

Design Patent ProGuide – Nature and Intended Use Statements  
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Quick Reference Guide

DO:

Use a nature and intended use statement only when the title and drawings do not clearly identify a well-understood article of manufacture

Draft the statement to resolve examiner uncertainty for classification and prior art searching

Keep the statement concise, factual, and consistent with what is visually disclosed

Describe the article as an article *for* a particular environment or use, not as performing functions

Ensure consistency between the title, drawings, claim, and nature and intended use statement

Include the statement at filing whenever possible to avoid new-matter issues

Assume the statement will be scrutinized under §112(a) and §112(b) for enablement and clarity

DON'T:

Don't merely restate the title without adding clarifying context

Don't introduce alternative uses, configurations, or variability not evident from the drawings

Don't use the statement to cure drawing-based indefiniteness or inconsistencies

Don't describe how the article works internally or performs functions

Don't broaden claim scope beyond what is visually enabled

Don't conflate design-patent concepts with utility-patent functionality

Don't add unsupported detail after filing

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## 1. Introduction and Theory

Nature and intended use statements play a limited but important role in U.S. design patent prosecution. Although a design patent claims only the ornamental appearance of an article of manufacture, the USPTO must understand *what the article is* and *the context in which it is used* in order to properly classify the application and conduct an effective prior art search.

Where the title and drawings clearly identify a well-understood article of manufacture, no separate nature and intended use statement is required. However, when the title is overly broad, generic, or ambiguous, and the drawings alone do not clearly convey the article's identity or use, examiners routinely require a nature and intended use statement to resolve that uncertainty.

Although 35 U.S.C. §112(a) and §112(b) apply to design patents, enablement and definiteness in the design context are satisfied primarily through the drawings, not through narrative description. Nature and intended use statements serve a supplementary role by clarifying the identity and context of the article of manufacture for classification and searching purposes. They do not replace, and cannot substitute for, a complete and consistent visual disclosure.

These statements are not an opportunity to explain function, articulate advantages, or expand the scope of the claimed design. Their purpose is procedural and classificatory: to provide just enough context to allow the examiner, the public, and later courts to understand the article of manufacture to which the claimed design is applied. Improperly drafted statements may introduce indefiniteness, enablement concerns, or impermissible breadth under 35 U.S.C. §§112(a) and 112(b).

This ProGuide addresses nature and intended use statements as they arise in design patent prosecution, with emphasis on examiner practice, recurring objections, and common drafting errors observed in prosecution histories.

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

## 2. Recommended Form

### 2.1 Standardized Introductory Language

Use neutral phrasing such as: “The nature and intended use of the article in which the design is embodied is ...”

### 2.2 Environmental and Contextual Descriptions

Identify the environment or context of use without describing internal operation or performance.

### 2.3 Consistency with Title and Claim

Ensure the statement aligns precisely with the title and the claim language (“a design for an article”).

### 2.4 Avoidance of Functional Verbs

Avoid verbs implying operation, performance, or utility-patent functionality.

### 2.5 Ornamental Versus Functional Language

Nature and intended use statements must be drafted in ornamental, article-identifying terms and should avoid language suggesting that the design is dictated by function. Statements that emphasize performance, operation, or utilitarian advantage risk conflating design-patent protection with utility-patent concepts and may invite unnecessary scrutiny regarding functionality or claim scope.

### 2.6 Illustrative Examples of Acceptable and Unacceptable Statements

Acceptable Examples:

- “The nature and intended use of the article in which the design is embodied is a floor register trap configured for installation within a floor vent opening to capture debris.”
- “The nature and intended use of the article in which the design is embodied is a toilet cabinet for mounting within a bathroom environment.”

Unacceptable Examples:

- “A device for sensing and/or testing.” (Overly broad; mere restatement of title.)
- “A multi-purpose container for storing liquids or solids.” (Introduces alternative uses not visually supported.)
- “A sensor that detects motion by analyzing infrared signals.” (Improper functional operation language.)

The primary concern with “multi-purpose” or similar language is indefiniteness. Where the drawings do not visually convey a specific, identifiable use, such language prevents the examiner from determining the appropriate field of search and renders the scope of the claimed article ambiguous.

These examples are illustrative only. Acceptable phrasing depends on the drawings, title, and prosecution context of the specific application. *See also* Section 3.7 for additional comparison examples distinguishing functional from ornamental language.

## 2.7 Functional Versus Ornamental Language (Comparison Examples)

### Functional Language (Avoid)

### Ornamental/Article-Identifying Language (Preferred)

“A device that measures temperature.” “A temperature gauge for wall mounting.”

“A container that preserves freshness.” “A storage container for kitchen use.”

“An apparatus for filtering water.” “A water filter housing for under-sink installation.”

Functional phrasing emphasizes operation or performance and risks conflating design-patent protection with utility-patent concepts. Ornamental phrasing identifies the article and its context without describing how it works.

## 2.8 Placement in the Preamble or Specification

Under 37 C.F.R. §1.154, a nature and intended use statement may be included in the preamble, if one is used, or elsewhere in the specification. Placement in the preamble is a common and regulatorily supported approach, but the substantive requirements and risks associated with the statement are the same regardless of location.

## 3. Rules and Guidance for Nature and Intended Use Statements

### 3.1 Resolving Ambiguity Created by Broad or Generic Titles

When the title alone does not identify a well-understood article of manufacture, the examiner cannot speculate as to what the article is or how it is used. In such circumstances, the USPTO requires a nature and intended use statement to resolve uncertainty for classification and prior art searching. Failure to provide such clarification may support a rejection under 35 U.S.C. §§112(a) and 112(b), even where the drawings are otherwise complete, because the Office lacks sufficient information to conduct a meaningful search.

### 3.2 Prohibition on Mere Restatement of the Title

A nature and intended use statement must add clarifying context. Merely repeating the title in narrative form does not satisfy the requirement for a nature and intended use statement. Where the drawings do not clearly convey how or where the article is used, the statement must provide contextual information sufficient to enable proper classification and searching. Renaming the article without adding environmental or use-based context fails to resolve examiner uncertainty and is routinely found insufficient.

### 3.3 No Introduction of Alternative Uses or Variability

The statement may not suggest alternative uses, environments, or configurations that are not visually supported by the drawings. Statements suggesting alternative uses, configurations, or functional variability not evident from the drawings impermissibly broaden the scope of the claimed design. Because a design claim may not extend beyond what is visually shown in the

drawings, language implying multiple uses or adaptable functionality invites conjecture and may render the claim indefinite.

### 3.4 Required Where Use is Not Apparent from Appearance Alone

Even with complete drawings, a statement is required where a person of ordinary skill could not determine the article's use from its appearance alone. Enablement requires understanding what the article is for. Where the article's use cannot be discerned from its appearance alone, the specification must supply that information. Absent such clarification, the examiner cannot determine the appropriate field of search, and the claim may be rejected notwithstanding otherwise consistent drawings.

### 3.5 Procedural Flexibility and Separate Papers

Where supported by the original disclosure, the USPTO may permit submission of a nature and intended use statement in a separate paper to avoid new-matter issues. The USPTO permits this procedural flexibility to resolve classification and search issues early in examination. However, any nature and intended use statement submitted in a separate paper must be fully supported by the original disclosure and must not introduce new matter or unsupported detail.

Clarifying nature and intended use statements that merely explain what is already visually disclosed in the drawings are generally not treated as new matter. New-matter concerns arise only where the statement introduces substantive information about the article, its structure, or its use that is not reasonably supported by the original visual disclosure.

### 3.6 Cannot Cure Drawing-Based Indefiniteness

A nature and intended use statement cannot substitute for clear and consistent drawings and cannot cure drawing-based indefiniteness. Understanding the use of an article does not cure an inability to understand what is being shown. Where drawings contain inconsistencies, ambiguity, or missing structure, those defects must be corrected directly. A nature and intended use statement cannot compensate for unclear or incomplete visual disclosure.

### 3.7 Design Must Be *For* an Article of Manufacture

Statements must reinforce that the claim is directed to a design *for* an article of manufacture, not the article's functional operation. Overly functional phrasing risks conflating design-patent and utility-patent concepts. Nature and intended use statements must be drafted to reinforce that the claim is directed to a design *for* an article of manufacture under 35 U.S.C. §171, not to the article's performance, operation, or functional behavior.

### 3.8 USPTO Telephone Inquiry Practice

The USPTO's stated policy is to attempt to resolve questions regarding the nature and intended use of the claimed design through a telephone inquiry at the time of initial docketing, prior to substantive examination. Practitioners may receive such inquiries from technical support

staff or an examiner. Prompt and accurate responses can facilitate proper classification and may prevent early objections or §112 rejections. Practitioners should be prepared to briefly describe the article's identity, environment of use, and how the drawings depict these features.

### 3.9 Examiner May Require “Nature and Intended Use” to Enable a Proper Prior Art Search (and May Request Search-Assistance Information)

When the claimed article title is so broad that it prevents a focused analogous-art search (e.g., “testing device,” “analyzer,” “sensor”), the examiner may require the applicant to provide a sufficient explanation of the nature and intended use of the article in which the design is embodied or applied. The examiner may also request additional search-assistance information (if available), such as analogous fields of search, pertinent prior art, advertising brochures, and whether a co-pending utility application exists (including its application number).

Source: Application 29/932,657 – examiner required a “sufficient explanation of the nature and intended use” and specifically requested analogous fields of search, pertinent prior art, advertising brochures, and the application number of any co-pending utility application.

## 4. Application of Rules and Guidance to Examiner Objections and Rejections

This section provides representative examples of how examiner objections and rejections arise in practice when the nature and intended use of the article of manufacture is unclear or improperly described. Each example is drawn from an actual prosecution history and illustrates how the objection was typically cured through amendment.

### 4.1 Failure to Clarify the Article of Manufacture Where Title Is Broad

In Application 29/997,158, the Examiner objected that the title and drawings did not clearly identify the article of manufacture, preventing proper classification and a meaningful prior art search. The Examiner required clarification of what the design was applied to, because the disclosure was too generic to determine the appropriate field of search. The Applicant cured the objection by adding a nature and intended use statement clarifying that the design was embodied in a toilet cabinet configured for mounting within a bathroom environment, thereby resolving the classification uncertainty without introducing functional detail. Rule 3.1, Rule 3.4, Rule 3.5.

### 4.2 Mere Restatement of Title Found Insufficient

In Application 29/997,158, the Examiner objected that the nature and intended use statement merely restated the title and failed to provide any clarifying context regarding how or where the article was used. The Examiner concluded that the statement did not assist classification or searching because it added no meaningful information beyond the title itself. The Applicant cured the objection by amending the statement to specify the installation environment and contextual use of the article, thereby providing sufficient clarification for classification without broadening the scope of the claimed design. Rule 3.2, Rule 3.1, Rule 3.4.

#### 4.3 Improper Introduction of Unsupported Alternative Uses

In Application 29/898,859, the Examiner objected that the nature and intended use statement improperly suggested multiple alternative uses not supported by the drawings, thereby introducing ambiguity as to what article was actually being claimed. The Examiner treated the statement as impermissibly broad because it implied variability or multiple intended applications that were not visually enabled. The Applicant cured the objection by narrowing the statement to a single use consistent with the drawings and removing the unsupported alternative-use language. Rule 3.3, Rule 3.7.

#### 4.4 Use Not Apparent From Drawings Alone

In Application 29/861,508, the Examiner objected that the drawings depicted an abstract structure with no visually apparent use or context, making it impossible to determine the nature of the article from appearance alone. The Examiner required clarification because the Office could not reasonably identify the proper field of prior art searching based solely on the drawings. The Applicant cured the objection by adding a concise nature and intended use statement identifying the article as a floor register trap configured to capture debris entering a floor vent opening, thereby providing sufficient context without describing functional operation beyond what was necessary for classification. Rule 3.4, Rule 3.1, Rule 3.7.

#### 4.5 Attempted Cure of Drawing-Based Indefiniteness Through Narrative

In Application 29/997,158, the Examiner objected that the Applicant attempted to resolve ambiguity in the disclosure by adding an expanded nature and intended use statement, rather than correcting the drawings themselves. The Examiner treated the narrative explanation as insufficient because a nature and intended use statement cannot substitute for clear and consistent visual disclosure. The Applicant cured the objection by first correcting the drawing inconsistencies and then submitting a concise nature and intended use statement consistent with the corrected drawings, thereby resolving the examiner's concern without introducing new matter or unsupported explanation. Rule 3.6, Rule 3.5, Rule 3.7.

#### 4.6 Examiner Request for Search-Assistance Clarification Due to Overly Broad Article Identification

In Application 29/932,657, the Examiner required the Applicant to provide a sufficient explanation of the nature and intended use of the article because the title and claim posture were so broad that the Examiner could not determine the appropriate analogous art search field. The Examiner specifically requested clarification of the article's identity and use context, and also requested search-assistance information such as analogous fields of search, pertinent prior art, advertising brochures, and whether a co-pending utility application existed. The Applicant addressed the issue by providing a clarifying nature and intended use explanation that identified the article in non-functional, article-defining terms sufficient to enable an accurate prior art search. Rule 3.9, Rule 3.1, Rule 3.4.

5. Practice and Enforcement Notes

5.1 Nature and intended use statements are highly context-dependent and examiner practice may vary based on the article type, complexity, and classification needs.

## Appendix 1 (Checklist)

### Necessity and Scope

- A nature and intended use statement is included only where the title and drawings do not clearly identify a well-understood article of manufacture
- The statement resolves examiner uncertainty regarding the identity of the article for classification and searching purposes
- The statement does not suggest multiple articles, alternative uses, or different environments

### Consistency With Visual Disclosure

- The statement is fully supported by the drawings and does not introduce unsupported detail
- No attempt is made to clarify unclear or inconsistent drawings through narrative description
- The statement does not imply structural features or configurations not shown in the drawings

### Drafting and Language

- The statement uses neutral, article-identifying language (e.g., “the article in which the design is embodied”)
- The statement avoids functional verbs describing operation, performance, or internal mechanics
- The statement reinforces that the claim is directed to a design for an article of manufacture, not the article itself
- The statement does not use “and/or” or other disjunctive language that could create ambiguity as to whether one or multiple articles or uses are claimed

### Procedural Compliance

- The statement was included at filing where possible, or later added only to clarify what was already disclosed
- Any post-filing statement does not introduce new matter
- The statement is consistent with the title, claim language, and overall prosecution posture
- If submitted after filing, confirmed that the statement merely clarifies what is already shown in the drawings
- Statement reviewed to ensure it does not create unnecessary prosecution history or estoppel risk

## Risk Review

- The statement does not broaden claim scope beyond what is visually enabled
- The statement would not reasonably be interpreted as dictating the design by function
- The statement would not create ambiguity if later cited during prosecution, appeal, or litigation

Appendix 2  
(Questions and Answers)

Q1: When is a nature and intended use statement actually required in a design patent application?

A: A nature and intended use statement is typically required only where the title is broad or generic *and* the drawings do not clearly convey the identity or use of the article of manufacture. Where the article is well understood from its appearance and title, no separate statement is generally necessary.

Q2: Can a nature and intended use statement merely restate the title of the design?

A: No. Merely repeating the title does not resolve examiner uncertainty where the drawings fail to convey how or where the article is used. The statement must add clarifying context sufficient to enable proper classification and prior art searching.

Q3: How specific should a nature and intended use statement be?

A: The statement should be specific enough to identify the article and its general context of use, but no more detailed than necessary. Overly detailed or expansive descriptions risk introducing functional language, alternative uses, or unsupported scope beyond what is visually disclosed.

Q4: Can a nature and intended use statement describe how the article works?

A: No. Nature and intended use statements should identify the article and its context, not its operation, performance, or internal function. Functional explanations risk conflating design-patent and utility-patent concepts and may invite objections or unnecessary scrutiny.

Q5: Are nature and intended use statements considered part of the claimed design?

A: No. The claimed design is defined by the drawings. Nature and intended use statements serve a procedural role in clarifying the article of manufacture for classification and searching purposes and do not expand or replace the visual disclosure.

Q6: Can a nature and intended use statement introduce new matter?

A: Clarifying statements that merely explain what is already visually disclosed are generally not treated as new matter. New-matter concerns arise only where the statement introduces substantive information not reasonably supported by the original drawings.

Q7: What if the examiner's understanding of the article's nature or use differs from the applicant's?

A: Disagreements are typically resolved through amendment of the nature and intended use statement, provided the clarification remains consistent with the drawings. Where necessary, applicants may also amend the title to align with the clarified understanding of the article.

Q8: Can there be more than one nature and intended use statement for a single design?

A: Generally no. A single design claim should correspond to a single article of manufacture. Statements suggesting multiple articles, alternative uses, or different environments risk indefiniteness or improper claim breadth.

Q9: Does a nature and intended use statement affect claim scope or infringement analysis?

A: In most cases, no. Claim scope and infringement are determined primarily by the drawings under the ordinary observer test. Nature and intended use statements typically have limited relevance beyond clarifying the article of manufacture.

Q10: Can a nature and intended use statement cure unclear or inconsistent drawings?

A: No. Narrative clarification cannot substitute for a clear and consistent visual disclosure. Drawing defects must be corrected directly; a nature and intended use statement cannot cure drawing-based indefiniteness.

Q11: How should practitioners handle designs for articles that may appear multi-functional?

A: The statement should identify the article in a manner consistent with what is visually shown and avoid suggesting multiple functions or alternative uses. Where the drawings depict a single, visually unified article, the statement should reflect that unity rather than enumerate possible functions.

Q12: Should I include a nature and intended use statement even when it is not strictly required?

A: There is generally no harm in including a concise and accurate statement when it clearly aligns with the drawings and title, and it may facilitate examination. However, unnecessary detail should be avoided, as it may complicate prosecution or create avoidable prosecution history.

Q13: Does a nature and intended use statement affect the ordinary observer analysis?

A: Generally, no. The ordinary observer test focuses on the overall visual appearance of the claimed design. However, identification of the article of manufacture defines the field of comparison, which is a necessary threshold step in both anticipation and infringement analyses. *See Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665 (Fed. Cir. 2008) (en banc) (discussing

article of manufacture as threshold issue). Nature and intended use statements may therefore inform the context of comparison without defining ornamentality or claim scope.

Q14: Can I include multiple nature and intended use statements for different aspects or components of the same article?

A: No. A design patent application claims a single ornamental design for a single article of manufacture, and the nature and intended use statement should reflect that unity. Even where an article comprises multiple components or has modular elements, the statement should identify the article as a whole and describe its unified purpose or context of use.

If the drawings depict what appears to be multiple distinct articles or separable components that serve independent functions, the examiner may object that the application lacks unity of design or attempts to claim more than one design. In such cases, the proper response is typically to clarify through amendment that the drawings depict a single article, or to file a divisional application for each distinct design.

Where an article is inherently modular or configurable (such as a multi-piece furniture system or a kit), the statement should still identify it as a single article with a unified purpose, such as "a modular shelving system for residential storage" rather than attempting to separately describe each component's nature and use. Avoid language that suggests the components are independent articles rather than parts of a unified whole.

If uncertainty exists as to whether the claimed design comprises one article or multiple articles, consult the drawings and claim language carefully. The claim should read "The ornamental design for [a single article], as shown and described," and the nature and intended use statement must align with that singular article identity.

Q15: How should I respond if the examiner's telephone inquiry or office action suggests they have misunderstood the nature or use of my design?

A: Respond promptly and clearly to correct the misunderstanding, ensuring your response is consistent with the original visual disclosure. Misunderstandings often arise during initial classification when the title is broad and the drawings depict an unfamiliar or specialized article.

For telephone inquiries: Provide a concise, accurate verbal explanation of what the article is and how it is used, referencing specific drawing figures where helpful. Offer to submit a written nature and intended use statement if the examiner indicates this would assist with classification. Document the substance of the conversation in your file.

For written office actions: Respond by amending the specification to add or clarify the nature and intended use statement, ensuring the amendment does not introduce new matter. If the examiner has misidentified the article (for example, classifying a "floor register trap" as generic "hardware"), your response should:

1. Acknowledge the examiner's position

2. Clarify the actual identity and use of the article with reference to the drawings
3. Propose specific amended language for the nature and intended use statement
4. Explain how the clarification resolves the examiner's uncertainty without introducing new matter

Example response language:

"In response to the Examiner's objection that the nature and use of the article is unclear, Applicant respectfully submits that the drawings consistently depict a floor register trap configured for installation within a floor vent opening. Applicant proposes to amend the specification to include the following statement: 'The nature and intended use of the article in which the design is embodied is a floor register trap configured for installation within a floor vent opening to capture debris.' This clarification is fully supported by Figures 1-7, which show [describe relevant features]. No new matter is introduced."

Where the examiner's misunderstanding stems from unclear or ambiguous drawings rather than an inadequate description, narrative clarification alone will not suffice. In such cases, amended drawings may be necessary before the nature and intended use statement can effectively resolve the issue.

Avoid being defensive or argumentative in your response. Examiners' initial questions are often procedural rather than substantive, and a clear, cooperative response typically resolves classification issues efficiently.

### Appendix 3 (Limitations)

This ProGuide addresses nature and intended use statements as they arise during U.S. design patent prosecution and is intended to reflect common examiner practice, procedural standards, and recurring issues observed in prosecution histories. It is not intended to provide exhaustive coverage of all circumstances in which a nature and intended use statement may be required, permitted, or objected to during examination.

Nature and intended use determinations are inherently context-dependent. Examiner practice may vary based on the complexity of the article, the familiarity of the article type, the clarity of the drawings, the breadth of the title, and classification requirements at the time of examination. As a result, compliance with the rules and guidance set forth in this ProGuide does not guarantee that an examiner will not request clarification, object to a statement, or raise rejections under 35 U.S.C. §§112(a) or 112(b) in a particular application.

This ProGuide focuses on the procedural role of nature and intended use statements in resolving examiner uncertainty regarding the article of manufacture for purposes of classification and prior art searching. It does not address broader issues relating to drawing quality, claim construction, infringement analysis, or substantive patentability under §§102 or 103, except to the extent such issues intersect directly with the identification of the article of manufacture.

Nature and intended use statements cannot expand the scope of a design claim beyond what is visually disclosed in the drawings. Nor can they be relied upon to cure ambiguities, inconsistencies, or omissions in the visual disclosure itself. Where the drawings fail to clearly convey the structure or appearance of the claimed design, narrative clarification regarding use or context is insufficient and may be disregarded by the examiner.

This ProGuide does not attempt to catalog all acceptable or unacceptable phrasing for nature and intended use statements. Language that is appropriate in one application may be objectionable in another depending on the drawings, the title, and the prosecution posture. Practitioners must exercise independent professional judgment in tailoring each statement to the specific disclosure and strategic objectives of the application.

The representative examiner objections and applicant responses referenced in this ProGuide are illustrative rather than comprehensive. They reflect common patterns observed in prosecution histories but do not preclude alternative examiner reasoning, differing classification practices, or evolving examination standards.

Changes to USPTO examination practice, updates to the MPEP, or future judicial decisions may alter how nature and intended use issues are evaluated. Nothing in this ProGuide should be construed as legal advice, a guarantee of allowance, or a definitive statement of USPTO policy. Practitioners remain responsible for evaluating nature and intended use issues in the context of the complete application record and applicable law.

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

MPEP §1503.01 — Title of the Design

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 CFR1.154).

MPEP §1503.01(II) — Description of the Design

It is the policy of the Office to attempt to resolve questions about the nature and intended use of the claimed design prior to examination by making a telephone inquiry at the time of initial docketing of the application. This will enable the application to be properly classified and docketed to the appropriate examiner and to be searched when the application comes up for examination in its normal course without the need for a rejection under 35 U.S.C. 112 prior to a search of the prior art. Explanation of the nature and intended use of the article may be added to the specification provided it does not constitute new matter. It may alternately, at applicant's option, be submitted in a separate paper without amendment of the specification.