

Design Patent ProGuide – Preambles
Updated February 17, 2026

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

Quick Start Guide

DO:

Include a preamble only when it serves a clear procedural purpose.

Limit the preamble to the applicant name, the title of the article, and a brief, neutral statement of the nature and intended use, if included.

Use plain, non-functional language that does not describe operation, performance, or interaction.

Ensure the article title used in the preamble exactly matches the title used in the ADS, claim, and figure descriptions.

Keep any nature or intended use statement short, neutral, and consistent with what is visually disclosed in the drawings.

Confirm that the preamble complies with 37 C.F.R. § 1.154 before filing or amendment.

DON'T:

Don't assume a preamble is required in a design patent application.

Don't include utility-style introductory narratives such as "The present invention relates to."

Don't describe functional, operational, or performance characteristics of the article.

Don't describe ornamental features of the design in the preamble.

Don't include scope-broadening or speculative phrases such as "or similar article" or "and the like."

Don't use informal filler language (e.g., "unique design") in place of required statutory elements.

Don't allow inconsistencies between the preamble and the ADS, claim, or figure descriptions.

Don't include non-exhaustive "such as ..." lists of example articles or embodiments (especially ending in "etc."), as they can confuse the actual article title and suggest unclaimed scope.

1. Introduction and Theory

In a design patent application, the preamble occupies a narrow and largely formal role. Unlike utility patent specifications, where introductory narrative may frame the invention and its technical contribution, design patent protection is grounded almost entirely in visual disclosure. The claim and the drawings define the scope of the design, and the preamble neither expands nor limits that scope.

Under current USPTO practice, a preamble is optional. When included, its function is limited to identifying the applicant, naming the article of manufacture, and, if necessary, briefly stating the nature and intended use of the article. This limited purpose reflects the statutory and regulatory framework governing design applications, which emphasizes visual disclosure over textual explanation.

Because of this constrained role, preambles in design patent applications are a frequent source of avoidable objections. Practitioners accustomed to utility patent drafting may inadvertently include functional language, utility-style narrative, or descriptive detail that is improper in a design specification. Even seemingly benign phrases can introduce ambiguity, suggest unclaimed scope, or conflict with the title used elsewhere in the application.

This ProGuide addresses the preamble as a procedural component rather than a substantive disclosure tool. It explains when a preamble may be useful, what content is permitted if one is included, and the most common ways in which preamble language gives rise to examiner objections. The goal is not to encourage use of a preamble, but to ensure that, when used, it complies with governing rules and does not create unnecessary prosecution risk.

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

2. Recommended Form

Recommended Preamble Structure (When Included):

I, [Applicant Name], have invented a new, original, and ornamental design for a [title of article], as shown and described.

For applications naming multiple inventors, the preamble should use plural form (e.g., "We, [Inventor 1] and [Inventor 2], have invented..."), and all inventors must be identified consistently with the Application Data Sheet (ADS).

Optional Nature and Intended Use Sentence (If Needed):

The [article] is used for [brief, neutral statement of use].

While a nature and intended use statement is not required in every application, it becomes practically important when a broad article title is used or when the purpose of the article is not self-evident from the title alone. In such cases, a brief and neutral statement may reduce examiner requests for clarification.

As a drafting convention, preambles are typically expressed as a single declarative sentence. Concise, single-sentence preambles reduce the risk of introducing unnecessary narrative language and are generally preferred by examiners.

Standard USPTO practice uses the phrasing “The ornamental design for [article]” rather than “design of [article].” The “design for” formulation reflects that the design is applied to an article of manufacture and is the conventional language used in design patent claims and specifications.

Best Practices:

- Use plain, non-functional language
- Avoid verbs describing operation, performance, or user interaction
- Ensure terminology matches the title exactly

3. Rules and Guidance for Preambles

3.1 Optional Use

A preamble is not required in a design patent application. However, if a preamble is included, it must comply with 37 CFR § 1.154 and applicable USPTO guidance. Although 37 C.F.R. § 1.154(b)(1) states that the specification “should” include a preamble, USPTO practice treats the preamble as optional in design applications. Many practitioners nonetheless include a preamble as a matter of convention, and examiners may request clarification through a preamble when the article title is particularly broad.

3.2 Permitted Content Only

If included, a design patent preamble may state only the applicant’s name, the title of the article, and a brief, neutral description of the nature and intended use of the article.

3.3 No Functional or Operational Language

A design patent preamble must not describe how the article operates, performs, or achieves a function, as functional or operational language is improper in a design specification.

3.4 No Description of Ornamental Features

A preamble must not describe ornamental features of the claimed design, which must be disclosed exclusively through the drawings.

3.5 No Utility Style Introductory Narratives

Utility style introductory language, including phrases such as “The present invention relates to,” is impermissible in a design patent preamble and will be objected to as unnecessary and noncompliant.

3.6 No Scope Broadening Language

A preamble may not include scope broadening or speculative phrases, such as “or similar article,” that suggest articles or embodiments not shown in the drawings.

3.7 Title Consistency Required

The title stated in the preamble must exactly match the title used in the ADS, claim, and figure descriptions, as any inconsistency will result in a formal specification objection. The article designation used in the preamble must be consistent with the article designation used in the single design patent claim. The claim typically recites “The ornamental design for a [article], as shown and described,” and inconsistency between the preamble and claim terminology may give rise to formal objections or require coordinated amendment.

3.8 Required Completeness if Used

If a preamble is included, it must clearly and expressly include all required elements under 37 CFR § 1.154 and may not substitute informal or vague filler language in place of required content.

3.9 No “Such As ... Etc.” Lists of Example Articles

A preamble should not include non-exhaustive lists of example articles or embodiments introduced by “such as” (particularly where the list ends in “etc.”), because this drafting style can obscure the actual article title and suggest broader, unclaimed scope. If clarification of nature or intended use is needed, it should be stated as a short, neutral sentence separate from the title and consistent with the drawings.

In 29/912,970, the examiner treated the list as an improper attempt to reference intended use and recommended canceling it to avoid confusion with the claimed title.

3.10 No “Reservation of Rights / Possession of Any Portion” Scope-Expansion Language

A preamble must not include statements asserting that the applicant “demonstrates possession of the design of any portion, in any combination” or otherwise “reserves” or suggests claim scope beyond what is shown in the drawings. Such language is treated as an improper

attempt to broaden the scope of the claimed design beyond the visual disclosure and may trigger a 35 U.S.C. § 112(a) and/or § 112(b) indefiniteness rejection in addition to a formal objection.

In 29/912,970, the examiner quoted and rejected this type of language as implying undisclosed embodiments and attempting to broaden scope beyond the drawings.

3.11 Claim Lead-In Formality: “I claim:” / Preamble-to-Claim Compliance (37 CFR § 1.153)

Examiners may object to the “preamble to the claim” if the claim does not use the expected design claim lead-in format (e.g., beginning with “I claim:” and reciting “The ornamental design for [article], as shown and described.”). Where raised, this is treated as a claim-formality correction under 37 CFR § 1.153, not substantive claim scope.

In 29/898,457, the examiner explicitly objected and required amendment “for proper form to the preamble (37 CFR 1.153).”

4. Application of Rules and Guidance to Objections and Rejections

This section provides representative examples of how preamble objections arise in practice and how they are typically cured during prosecution. Each example is drawn from actual prosecution histories and is presented in the same form used throughout this ProGuide.

4.1 Utility-Style Introductory Narrative in the Preamble

In Application 29/941,451, the examiner objected that the preamble improperly included utility-style introductory narrative language exceeding the permissible scope of a design patent specification, including “The present invention relates ... according to the following figures.” The examiner required cancellation of the narrative language and instructed that, if a preamble is used, it must be limited to the three required elements: applicant name, title of the article, and a brief nature and intended use statement. The applicant cured the objection by deleting the utility-style narrative and rewriting the preamble in a compliant single-sentence design format identifying the inventors, the article title, and referencing the accompanying drawings. Rules 3.2, 3.5, 3.8.

4.2 Scope-Broadening Phrase “Or Similar Article” Improperly Expands Beyond the Drawings

In Application 29/910,585, the examiner objected that the preamble included the phrase “or similar article,” which was treated as an improper attempt to broaden the scope of the claimed design beyond what was disclosed in the drawings. The examiner required removal of the scope-expanding language because a design patent preamble may not suggest unshown articles or embodiments. The applicant cured the objection by canceling the “or similar article” phrase entirely so that the preamble identified only the specific article actually claimed and illustrated. Rules 3.2, 3.6.

4.3 Title Mismatch Between ADS and Preamble/Claim/Figure Descriptions Requires Coordinated Correction

In Application 29/860,372, the examiner objected that the title used in the preamble, claim, and figure descriptions (“Necklace”) did not match the title stated in the Application Data Sheet (“Infinity Flower Necklace”). The examiner required correction because the title must be consistent throughout the application and accurately identify the article of manufacture, and inconsistencies create formal defects requiring amendment across all specification locations. The applicant cured the objection by amending the title consistently throughout the preamble, claim, and figure descriptions so that the article name matched the ADS title. Rules 3.2, 3.7.

4.4 Incomplete or Informal Preamble Language Fails to Satisfy Required Elements

In Application 29/861,508, the examiner objected that the preamble failed to comply with 37 C.F.R. § 1.154 because it used informal filler language rather than clearly stating the required statutory elements of a design patent preamble. The preamble was drafted as “We have invented a unique design for a Floor Register Trap,” which did not clearly include the complete required form. The applicant cured the objection by replacing the informal language with a compliant preamble identifying the applicants, the article title, and a brief nature and intended use statement sufficient to clarify the article for classification and search purposes. Rules 3.2, 3.8.

4.5 Improper “Such As ... Etc.” Lists Treated as Confusing and Scope-Expanding Intended Use Language

In Application 29/912,970, the examiner objected to a preamble that attempted to define the article using a non-exhaustive “such as ...” list of example products ending in “etc.” The examiner treated the list as improper intended use language that obscured the actual claimed article title and suggested additional unclaimed embodiments or alternate articles not shown in the drawings. The applicant cured the objection by canceling the “such as ... etc.” listing entirely and replacing it, if needed, with a short neutral nature and intended use sentence consistent with the drawings and the stated article title. Rules 3.2, 3.9.

4.6 “Possession of Any Portion / In Any Combination” Reservation Language Treated as Indefinite and Improper Broadening

In Application 29/912,970, the examiner objected to preamble language stating that the applicant “demonstrates and is intended to demonstrate possession of the design of any portion, in any combination, of the design shown in the figures,” and treated the statement as an improper attempt to broaden claim scope beyond what was actually illustrated. The examiner further tied this language to § 112(a) and § 112(b) concerns because it implied undisclosed embodiments and attempted to reserve rights inconsistent with the closed visual nature of design disclosure. The applicant cured the defect by canceling the reservation-of-rights language and proceeding only on the basis of the disclosed drawings without suggesting claim scope expansion through narrative. Rules 3.2, 3.6, 3.10.

5. Practice and Enforcement Notes

Minor deviations in preamble wording that do not introduce functional language, scope ambiguity, or inconsistency with the title are often resolved through informal examiner requests rather than formal rejections. Practitioners should nonetheless treat preamble drafting with care, as repeated defects may delay prosecution.

When responding to preamble objections, practitioners may either amend the preamble to cure the identified defect or delete the preamble entirely, as a preamble is optional. Deletion is often the most efficient response where multiple defects are identified or where the title alone sufficiently identifies the article.

In post-AIA applications where the applicant of record is an assignee rather than the inventor, preamble practice generally continues to identify the inventor(s) by name. The applicant designation is governed by the ADS and related filings rather than the preamble text.

Although the ADS identifies the applicant of record, inclusion of the applicant name in the preamble remains permissible and consistent with 37 C.F.R. § 1.154. Examiner focus is typically directed to the article title and any nature or intended use statement, but omission or inclusion of the applicant name should be handled consistently.

In applications disclosing multiple embodiments or multiple articles, the preamble title should accurately reflect what is being claimed. Where a single design is applied to more than one article, the title should identify the articles in a unified manner consistent with USPTO practice. Inconsistency between the title and the disclosed embodiments may prompt restriction requirements or specification objections.

The article title identified in the preamble plays an important role in public notice. In *Curver Luxembourg, SARL v. Home Expressions, Inc.*, 938 F.3d 1334 (Fed. Cir. 2019), the Federal Circuit held that a design patent's scope is limited to the article of manufacture identified in the title. Although the preamble itself does not define claim scope, consistency in identifying the article of manufacture is critical to avoid ambiguity in enforcement and examination.

Appendix 1 (Checklist)

Inclusion and Placement

- Preamble included only if necessary
- Preamble appears in the correct position in the specification

Content Control

- Applicant name stated correctly
- Title matches the title used throughout the application
- Nature and intended use description is brief and neutral

Consistency

- Preamble terminology matches the title exactly
- No conflict with drawings or claim language
- Linguistic symmetry maintained between the article name in the preamble, title, and claim (word-for-word match).
- No disjunctive or scope-suggestive terms (e.g., “and/or”) used in the preamble that imply multiple distinct articles.

Avoiding Common Errors

- No functional or operational language
- No description of ornamental features
- No speculative or performance-based statements

Regulatory Compliance

- Complies with 37 CFR 1.154
- Consistent with MPEP § 1503.01 guidance

Appendix 2
(Questions and Answers)

Q1. Is a preamble required in a design patent application?

Answer: No. A preamble is optional. However, if included, it must comply with 37 CFR 1.154 and be properly formatted.

Q2. What information may properly appear in a design patent preamble?

Answer: The preamble may include the applicant's name, the title of the design, and a brief description of the nature and intended use of the article.

Q3. Can the preamble describe how the article functions?

Answer: No. Functional descriptions, operational details, or performance characteristics are improper and may result in an objection or rejection.

Q4. Does the preamble affect the scope of the design claim?

Answer: No. The claim and drawings define the scope of the design patent. The preamble does not limit or expand the claimed design.

Q5. What if the title is very broad?

Answer: When a broad title is used, a brief description of the nature and intended use may be included in the preamble or elsewhere in the specification, provided it remains neutral and consistent.

Q6. May the nature and intended use statement reference the article's environment or context of use?

Answer: Yes, provided the reference is neutral, non-functional, and supported by the drawings. For example, stating "a tire for a vehicle" may be permissible if the article is visually disclosed, but statements describing performance or functional advantages within that environment are improper.

Appendix 3 (Limitations)

This ProGuide addresses the procedural and formal requirements governing the inclusion and content of preambles in design patent applications. It does not address claim construction, infringement analysis, or the substantive scope of design patent protection beyond explaining that the preamble does not define or alter claim scope.

The guidance provided here reflects prevailing USPTO examination practice and common examiner objections, but it does not account for examiner-specific preferences or variations among art units. Individual examiners may apply these principles with differing levels of strictness, particularly with respect to the necessity of a preamble or the sufficiency of a nature or intended use statement.

This ProGuide also does not provide guidance on drafting strategies for unusually complex articles of manufacture, multi-part articles, or designs claimed in combination with other design or utility filings. In such cases, additional considerations outside the scope of this guide may apply.

While improper preamble language can create prosecution risk and delay examination, the absence or amendment of a preamble does not, by itself, resolve issues arising from deficiencies in the drawings, claim, or title. Practitioners should evaluate the preamble in the context of the entire design application to ensure overall compliance.

This ProGuide is limited to United States design patent practice before the USPTO and does not address foreign or international design registration systems, which may apply different formal requirements and drafting conventions.

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

37 CFR 1.154 Arrangement of application elements in a design application.

- (a) The elements of the design application, if applicable, should appear in the following order:
 - (1) Design application transmittal form.
 - (2) Fee transmittal form.
 - (3) Application data sheet (see § 1.76).
 - (4) Specification.
 - (5) Drawings or photographs.
 - (6) The inventor's oath or declaration (see § 1.153(b)).

- (b) The specification should include the following sections in order:
 - (1) Preamble, stating the name of the applicant, title of the design, and a brief description of the nature and intended use of the article in which the design is embodied.

¶ 15.05 Design Patent Specification Arrangement (Ch. 16 Design Application)

The following order or arrangement should be observed in framing a design patent specification:

- (1) Preamble, stating name of the applicant, title of the design, and a brief description of the nature and intended use of the article in which the design is embodied.
- (2) Cross-reference to related applications.
- (3) Statement regarding federally sponsored research or development.
- (4) Description of the figure or figures of the drawing.
- (5) Feature description.
- (6) A single claim.

I. PREAMBLE AND TITLE

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

If a broad title is used, the description of the nature and intended use of the design may be incorporated into the preamble.

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

....

(4) Description denoting the nature and intended use of the claimed design, if not included in the preamble pursuant to 37 CFR 1.154 and MPEP§ 1503.01, subsection I.