implying the lines represent something that is not actually present rather than serving as a conventional broken-line exclusion mechanism.

The issue was corrected by revising the statement to use standard “broken lines” terminology and by describing what the broken lines depicted and how that depicted subject matter related to the claimed design. Rule 3.11

4.26 Unnecessary Language and Over-Explanation of Boundary Function

In Application 29/763,702, as well as Application 29/750,730 and Application 29/722,879, the Examiner objected because the broken line statement included unnecessary phrases or over-explained matters that did not improve claim clarity. Examples included superfluous phrases such as “in the current numbered figures” or “in the drawings,” and nonstandard boundary explanations that were better expressed using a simplified, conventional boundary formulation.

The issue was corrected by deleting unnecessary phrasing and revising boundary descriptions into standardized language that directly identified the broken-line subject matter and stated whether it formed no part of the claimed design. Rule 3.6, Rule 3.13, Rule 3.17

4.27 Ambiguity Created by Saying “Portions of the Article Not Claimed”

In Application 29/730,401, the Examiner objected because the statement “broken lines show portions of the article not claimed” could be read as excluding only some of the broken-line subject matter, rather than all of it, and therefore could imply that some broken-line features might still be claimed. This wording created indefiniteness because it did not clearly define the relationship between the broken-line subject matter and the claim.

The issue was corrected by revising the statement to identify what the broken lines depicted and to state that the depicted subject matter forms no part of the claimed design, using language that makes clear the exclusion applies to the broken-line disclosure as shown. Rule 3.1, Rule 3.7, Rule 3.8, Rule 3.17

4.28 Unnecessary Double-Reference to the Article Title and the Term “Article”

In Application 29/767,132, the Examiner objected because the broken line statement redundantly referred to the article twice by using both the exact article title and the generic term “article” in the same sentence. This phrasing was treated as unnecessary and awkward because it did not improve clarity and could be simplified by referencing only the titled article.

The issue was corrected by revising the statement to identify the broken-line subject matter solely by reference to the article title, without repeating the generic term “article.” Rule 3.6, Rule 3.9

4.29 Improper Reference to the Entire Article Rather Than “Portions”

In Application 29/767,132, the Examiner objected because the broken line statement suggested that the entire article was shown in broken lines, rather than clarifying that only portions of the titled article were shown in broken lines and excluded from the claim. Language implying the entire article is depicted in broken lines can create confusion as to what remains claimed in solid lines.

The issue was corrected by revising the statement to use the conventional “portions of the [title]” formulation and to state that the depicted portions form no part of the claimed design. Rule 3.7, Rule 3.10

4.30 Ambiguity Created by “Portions of the [Title] Shown in Broken Lines”

In Application 29/750,386, the Examiner objected because the statement “portions of the [title] shown in broken lines” could be interpreted as excluding only some of the broken-line subject matter, rather than the broken-line disclosure as a whole. This phrasing can create indefiniteness because it suggests a subset relationship that is not clearly tied to what is shown in the drawings.

The issue was corrected by revising the statement to identify what the broken lines depict and to state that the depicted broken-line subject matter forms no part of the claimed design, without language implying partial exclusion. Rule 3.1, Rule 3.7, Rule 3.17

4.31 Proper Identification of Enlarged-View Boundaries

In Application 29/791,249, the Examiner required clarification because dot-dash broken lines were used to indicate enlarged portions, and the statement needed to expressly identify those dot-dash broken lines as enlarged-view boundaries and to state they formed no part of the claimed design. Without that clarification, the function of the dot-dash broken lines could be misread as indicating claim boundaries or unclaimed subject matter.

The issue was corrected by amending the statement to specify that the dot-dash broken lines represent the boundaries of the enlarged portions and form no part of the claimed design. Rule 3.13, Rule 3.19

4.32 Improper Disclaimer of “Surfaces Not Shown”

In Application 29/774,360, the Examiner objected because the statement attempted to disclaim “surfaces not shown” in the drawings, along with interior surfaces or surfaces shown in broken lines, even though such a disclaimer was unnecessary and potentially improper. Broad disclaimers of what is “not shown” can suggest that claimed portions may be intended to be treated as unclaimed, which is inconsistent with design claim practice and can create confusion.

The issue was corrected by deleting the unnecessary disclaimer language and limiting the feature statement to describing only the broken-line disclosure actually present in the drawings and its relationship to the claimed design. Rule 3.6, Rule 3.17

4.33 Improper “Unclaimed Portions” or “Unclaimed Subject Matter” Terminology

In Application 29/704,052, and also in Application 29/753,786, the Examiner objected because the broken line statement described broken-line features as “unclaimed portions” or “unclaimed subject matter.” This terminology can mischaracterize the nature of a design claim because the claim is directed to the design for an article of manufacture, and broken lines instead indicate matter excluded from the claim by stating that it forms no part of the claimed design.

The issue was corrected by revising the statement to identify what the broken lines depict (e.g., portions of the titled article or environmental structure) and to state that the depicted

subject matter forms no part of the claimed design, without using “unclaimed” terminology. Rule 3.7, Rule 3.8, Rule 3.10

4.34 Unnecessary Statement About Relative Importance of Parts

In Application 29/715,940, the Examiner objected because the broken line statement included language stating that broken lines were not intended to indicate the relative importance of parts of the design. Because broken lines are not permitted to be used for relative-importance indications, including that language was treated as unnecessary and required to be removed.

The issue was corrected by deleting the unnecessary relative-importance language and limiting the statement to describing what the broken lines depict and their relationship to the claimed design. Rule 3.6

4.35 “Unclaimed Subject Matter” Without Express Identification of What Is Shown

In Application [no application number provided], the broken line statement was objectionable because it merely stated that the broken lines represent “unclaimed subject matter” without expressly identifying what the broken lines depict in the drawings. A compliant statement must identify the broken-line subject matter (e.g., portions of the titled article, environment, boundaries) and then define the relationship to the claimed design.

The issue was corrected by revising the statement to expressly identify what the broken lines depict and to state that the depicted subject matter forms no part of the claimed design. Rule 3.7, Rule 3.10

4.36 “Illustrate Unclaimed Environment” and Other “Illustrative Purposes” Phraseology

In Application 29/779,701, the Examiner objected because the statement described broken-line disclosure as being used to “illustrate unclaimed environment,” which did not clearly identify what the broken lines depicted and relied on “illustrative” terminology that does not itself define claim scope. Because the drawings as a whole illustrate the claim, describing broken-line disclosure as “illustrative” was treated as insufficiently definite.

The issue was corrected by revising the statement to identify what the broken lines depict (e.g., environmental structure or portions of the titled article) and to state that the identified subject matter forms no part of the claimed design, using standard broken-line language. Rule 3.10, Rule 3.11, Rule 3.17

4.37 Improper Use of “And” Instead of “That” Creating Scope Ambiguity

In Application 29/762,616, and also in Application 29/753,786, the Examiner objected because the statement used “and” in a way that created ambiguity about what formed no part of the claimed design. When “and” is used, the sentence can be read as stating only that the broken lines form no part of the claim, without clearly stating that the depicted portions of the titled

article form no part of the claimed design. Using “that” creates a restrictive clause that directly ties the excluded subject matter to what is shown in broken lines.

The issue was corrected by revising the statement to use “that” in the restrictive clause so the sentence clearly stated that the portions of the titled article shown in broken lines form no part of the claimed design. Rule 3.1, Rule 3.7, Rule 3.8

4.38 Improper Use of “Which” Instead of “That” in Essential Claim-Scope Clauses

In Application 29/752,343, the Examiner objected because the broken line statement used “which” in an essential clause describing whether broken-line subject matter forms part of or forms no part of the claimed design. Because “forms part/no part” is essential to the meaning of the statement, a restrictive clause is required, and “that” is the preferred relative pronoun for grammatical and claim-scope clarity.

The issue was corrected by replacing “which” with “that” so the statement used a restrictive clause that clearly and essentially tied the broken-line subject matter to the claim-scope relationship language. Rule 3.1, Rule 3.7, Rule 3.8

4.39 Mischaracterizing Boundary Lines as “Portions” of the Article

In Application 29/741,917, the Examiner objected because the broken line statement described boundary lines as “portions of the [title] that do not form part of the claimed design,” even though boundary lines are conventionally described as boundaries of the claim rather than as “portions” of the article. Where broken lines surround the claimed subject matter and delineate what is excluded outside the boundary, the statement must identify them as boundary lines and define their claim relationship accordingly.

The issue was corrected by revising the statement to identify the broken lines as boundaries (rather than portions of the article) and to state that the boundary lines form no part of the claimed design. Rule 3.13, Rule 3.19, Rule 3.20

4.40 Vague GUI “Elements” Terminology and Failure to Separately Describe Categories of Broken Lines

In Application [no application number provided], the broken line statement was objectionable because it used vague or open-ended terms such as “elements” to describe GUI broken-line features. In GUI and computer-generated icon applications, the statement must clearly identify the article of manufacture (e.g., “display screen or portion thereof”) and separately describe each category of broken-line disclosure (screen, bezel/device, background interface, text, icons, boundaries), rather than relying on broad terms that could imply undisclosed subject matter.

The issue was corrected by revising the statement to identify the display screen article of manufacture with precision and to separately describe each category of broken-line subject

matter using definite, drawing-tethered language, with each category mapped to a single purpose. Rule 3.9, Rule 3.10, Rule 3.12

4.41 Improperly Using Open-Ended Phrasing That Implies Additional Broken Line Meanings Elsewhere (e.g., “As Well As”)

“As well as” can imply other broken lines elsewhere have additional meanings, creating indefiniteness. See 29/919,955.
Rule 3.25, Rule 3.1, Rule 3.17

4.42 Representative Examiner Rejections and Amendments

Common patterns in these examples include: (1) failing to identify the article by exact title, (2) using non-standard terminology like “illustrative purposes,” (3) failing to distinguish between multiple broken line types, and (4) omitting broken line statements entirely.

4.43 Overbroad GUI “Elements” Language and Failure to Separate Broken-Line Purposes

In Application 29/898,134, the broken line statement was objected to because it combined multiple categories of broken-line subject matter into a single description and used the overbroad term “elements of the graphical user interface,” which did not clearly identify what the broken lines represented. The Examiner concluded that the statement failed to distinguish the broken-line perimeter of the display screen (the article of manufacture) from the broken-line GUI content shown within the screen.

To correct the problem, the Applicant amended the statement to separately identify each category of broken-line subject matter. The amended statement clarified that the outer broken line perimeter showing the display screen formed no part of the claimed design, and that the remaining broken lines showing portions of the graphical user interface also formed no part of the claimed design. Rule 3.9, Rule 3.10, Rule 3.12, Rule 3.17

4.44 Nonstandard “Dots” Used as Broken Lines

In Application 29/881,717, the broken line statement was objected to because it described “dots” as a broken-line style and did not map each broken-line depiction to a single, definite purpose. The Examiner treated the dot-style markings as nonstandard and potentially indefinite, particularly where the statement failed to specify whether the markings depicted unclaimed portions of the article or environmental subject matter.

The Applicant amended the drawings and statement to replace the nonstandard dot depiction with a conventional broken-line style and to expressly identify what the broken lines represented. The amended statement clarified that equal-length broken lines depicted portions of the article that formed no part of the claimed design and, where applicable, separately identified any broken-line environmental subject matter. Rule 3.1, Rule 3.12, Rule 3.14, Rule 3.17

4.45 Failure to Account for All Broken Lines and Mixed Meanings

In Application 29/962,439, the broken line statement was objected to because it failed to accurately describe all broken lines shown in the drawings and did not clearly separate the different meanings assigned to broken lines. The Examiner noted that the statement did not account for the person depicted in broken lines and did not clearly distinguish among (i) unclaimed portions of the article, (ii) stitching that was intended to be claimed, and (iii) unclaimed environmental subject matter.

To resolve the objection, the Applicant amended the statement to expressly identify each category of broken-line disclosure. The amended statement clarified which broken lines depicted unclaimed portions of the article, which broken lines depicted stitching that formed part of the claimed design, and which broken lines depicted a person as unclaimed environmental subject matter. Rule 3.3, Rule 3.6, Rule 3.12, Rule 3.14, Rule 3.17

4.46 Omission of a Broken Line Statement Despite Multiple Line Styles

In Application 29/984,651, the Examiner objected because no broken line statement was provided even though multiple broken line styles appeared in the drawings. The omission left the claim scope unclear, including whether certain broken-line features (such as stitching) were intended to be part of the claimed design or merely unclaimed context.

The Applicant corrected the defect by adding a broken line statement that mapped each broken line style to a single purpose. The amended statement identified the broken line style used for stitching as part of the claimed design and separately identified the broken line style used for environment as forming no part of the claimed design. Rule 3.3, Rule 3.12, Rule 3.14, Rule 3.17

4.47 Failure to Distinguish Enlarged-View Boundaries From Unclaimed Portions

In Application 29/919,177, the broken line statement was objected to because it did not clearly distinguish broken lines used to show partially enlarged views from broken lines used to depict unclaimed portions or boundary-defining lines. The Examiner concluded that the statement's description created ambiguity regarding the function of the dot-dash broken lines associated with the enlarged figures.

The Applicant amended the statement to clarify the purpose of each broken-line type. The amended statement expressly stated that the dot-dash broken lines in the specified figures were used only to show partially enlarged views and formed no part of the claimed design, while the remaining broken lines depicted unclaimed portions of the article that formed no part of the claimed design. Rule 3.12, Rule 3.13, Rule 3.17

4.48 Overly Complex Identification of Display Screen and GUI

In Application 29/896,993, the broken line statement was objected to because it combined references to the display screen and the graphical user interface in a way that was overly complex and potentially confusing as to what the broken line rectangle represented. The

Examiner treated the statement as unclear because it did not clearly identify the article of manufacture and the broken-line subject matter being excluded.

The Applicant simplified the statement to clearly identify the broken line rectangle showing the display screen and to state that the broken-line disclosure formed no part of the claimed design. The amendment removed unnecessary phrasing and clarified the intended exclusion without changing the substance of the disclaimer. Rule 3.9, Rule 3.10, Rule 3.17

4.49 Failure to Identify Boundary-Defining Broken Lines

In Application 29/894,356, the broken line statement was objected to because it failed to identify boundary-defining broken lines and did not distinguish those boundary lines from broken lines depicting unclaimed portions of the article. The Examiner concluded that the statement, as written, did not clearly communicate which broken lines defined the bounds of the claim and which broken lines disclaimed unclaimed subject matter.

The Applicant amended the statement to expressly separate the two functions. The amended statement clarified that the broken lines adjacent to the shaded areas depicted the bounds of the claimed design, while all other broken lines depicted portions of the article that formed no part of the claimed design. Rule 3.13, Rule 3.17, Rule 3.19, Rule 3.20

4.50 Nonstandard “Illustrative Purposes” Language Without Identification

In Application 29/877,742, the broken line statement was objected to because it used the phrase “for illustrative purposes only,” which did not expressly identify what the broken lines represented. The Examiner concluded that the statement failed to satisfy the requirement of expressly identifying the broken-line subject matter while also defining its relationship to the claimed design.

The Applicant amended the statement to replace the nonstandard language with a compliant identification. The amended statement clarified that the broken lines depicted portions of the article that formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.10, Rule 3.11

4.51 Failure to Separate Boundary Lines From Unclaimed Portions

In Application 29/876,153, the broken line statement was objected to because it did not distinguish broken lines that defined the bounds of the claimed design from broken lines that depicted unclaimed portions of the article. The Examiner concluded that the statement’s single description was insufficient to clarify the different roles served by broken lines in the figures.

The Applicant amended the statement to separately identify boundary-defining broken lines and unclaimed-portion broken lines. The amended statement clarified that the broken lines adjacent to shaded surfaces depicted the bounds of the claim, while the remaining broken lines depicted portions of the article that formed no part of the claimed design. Rule 3.13, Rule 3.17, Rule 3.19, Rule 3.20

4.52 GUI Statement That Fails to Distinguish Screen Border From GUI Content

In Application 29/843,654, the broken line statement was objected to because it failed to distinguish between the broken-line border of the display screen and the broken-line graphical user interface content, and because it used vague terminology such as “elements,” including text. The Examiner concluded that the statement did not clearly separate the distinct categories of broken-line disclosure and therefore created ambiguity as to claim scope.

The Applicant amended the statement to separate the display screen border from the GUI content. The amended statement clarified that the outermost broken lines showing the display screen formed no part of the claimed design, and that the remaining broken lines showing the graphical user interface also formed no part of the claimed design. Rule 3.9, Rule 3.10, Rule 3.12, Rule 3.17

4.53 Awkward Environmental Phraseology and Enlarged-View Boundaries

In Application 29/816,635, the broken line statement was objected to because it used awkward or unclear phrasing to describe environmental subject matter and did not clearly state the purpose of each broken-line type. The Examiner treated the environmental language as unnecessarily confusing, particularly in view of the separate dot-dash broken lines used to define enlarged portions.

The Applicant amended the statement to use standard, definite language. The amended statement clarified that the broken lines depicted portions of the article that formed no part of the claimed design, and separately clarified that the dot-dash broken lines represented boundaries of enlarged portions. Rule 3.13, Rule 3.14, Rule 3.17

4.54 Unnecessary Solid-Line Statement and Failure to Map Line Styles

In Application 29/762,031, the broken line statement was objected to because it unnecessarily stated that the claimed design was shown in solid lines and used “illustrative purposes only” language, without properly mapping each broken-line style to a specific function. The Examiner treated the statement as improper because it did not clearly identify what each line style represented and how each category related to claim scope.

The Applicant amended the statement to remove the unnecessary solid-line explanation and to distinctly map each broken-line type to a definite purpose. The amended statement clarified that equal-length broken lines depicted unclaimed portions that formed no part of the claimed design and that dash-dot broken lines defined claim boundaries. Rule 3.6, Rule 3.11, Rule 3.12, Rule 3.13, Rule 3.17

4.55 Broken Lines Present but No Statement Provided

In Application 29/878,530, the Examiner objected because broken lines were present in the drawings but no broken line statement was included. The absence of a statement left the function of the broken lines undefined and therefore failed to clearly delineate claim scope.

The Applicant corrected the defect by adding a standard broken line statement identifying what the broken lines represented and stating that the broken-line subject matter formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.17

4.56 Broken Lines Present but No Statement Provided

In Application 29/814,804, the Examiner objected because no broken line statement was included despite the presence of broken lines in the drawings. The omission failed to define the broken-line disclosure and therefore created ambiguity regarding whether the broken-line subject matter was intended to be excluded.

The Applicant addressed the objection by adding a broken line statement identifying the broken-line subject matter as portions of the article and stating that those portions formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.9

4.57 Vague Conditional “If Present” Language and Nonstandard Phraseology

In Application 29/905,557, the broken line statement was objected to because it used conditional “if present” language and nonstandard “illustrative purposes” wording, without expressly identifying what the broken lines depicted. The Examiner treated the statement as indefinite because it suggested uncertainty about whether broken lines existed and did not clearly define their function.

The Applicant amended the statement to remove the conditional language and to expressly identify the broken-line subject matter as portions of the titled article that formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.10, Rule 3.11, Rule 3.15

4.58 Failure to Identify the Article by Title

In Application 29/854,633, the broken line statement was objected to because it stated only that “broken lines form no part of the claimed design” without identifying the titled article to which the broken lines related. The Examiner required a statement that expressly identified what the broken lines depicted using the exact article title.

The Applicant amended the statement to identify the article by title and to clarify that the broken lines depicted portions of that titled article that formed no part of the claimed design. Rule 3.5, Rule 3.7, Rule 3.8, Rule 3.9

4.59 Mischaracterizing Unclaimed Portions as “Environmental Structure” and Mixing Line Functions

In Application 29/878,490, the broken line statement was objected to because it confusingly referred to unclaimed portions of the article as “environmental structure” and did not clearly distinguish between different broken line functions, including broken lines associated with enlarged-view boundaries. The Examiner treated the wording as unclear and inconsistent with standard broken-line practice.

The Applicant amended the statement to map each broken-line style to a single, definite purpose. The amended statement clarified that one broken-line style depicted portions of the article that formed no part of the claimed design, and that a different broken-line style depicted enlarged-view boundaries. Rule 3.10, Rule 3.12, Rule 3.17

4.60 Overly Generic “Environmental or Other Features” Description

In Application 29/973,642, the broken line statement was objected to because it described the broken lines as “environmental or other features,” which did not expressly identify what the broken lines depicted. The Examiner treated this phrasing as overly generic and inadequate to define claim scope.

The Applicant amended the statement to identify the broken-line subject matter by reference to the article title and to state that the broken lines depicted portions of that article that formed no part of the claimed design. Rule 3.7, Rule 3.8, Rule 3.10

4.61 Nonstandard “Illustrative Purposes” Phraseology

In Application 35/518,915, the broken line statement was objected to because it used “for illustrative purposes” wording and did not use standard phrasing that expressly identifies what the broken lines represent and states that those portions form no part of the claimed design. The Examiner required a clearer, compliant identification and disclaimer.

The Applicant amended the statement to replace the nonstandard phraseology with a standard broken line identification and disclaimer formulation. Rule 3.7, Rule 3.8, Rule 3.11

4.62 Failure to Identify Article, Distinguish Line Styles, or Map Functions

In Application 29/913,792, the broken line statement was objected to because it failed to identify the article of manufacture, failed to distinguish among broken line styles, and failed to state the function of each broken line type. The Examiner treated the statement as insufficient because it did not map each broken-line style to a single, definite purpose.

The Applicant amended the statement to identify the article by title and to separately describe each broken-line style. The amended statement clarified that one broken-line style depicted unclaimed portions of the article that formed no part of the claimed design, while a different broken-line style depicted enlarged-view boundaries that also formed no part of the claimed design. Rule 3.9, Rule 3.12, Rule 3.17

4.63 Indefinite “Dots” Reference, Open-Ended “As Well As,” and Mischaracterized Environment

In Application 29/919,955, the broken line statement was objected to because it was indefinite in several ways. The Examiner identified problems including (i) referring to “dots” when the only “dots” were stippling or shading rather than a broken-line style, (ii) using “as well

as” language that implied additional broken line meanings elsewhere in the disclosure, and (iii) describing environmental elements as “portions” rather than as environmental subject matter.

To correct the objection, the Applicant amended the statement to remove the open-ended phrasing, eliminate the improper “dots” reference, and expressly identify the broken-line human head depiction as unclaimed environmental subject matter that formed no part of the claimed design. Rule 3.1, Rule 3.10, Rule 3.14, Rule 3.17, Rule 3.24, Rule 3.25

5. Enforcement and Practice Notes

5.1 Broken Line Statements as Intrinsic Record Evidence

A broken line statement, once filed, becomes part of the intrinsic record of the design patent application. Courts and the USPTO may rely on broken line statements during claim construction to determine the scope of the claimed design. Because broken line statements define what is and is not claimed, they carry the same interpretive weight as the drawings themselves. A statement that is imprecise, ambiguous, or inconsistent with the drawings can narrow claim scope in ways that were not intended by the applicant.

5.2 Prosecution History Estoppel and Disclaimer

When a broken line statement is added or amended during prosecution, particularly when the amendment is made in response to a prior art rejection or a definiteness objection, the amendment may give rise to prosecution history estoppel or disclaimer. Estoppel may prevent the patent owner from asserting claim scope that was surrendered, even implicitly, through the amendment. The stated reason for the amendment (e.g., "for clarity") does not control the legal effect; courts evaluate whether claim scope was surrendered as a substantive matter. Practitioners should carefully document the purpose of any broken line amendment and consider whether the same objective can be achieved without converting solid lines to broken lines.

5.3 Infringement Analysis

Features depicted solely in broken lines are generally excluded from the scope of the claimed design and are not considered in an infringement analysis under the ordinary observer test. However, broken-line subject matter may still provide context for understanding the overall visual impression of the claimed design and may be relevant to how an ordinary observer would perceive the claimed elements in relation to the unclaimed environment. Practitioners should not assume that broken-line exclusion eliminates all significance of unclaimed features in litigation.

5.4 Validity Considerations

Broken line treatment can affect the validity of a design patent. A claimed design that is overly narrow due to unnecessary or excessive use of broken lines may be more difficult to enforce. Conversely, a design with ambiguous or inconsistent broken line usage may be vulnerable to invalidity challenges based on indefiniteness under 35 U.S.C. § 112. Broken line

statements that contradict the drawings, or that fail to account for all broken line styles used, may also provide grounds for challenging the definiteness of the claim.

5.5 Pre-Filing Strategy

The most effective broken line practice begins before filing. Practitioners should identify at the outset which portions of the article are intended to be claimed and which are to be disclaimed, and should design the drawings accordingly. Relying on post-filing amendments to introduce or convert broken lines increases prosecution risk, may constitute new matter under 35 U.S.C. § 132, and creates potential estoppel issues. Where broader protection is desired, filing continuation applications with different broken line configurations is preferable to amending broken lines in the parent application.

5.6 Continuation and Divisional Strategy

Because broken line treatment directly defines claim scope, practitioners should consider filing continuation or divisional applications to pursue alternative claiming strategies without affecting the prosecution history of the parent. A continuation may claim a broader or narrower portion of the same article using different broken line configurations, provided the original disclosure supports the alternative claim. This approach preserves flexibility without risking estoppel in the parent application.

5.7 Consistency Across Related Applications

When a design patent family includes multiple related applications such as a parent and one or more continuations, broken line statements across the family should be reviewed for consistency. Inconsistent broken line usage or conflicting statements across related applications can create ambiguity regarding the intended scope of each claim and may complicate enforcement or licensing.

Appendix 1
(Broken Line Statement (BLS) Evaluation Checklist)

1. Presence and Placement

- Do the drawings contain broken lines? If yes, a BLS is included. If no, no BLS is included.
- Is the BLS placed between the figure descriptions and the claim per 37 CFR 1.154?

2. Required Core Elements

- Does the BLS expressly identify what is represented by each type of broken line (e.g., portions of [title], environment to [title], boundaries, stitching, fold lines, etc.)?
- Does the BLS define the relationship to the claimed design using the phrase “that form no part of the claimed design”?
- If multiple styles of broken lines are used (dash-dash, dash-dot, thick, thin), does the BLS distinguish between them?
- Is the exact title of the article used instead of “article” or a generic term?

3. Language Rules

- No use of the phrase “for illustrative purposes only.”
- No use of “environmental” without “environment to the [title].”
- No use of “unclaimed portions” or “unclaimed subject matter.”
- No use of “phantom lines.”
- No use of “in which the design is embodied.”
- No unnecessary phrases like “in the drawings” or “in the current figures” unless essential for clarity.
- Uses “that” instead of “which” or “and” when describing portions that form no part of the claimed design.
- Avoids redundant phrases such as “unclaimed subject matter” plus “that form no part of the claimed design.”

4. Content Accuracy

- No broken line type is assigned multiple meanings (e.g., both environment and boundary).
- No reference to internal parts of an article in broken lines.
- No implication that only portions of the broken line features are unclaimed (must be all of them).
- No description of what is not shown in the drawings as forming no part of the claimed design.
- For enlarged areas, does the BLS clearly identify the boundaries as such?

- For boundary lines, is the description accurate (not described as “portions of the [title]”)?
- If stitching or fold lines are claimed, are they properly described in the broken line statement?
- If environmental structure is shown, is it identified as “environment to the [title]”?
- If the design is partial, do broken lines clearly distinguish unclaimed portions from claimed boundaries?
- If boundary lines create negative space, is the scope unambiguous?

5. Drawing Cross-Check

- Every style of broken line in the drawings is accounted for in the BLS.
- The visual use of each broken line style matches the stated purpose.
- Broken lines are consistent in length, thickness, and spacing throughout all figures.
- Broken lines do not merge with solid lines.
- No shading is used within unclaimed surfaces shown in broken lines.
- No legends, arrows, or indicators are used to identify claimed vs. unclaimed portions.
- Broken lines are not used to show relationships between two parts of the claimed design.
- No “dots” are used to indicate unclaimed matter. If present, convert to equal-length broken lines.
- If a boundary is intended, confirm a broken-line boundary appears in the drawings and is identified in the broken line statement.
- Broken lines are not heavier or more prominent than solid lines.
- Line Weight: Are broken lines visually distinct from solid claim lines in weight and clarity to ensure accurate reproduction and OCR processing?
- Shading Check: Have all surface shading lines been removed from regions shown entirely in broken lines?

Appendix 2
(Broken Line Statement Questions and Answers)

Q1. What is the purpose of broken lines in a design patent drawing?

A: Broken lines are used to depict subject matter that is not claimed as part of the design, such as environmental structure, unclaimed portions of the article, boundaries, or context necessary to understand the claimed ornamental design.

Q2. Are broken lines automatically excluded from the claim without a written statement?

A: No. Best practice, and often required practice, is to include an express broken line statement clarifying that broken-line subject matter forms no part of the claimed design to avoid ambiguity or objection.

Q3. Where must the broken line statement appear in the specification?

A: The broken line statement must appear in the FEATURE DESCRIPTION section of the specification.

Q4. May the broken line statement appear in the preamble?

A: No. The preamble should not include claim-scope disclaimers or descriptive statements regarding broken lines.

Q5. May the broken line statement appear in the description of the figures?

A: No. The description of the figures should describe what each figure shows, not define claim scope or disclaim unclaimed subject matter.

Q6. May the broken line statement appear in the claim?

A: No. The claim must remain limited to the formal claim language and should not contain explanatory statements regarding broken lines.

Q7. What is acceptable language for a broken line statement?

A: Standard language includes formulations such as:
“The broken lines show portions of the [title] that form no part of the claimed design.”

Q8. Must the broken line statement identify what the broken lines represent?

A: Yes. The statement should specify whether broken lines depict unclaimed portions of the article, environmental structure, boundary lines, or other contextual elements.

Q9. Can broken lines be used to show environmental structure?

A: Yes. Broken lines are commonly used to depict environmental or surrounding structure, provided it is clearly identified as unclaimed.

Q10. Can broken lines be used to define a boundary of the claimed design?

A: Yes, but only where the boundary is clearly supported by the drawings and explained in the broken line statement without introducing new matter.

Q11. Can broken lines be used to disclaim functional elements?

A: Broken lines may exclude elements from the claim, but they cannot be used to retroactively recharacterize functional subject matter inconsistently with the original disclosure.

Q12. Are broken lines required when environmental structure is shown?

A: Yes. Environmental structure should generally be shown in broken lines to avoid unintentionally claiming it.

Q13. Is it permissible to add broken lines during prosecution?

A: Only if the broken-line treatment is clearly supported by the originally filed drawings. Otherwise, the amendment may constitute new matter.

Q14. Does converting solid lines to broken lines narrow the claim?

A: Often yes. Converting solid lines to broken lines is commonly treated as a narrowing amendment with potential prosecution history consequences.

Q15. Does stating that broken lines are added “for clarity” avoid estoppel?

A: No. Courts and examiners evaluate the substantive effect of the amendment, not the stated rationale.

Q16. Can broken line amendments give rise to prosecution history estoppel?

A: Yes. If the amendment surrenders claim scope to overcome a rejection, it may support estoppel or disclaimer.

Q17. Should broken line amendments be avoided when possible?

A: Yes. Where feasible, arguing inherent disclosure or overall visual impression may preserve broader claim scope.

Q18. Can broken lines be added in a continuation application instead?

A: Yes. Continuation practice may allow different claiming strategies without surrendering scope in the parent application.

Q19. What happens if the broken line statement is inconsistent with the drawings?

A: Inconsistency typically results in a formal objection requiring correction and may delay prosecution.

Q20. Can broken lines be used inconsistently across figures?

A: No. Inconsistent line treatment across figures often triggers objections and creates claim-scope ambiguity.

Q21. Do broken line statements affect claim construction?

A: Yes. Broken line statements are part of the intrinsic record and may be relied upon during claim construction.

Q22. Can broken lines affect infringement analysis?

A: Yes. Features shown only in broken lines are generally excluded from the scope of infringement.

Q23. Can broken lines be used to exclude color or surface treatment?

A: Broken lines may exclude structure, but color or surface treatment exclusions are typically addressed through separate statements in the specification.

Q24. Should broken line statements be updated after drawing amendments?

A: Yes. Any change in line treatment requires review and, if necessary, revision of the broken line statement.

Q25. Are broken line statements considered purely formal?

A: No. Broken line practice directly affects claim scope and enforceability and should be treated as substantive.

Q26. Can broken lines be used to show alternative embodiments?

A: Generally no. Alternative embodiments should be claimed through separate applications or figures, not disclaimed through broken lines.

Q27. Can broken lines be used to show internal features?

A: Yes, but only if the internal features are not claimed and their depiction does not create ambiguity regarding the claimed design.

Q28. Do broken line statements interact with new matter rules?

A: Yes. Improper broken line amendments may introduce new matter under 35 U.S.C. § 132.

Q29. Should broken line strategy be considered at filing?

A: Yes. Early planning of broken line usage can avoid later narrowing amendments.

Q30. Can broken lines be used to show unclaimed portions of a partial design?

A: Yes. Broken lines are commonly used to show the remainder of the article when claiming only a portion.

Q31. Is a broken line statement required in partial design applications?

A: Yes. Partial designs almost always require a clear broken line statement to define claim scope.

Q32. Can broken lines be used to avoid restriction requirements?

A: Not reliably. Restriction practice depends on the examiner's assessment of distinct designs, not merely line treatment.

Q33. Do examiners enforce broken line rules mechanically?

A: Yes. Examiners routinely issue formal objections for improper placement, wording, or inconsistency.

Q34. Should practitioners argue broken line objections?

A: Generally no. Broken line objections are usually cured by correction, not argument.

Q35. Can broken lines affect continuation and divisional strategy?

A: Yes. Broken line treatment in a parent application may influence the scope and viability of related applications.

Q36. When should I use "environment to the [title]" vs. "portions of the [title]"?

A: Use "environment to the [title]" when broken lines show separate objects or context (e.g., a hand holding the article, a display stand, background elements). Use "portions of the [title]" when broken lines show parts of the article itself that are not claimed.

Q37. Can I show the same article multiple times in one application?

A: Yes. When showing multiple instances of the same article (e.g., a pair of shoes), one instance is typically the claimed design (solid lines) and additional instances are environment (broken lines) showing context or use.

Q38. How do I handle stitching that is both functional and ornamental?

A: If stitching contributes to the ornamental appearance, show it in solid lines or broken lines identified as "stitching that form part of the claimed design." If purely functional or structural, show in broken lines as unclaimed portions.

Q39. What if my broken line statement was initially wrong but the examiner didn't object?

A: You may still correct it via amendment. However, be cautious of substantive changes that might be viewed as narrowing amendments with prosecution history implications.

Appendix 3 (Limitations of this ProGuide)

This ProGuide addresses the proper form, common rejections, and recommended language for broken line statements (BLS) in U.S. design patent applications. It is intended as a reference for preparing and evaluating BLS language based on USPTO practice, MPEP guidance, and prosecution history examples. It does not evaluate or analyze the actual drawing figures of a design application.

Because the ProGuide does not review drawings, it cannot:

Detect whether the drawings contain broken lines that are not described in the BLS;

Identify whether multiple types of broken lines (e.g., dash–dash, dash–dot, thick vs. thin) appear in the drawings without being addressed in the BLS;

Determine whether the visual style, length, spacing, or weight of broken lines in the drawings matches the descriptions in the BLS;

Identify whether broken lines merge into solid lines in the drawings, creating ambiguity.
Detect improper use of broken lines to show hidden planes, shading, or internal parts;

Confirm whether claimed stitching or fold lines are depicted correctly in solid lines or broken lines.

The ProGuide also cannot detect:

Whether the article title used in the BLS exactly matches the application’s official title in the specification;

Whether the BLS omits environmental subject matter that is present in the drawings;

Whether a BLS description conflicts with examiner preferences or idiosyncratic USPTO practices in a particular art unit;

Whether broken line usage complies with special rules for computer-generated icons, GUIs, or multiple-article claims.

This ProGuide does not determine whether a particular broken-line amendment gives rise to prosecution history estoppel, disclaimer, or other litigation-related scope limitations, which depend on case-specific facts and judicial interpretation.

Accordingly, this ProGuide should be used together with a careful manual review of the actual drawing figures, the specification, and any applicable examiner guidance. It is a tool for identifying likely issues in BLS wording, not for confirming complete compliance with USPTO requirements.

This ProGuide also does not cover every possible broken line statement scenario that may arise. It is updated periodically to address new or less common BLS issues as they are identified in practice.

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

A. 1503.01(II) Description

No description of the design in the specification beyond a brief description of the drawing is generally necessary, since as a rule the illustration in the drawing views is its own best description. *In re Freeman*, 23 App. D.C. 226 (App. D.C. 1904). While not required, such a description is not prohibited and may be incorporated, at applicant's option, into the specification or may be provided in a separate paper. *Ex parte Spiegel*, 1919 C.D. 112, 268 O.G. 741 (Comm'r Pat. 1919). Descriptions of the figures are not required to be written in any particular format, however, if they do not describe the views of the drawing clearly and accurately, the examiner should object to the unclear and/or inaccurate descriptions and suggest language which is more clearly descriptive of the views.

(A) In addition to the figure descriptions, the following types of statements are permissible in the specification:

(3) Statement indicating the purpose of broken lines in the drawing, for example, environmental structure or boundaries that form no part of the design to be patented.

B. 1503.01 (III) Design Claim

Full lines in the drawing show the claimed design. Broken lines are used for numerous purposes. Under some circumstances, broken lines are used to illustrate the claimed design (i.e., stitching and fold lines). Broken lines are not permitted for the purpose of identifying portions of the claimed design which are immaterial or unimportant. *See In re Blum*, 374 F.2d 904, 907, 153 USPQ 177, 180 (CCPA 1967) (there are "no portions of a design which are 'immaterial' or 'not important.' A design is a unitary thing and all of its portions are material in that they contribute to the appearance which constitutes the design."). *See also* MPEP § 1503.02, subsection III.

C. 1503.02 Drawing

37 C.F.R. 1.152 Design drawings. The design must be represented by a drawing that complies with the requirements of § 1.84 and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the design. Appropriate and adequate surface shading should be used to show the character or contour of the surfaces represented. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces that cannot be seen through opaque materials. Alternate positions of a design component, illustrated by full and broken lines in the same view are not permitted in a design drawing. Photographs and ink drawings are not permitted to be combined as formal drawings in one application. Photographs submitted in lieu of ink drawings in design patent applications must not disclose environmental structure but must be limited to the design claimed for the article.

D. 1504.01(a) Computer-Generated Electronic Images

The complete disclosure must be considered when evaluating a design claim that includes a computer-generated electronic image. More specifically, USPTO personnel must read the disclosure to determine what is claimed as the design and whether the design is embodied in an article of manufacture. USPTO personnel must:

(C) Review the drawing to determine whether a display panel, or a portion thereof, is shown in sufficient views to fully disclose the design as embodied in the article.

(1) If the drawing does not depict a computer icon or a GUI embodied in a display panel, or a portion thereof, in either solid or broken lines, reject the claimed design under 35 U.S.C. 171 for failing to comply with the article of manufacture requirement.

E. 1504.01(b) Design Comprising Multiple Articles or Multiple Parts Embodied in a Single Article

While the claimed design must be embodied in an article of manufacture as required by 35 U.S.C. 171, it may encompass multiple articles or multiple parts within that article. *See Ex parte Gibson*, 20 USPQ 249 (Bd. App. 1933). When the design involves multiple articles, the title must identify a single entity of manufacture made up by the parts (e.g., set, pair, combination, unit, assembly). A descriptive statement should be included in the specification making it clear that the claim is directed to the collective appearance of the articles shown. If the separate parts are shown in a single view, the parts must be shown embraced by a bracket "}". The claim may also involve multiple parts of a single article, where the article is shown in broken lines and various parts are shown in solid lines. In this case, no bracket is needed. *See* MPEP § 1503.01.

F. 1509 Reissue of a Design Patent

If a drawing view includes both a cancelled and amended version, and the change in the amended version is for the purpose of converting certain solid lines to broken lines, the reissue specification must include a statement indicating the purpose of the broken lines.