



Community Designs protection system overview

REBECCA SANTANA DAVIES |
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CARIFORUM



EU-CARIFORUM Regional project, funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)

- Forms of protection
- Conditions for protection
- Examination prior the registration
- Formal
- Substantive
- Some interesting numbers
- Declaration of invalidity of Community designs
- Enforcement

FORMS OF PROTECTION IN THE EU

UNREGISTERED Community Design (UCD)

- Since the 6th of March 2002
- All new creations disclosed for the first time in the EU
- Protection against copying, throughout the EU for 3 years

REGISTERED Community Design (RCD)

- As of 1st April 2003
- Exclusive right to use the design and prevent the others
- One application procedure
- One language (any of the 24 EU languages)
- One payment, in one currency (€)
- Multiple application
- unlimited number of designs
- all designs in the same Locarno class
- Deferment
- Delay of publication up to 30 months from filing/priority
- Maximum life: 25 years



COEXISTENCE WITH OTHER DESIGN PROTECTION SYSTEMS

- National registration systems (in 26 EU Member States)
- DIRECTIVE 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs harmonising the conditions, scope and length of protection of designs in EU, and the rights conferred by the design right and their limitation
- International registration system (WIPO)
- Unregistered national designs (UK)

UNITARY CHARACTER OF COMMUNITY DESIGNS

- Equal effect throughout the EU
- Registration, transfer, surrender, invalidity, prohibited use for the entire EU

RIGHTS CONFERRED ON THE HOLDER OF A COMMUNITY DESIGN:

- RCD - exclusive right to use and prevent: making, offering, putting on the market, importing, exporting, using or stocking for such purposes, products incorporating or applying on the design
- UCD - right to use and prevent unauthorized use resulting from copying

RCD

- A formal right; presumption of validity
- Easy, flexible and affordable filing and registration procedure
- Long term of protection (up to 25 years)

UCD

- An informal right; validity has to be proven when enforced at the court
- No registration procedure
- No grace period
- No fees
- Short term of protection (up to 3 years)

SPECIL REGIME FOR 'MUST MATCH' SPARE parts (Article 110 CDR):

- E.g. car bonnet spare parts
- Designs for (spare) parts are registrable
- Right cannot be used to control market for spare parts prohibiting competitors from replacement of the same spare part incorporating the protected design for the purpose of repair of the original product
- Right may prohibit the use of the spare part incorporating the protected design by others in another product

REGISTERED COMMUNITY DESIGN

WHO CAN FILE

- Any natural or legal person without any restrictions as to nationality or state of incorporation

WHO HAS THE RIGHT

- Right vests in the designer or his successor in the title
- Joint ownership
- Employer where the design is developed by employees

Article 14 Right to the Community design

1. The right to the Community design shall vest in the designer or his successor in title.
2. If two or more persons have jointly developed a design, the right to the Community design shall vest in them jointly.
3. However, where a design is developed by an employee in the execution of his duties or following the instructions given by his employer, the right to the Community design shall vest in the employer, unless otherwise agreed or specified under national law.

DEFINITION OF THE DESIGN

- Design: the appearance of the whole or a part of the product resulting from its features
- Product: any industrial or handicraft item, including:
 - Components assembled into a complex product
 - Packaging
 - Get-up
 - Graphic symbols (2D designs)
 - Typographic typefaces



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 VWXYZ
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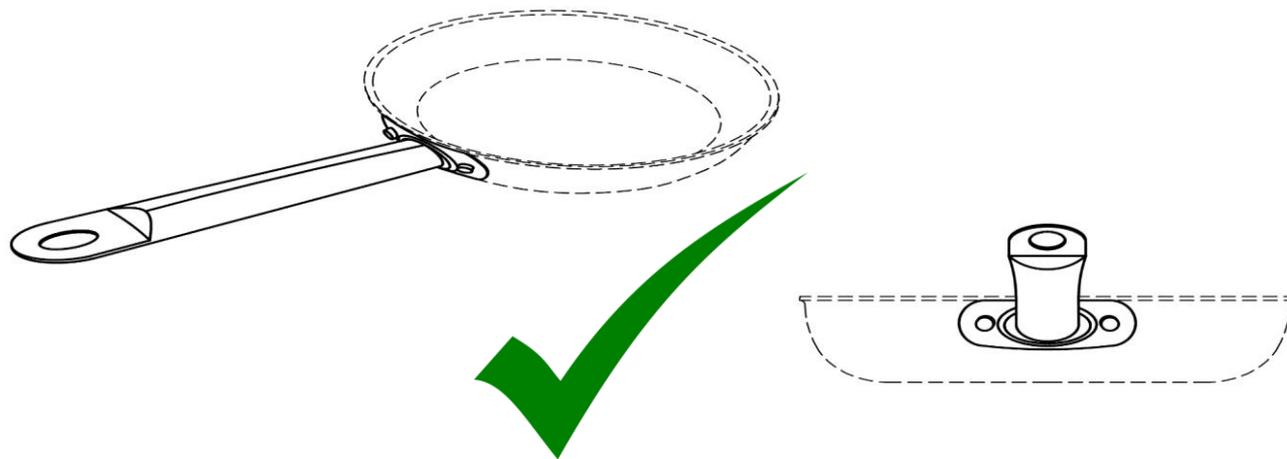
A PART OF A PRODUCT

The parts of a product for which the protection is not sought may be disclaimed by a graphic disclaimer



A COMPONENT OF A PRODUCT

The parts of a product for which the protection is not sought may be disclaimed by a graphic disclaimer of interrupted lines



SET OF ARTICLES

Articles having aesthetic and functional complementarity
(common features, being on sale or intended to be used together)



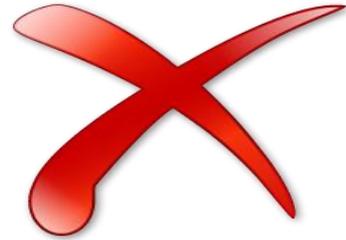
EXCLUDED FROM PROTECTION BY COMMUNITY DESIGN

- Natural products
- Ideas
- Functions
- Smells and fragrances
- Music and sounds
- Computer programmes

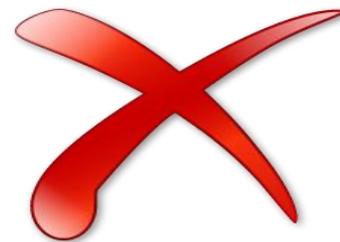


... do not constitute the appearance of a product and therefore do not comply with the definition of a design

- Indication of product: Deep red



IKEA





MINIMAL REQUIREMENTS FOR GRANTING THE FILING DATE

- Request for design registration
- Information identifying the applicant
- Representation of the design suitable for reproduction (art. 4(1) CDIR):
 - **Good quality**: it should clearly show the details of the design for which protection is sought
 - **Neutral background**: only the design for which the protection is sought without any additional matter

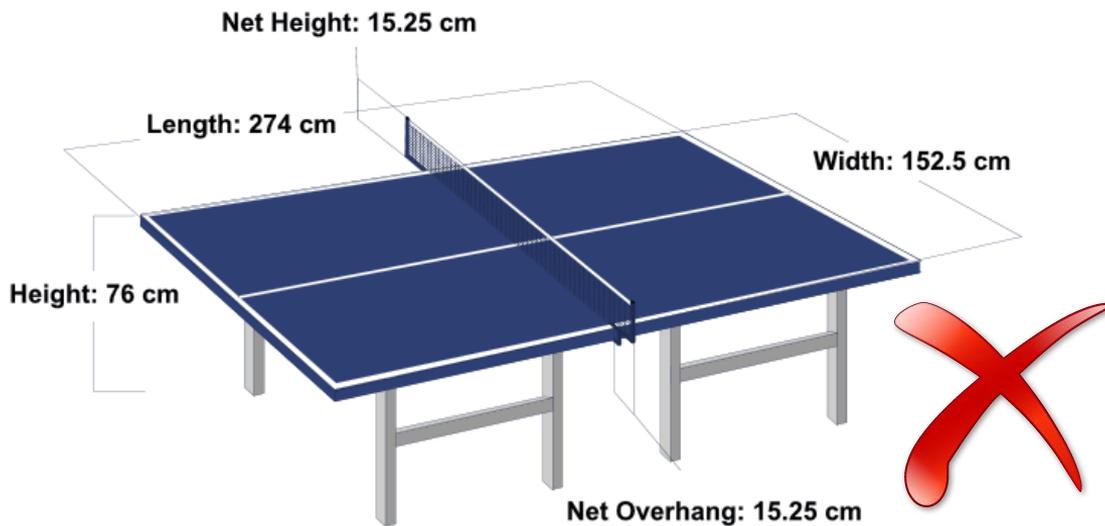
QUALITY OF VIEWS



QUALITY OF VIEWS



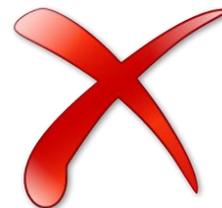
NO ADDITIONAL MATTER: (NUMBERING, WORDING AND SYMBOLS) ARE NOT ACCEPTED



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NO ADDITIONAL MATTER (DECLARED INDICATION OF PRODUCT: SOFAS)



NO ADDITION MATTER (DECLARED INDICATION OF PRODUCTS: SOFAS)



NO ADDITIONAL MATTER (DECLARED INDICATION OF PRODUCT: CHARGES)



NO ADDITIONAL MATTER (DECLARED INDICATION OF PRODUCT: CHARGES)



IF A PRODUCT IS COMPOSED OF SEVERAL PARTS, AT LEAST ONE VIEW ON THE ASSEMBLED PRODUCT IS COMPULSORY



View 1



View 2

IF A SET OF ARTICLES IS CLAIMED TO BE PROTECTED AS A SINGLE DESIGN, AT LEAST ONE VIEW ON THE THE WHOLE SET IS COMPULSORY



View 1



View 2



View 3



CONSISTENCY OF VIEWS: THE COLOURS HAVE TO BE THE SAME



View 1

View 2

View 3

CONSISTENCY OF VIEWS: THE COLOURS HAVE TO BE THE SAME



View 1



View 2

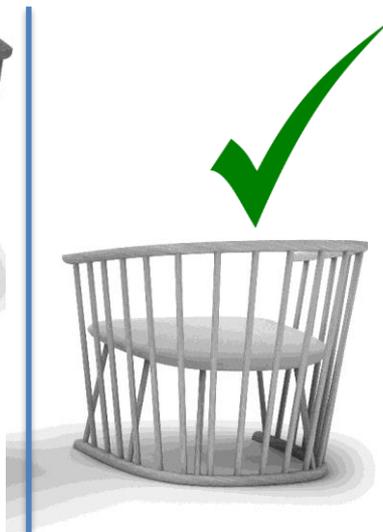


View 3

CONSISTENCY OF VIEWS: THE COLOURS HAVE TO BE THE SAME



Design 1



Design 2



Design 2



Design 3

CONSISTENCY OF VIEWS: THE DESCRIPTION MAY PROVIDE THE EXPLANATION

The red colour of the image is to show the colour when the product is on, and when it is turned off, it turns grey.



CONSISTENCY OF VIEWS: THE DESCRIPTION MAY PROVIDE THE EXPLANATION

Consistency of views: the description may provide the explanation

Without the description, the variants are considered different designs



SCOPE OF PROTECTION

- ✓ **Protection is conferred by way of registration upon the right holder for those design features of a product with are shown visibly in an application and made available to the public by way of publication**

- X The indication of the products in which the design is intended to be used or on which it is intended to be applied

- X The description explaining the representation, and the classification of the products

Shall not affect the scope of protection of the design as such

EXAMINATION ON SUBSTANCE

- ✓ **Compliance with the definition of a design**
- ✓ **Public policy and accepted principles of morality**

- X Absolute requirements (novelty, individual character, visibility, technical function, designs of interconnections)
- X Earlier rights (conflict with a prior design right, unauthorized use of an earlier distinctive sign in the design, unauthorized use of the copyright or improper use of items listed in Art. 6ter of the Paris Convention or other emblems of public interest in a Member State)
- X Whether the applicant is entitled to the design

DECLARATION OF INVALIDITY OF REGISTERED COMMUNITY DESIGNS

Invalidation



available after the Community design registration
substantive check of validity of the right

absolute grounds (namely novelty & individual character)
relative grounds (conflict with prior rights)
entitlement to the RCD

CONVENTION PRIORITY CLAIM AND REQUIREMENTS

- ✓ within 6 months of filing the first application;
- ✓ claimed in the RCD application or within 1 month of its filing date;
- ✓ the copy of the first application has to be submitted within 3 months of the claim was made;
- ✓ the first application has to concern a design or a utility model;
- ✓ the first application has to be filed in a country that is a member of the Paris Convention or the World Trade Organization (WTO), or in another state with which there is a reciprocity agreement;
- ✓ the first application has to be a first filing
- ✓ the proprietor is to be the same or an assignment document has to be filed

REGISTRATIONS: REGULAR AND FAST TRACK

Fast track applications

complying with all registration requirements and with speedy procedure requirements
registered within two working days.

Non-fast track applications

satisfying all requirements for registration, are registered within ten working days.

HOW MUCH DOES IT COST?

Examination prior registration

	REGISTRATION	PUBLICATION		DEFERMENT OF PUBLICATION*
1 st DESIGN	230 EUR	+ 120 EUR	= 350 EUR	40 EUR *
DESIGNS 2 TO 10	115 EUR	60 EUR	= 175 EUR	20 EUR *
DESIGN 11 AND ADDITIONAL	50 EUR	30 EUR	= 80 EUR	10 EUR *

HOW MUCH DOES IT COST?

Examination prior registration

	1 st renewal	2 nd renewal	3 rd renewal	4 th renewal
Per DESIGN	90 EUR	120 EUR	150 EUR	180 EUR

RENEWAL IN ADITIONAL 6 MONTHS GRACE PERIOD: + 25% OF THE BELATED RENEWAL FEE

Nr. of designs/applications received: 93,409 / 26,336

Single applications: 53%

Multiple applications: 47%

Nr. of designs per application: 3.55

Method of filing: 99% e-filing

Office response time to applications: 99.73% within 10 days

Objections free applications: 78%

Registered designs (out of the designs filed): 97.93%

Fast-track (registration within 48h) 37%

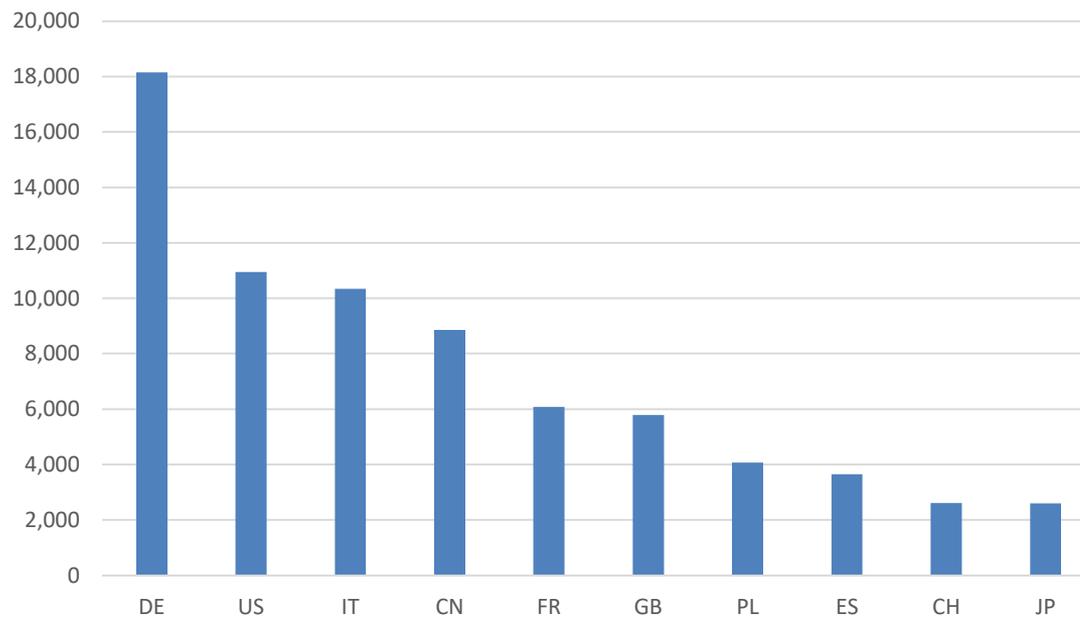
Percentage of designs deferred: 14%

Designs renewal rate: 51% 1st renewal

60% 2st renewal

65% 3st renewal

Designs filed in 2018
by owner's nationality



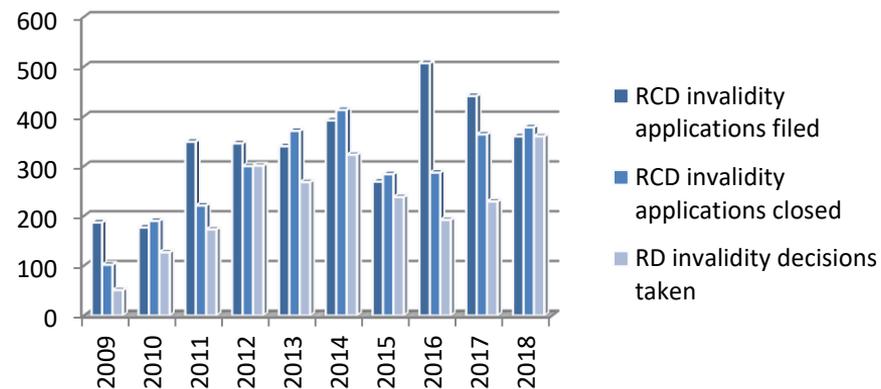
REGISTERED COMMUNITY DESIGNS

over 90 000 per year
and 14 000 international designs with effects in the EU

only 0.35% is subject to an invalidity claim

INVALIDATION FIGURES

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
RCD invalidity applications filed	187	177	349	346	340	392	269	507	441	360
RCD invalidity applications closed	102	190	221	300	371	413	284	287	364	378
RD invalidity decisions taken	51	127	173	301	268	323	238	192	229	360



BREAKDOWN OF INVALIDITY APPLICATIONS FILED, BY LOCARNO CLASSIFICATION

LOCARNO CLASS	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	TOTAL
2	12	26	29	25	32	71	16	38	33	28	310
9	16	11	50	49	24	21	38	40	34	25	308
6	18	36	27	18	18	18	20	69	33	26	293
25	5	13	27	56	30	43	25	49	19	10	277
23	7	10	25	15	47	14	9	38	27	19	211
32	0	4	10	11	25	16	10	64	40	11	191
26	13	10	17	6	9	26	13	18	34	22	168
7	10	5	32	22	12	21	8	7	17	18	152
12	17	6	12	12	8	10	15	15	23	27	145
21	13	8	21	11	3	12	9	11	37	15	140
8	7	6	6	14	15	13	20	10	15	2	108
19	3	6	12	14	5	18	1	17	11	0	87
10	1	1	1	19	22	2	17	6	4	2	75
11	10	2	1	6	1	13	1	12	8	13	67
28	5	0	1	4	8	9	11	14	9	6	67
3	6	3	6	13	9	3	3	7	9	3	62
1	0	2	1	4	2	0	6	14	15	6	50
31	0	0	0	0	0	37	5	1	3	1	47
5	24	3	6	0	0	2	0	0	0	6	41
27	0	0	10	2	22	2	0	0	4	1	41
14	2	2	7	3	3	2	14	0	3	4	40
15	7	8	7	0	4	1	3	2	5	1	38
24	1	0	2	4	5	1	5	9	3	8	38
13	0	2	2	1	1	10	0	9	4	1	30
20	2	0	6	0	2	0	1	9	2	4	26
30	0	3	2	0	1	2	2	8	4	3	25
99	5	2	0	0	1	5	2	0	0	0	15
4	0	0	0	1	6	0	1	1	3	0	12
16	1	0	0	2	2	1	0	1	2	1	10
29	1	1	0	1	1	1	0	1	0	0	6
17	0	0	0	0	0	0	0	5	0	0	5
22	0	1	1	0	0	0	0	1	0	0	3
18	0	0	0	0	2	0	0	0	0	0	2

BREAKDOWN OF INVALIDITY APPLICATIONS FILED, BY THE FREQUENCY OF APPLICANTS

Numbers

Applicants	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Grand Total
CROCS, INC.				4	13	4	12	13	3	3	52
OUT OF THE BLUE KG			1				2	43		5	51
THE HAPPY TOE LAB SRL				1	3	3	11	23	9		50
ALUPROF SA				46							46
JOHN MILLS LIMITED						34					34
ORIENT HOME OOD					17	8					25
ALLERGAN HOLDINGS FRANCE SAS								2	23		25
FATBOY THE ORIGINAL B.V.								6	14		20
BIRCHER REGLOMAT AG				17							17
SWEDISH MATCH NORTH EUROPE AB			9	7							16
NBL EUROPE GMBH										16	16
PRODECO SARL, SOCIETE DE DROIT FRANCAIS	15										15
INDUSTEX, S.L.				1	13						14
JERONIMO MARTINS POLSKA S.A.						14					14
GLAXO GROUP LIMITED					4		2			7	13
MCCAIN FOODS LIMITED									12		12
SAVERGLASS						1	2	7		1	11
KOZ PRODUCTS B.V.				11							11
EGLO LEUCHTEN GMBH							3	2	3	3	11
CATRAL EXPORT S.L.					3		8				11



SUBSTANTIVE REQUIREMENTS FOR PROTECTION OF COMMUNITY DESIGNS (RCDS & UCDS)

- to meet the definition of ‘design’
- to meet the requirement of novelty & individual character
 - Derogations from protection:
 - features of component parts invisible in normal use
 - features dictated by their technical function
 - features of interconnections
- designs shall not be contrary to public policy or accepted principles of morality

Does not correspond to the definition of design:

- not a product, e.g. living organisms – representations of them in their natural state, not resulting from an industrial or manual processing



Decision of 18/02/2013, R 595/2012-3, „Groente en fruit“ (real tomato filed to seek protection by the registration of Community design)

- inconsistent views representing different products

- a concept – an example of unlimited number of a design variants, an idea...



Judgment of 06/06/2013, T68/11, „Watch dials“ (1 view left: contested RCD, 3 views right: prior design)

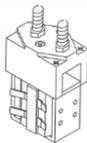
(72) Moreover, as is apparent from Articles 1 and 3 of Regulation No 6/2002, as a rule, the law

relating to designs protects the appearance of the whole or a part of a product, but does not

expressly protect the ideas that prevailed at the time of its conception. Therefore, the applicant

cannot seek to obtain, on the basis of the earlier designs, a protection for those designs' underlying idea, that is, the idea of a watch dial that makes it possible to tell the time on the basis of the colours of the discs that compose it.

- The RCD related to a component part of a complex product is considered new & having individual character to the extent
- the component part is visible (when incorporated in the complex product) during normal use of the complex product
- normal use excludes maintenance, servicing or repair works

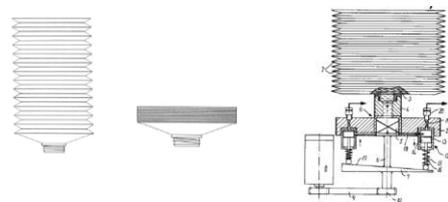


- An electrical connector is a component part which is normally incorporated in a casing in order to be shielded from any contact with potential users when a complex product, such as a train or electric vehicle, is in operation.
- A hypothesis of a transparent casing or cover must be disregarded

Decision 03/08/2009, R 1052/2008-3, „Electrical contactors“, para. 42-53

(1 view left: contested RCD, 2 views right: demonstration of use of the spare part related to the RCD)

- The RCD shall not subsist in features of appearance of a product which are solely dictated by its technical function. If all essential features are solely dictated by technical function, the RCD is invalid.
- The RCD related to a product features of which are solely dictated by its technical function is assessed on novelty & individual character to the extent that such features are excluded.



Decision of 21/01/2013, [ICD 8891](#), Left: contested RCD 000639349-0001 'packaging container', right: utility model "grease container in a portable lubrication unit"



Decision of 19/02/2013, [ICD 8670](#); Left: contested RCD 001925587-0001 "filters for fluids", right&bottom: examples from the prior art



DIFFERENT TESTS

NOVELTY

Objective test (matter-of-fact):

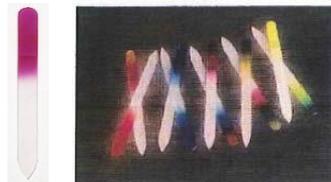
Does there exist, in the relevant prior art an identical design?

The later design:

- exactly reproduced, or
- different only in immaterial details

(insignificant details which may pass unnoticed)

Decision of 28/07/2009, R 921/2008-3, 'Nail files'
 (left: contested RCD, right: examples from the state of the art)



INDIVIDUAL CHARACTER

Perception of the informed user:

Does there exist, in the relevant prior art, a design which does not differ in the overall impression?

Factors affecting perception of the informed user:

- designer's freedom & technical features due to the purpose, function and nature of some types of products
- design corpus & saturation of the market
- visibility of some features during the normal use
- banal and common features to all the designs of the type of a product

MATTERS EXCLUDED FROM THE NOVELTY & INDIVIDUAL CHARACTER TESTS

Articles 4(2), 8(1) and 8(2) CDR

Invisible features of parts of complex products (Article 4(2) CDR)

Features solely dictated by technical function (Article 8(1) CDR)

Features of interconnections (Article 8(2) CDR)

Features not discernible (or clearly discernible) from the registration (Recital 11 DD and decision of 10/03/2008, R 0586/2007-3, Barbecues, § 23 26)

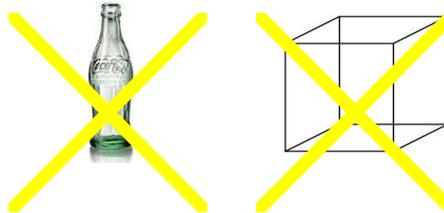
Features for which the protection is not sought and they are disclaimed in the RCD representation (judgment of 14/06/2011, T 68/10, 'Watches', § 59 64)

Judgment of 14/06/2011, T-68/10, „Watch attached to a lanyard“ (left: contested RCD and detail of disclaimed watch dial and hands, right: a prior design)



The RCD is protected to the extent it is new & has individual character over any design made available to the public prior to the RCD's filing or priority date

design = the appearance of the whole or a part of a product



made available to the public = any disclosure unless the holder proves that it could not have reasonably become known in the normal course of business

the public = circles specialised in the sector concerned, operating within the Community (EU)

MAY BE CHALLENGED BY THE APPLICANT

IN PRIORITY PERIOD WHERE THE PRIORITY:

- is not design or utility model application (international patent application under PCT is accepted)
- is not first filing in the priority office
- is not the same design

IN GRACE PERIOD IF IT IS:

- the RCD disclosure by the holder
- unauthorised disclosure of the RCD

UNDER CONDITIONS OF CONFIDENTIALITY:

Art. 7(1) CDR: The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

A disclosure shall not be taken into consideration for the purpose of applying Articles 5 and 6 (novelty and individual character) and if a design for which protection is claimed under a registered Community design has been made available to the public:

less than one year preceding the RCD's filing or priority date

as an action of,

abuse of

the designer

the successor in title

action of

a third person upon the information or action of

the designer

the successor in title

...for the reason to offer a creator or his successor in title the opportunity to market a design, for a period of 12 months, before having to proceed with the formalities of filing. The creator or his successor in title may ascertain that the design concerned is a commercial success before incurring the costs relating to registration, without fear that the disclosure that takes place at that time may be successfully raised during any invalidity proceedings brought after the possible registration of the design concerned.

Does the grace period apply to the disclosure of variants?

‘...a design for which protection is claimed under the registered Community design’.

= any design which does not differ from the protected design and does not have individual character

Does the grace period apply to earlier designs registered and published within the grace period?

The disclosure of a design in a Design Bulletin does not have the purpose of testing the design on the market and may not fall, therefore, within the exception of Article 7(2) CDR. (see R 2428/2013-3 – Chaussures)

anywhere and anytime before filing/priority date

- to be proven by invalidity applicant

except where the disclosure could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community (EU)

COM(96) 66 final – COD 464: Aim is to protect the design industry from claims that a design right is not valid because there was an earlier design in use somewhere in the world where the European industry could not possibly have been aware of it. The intention of the safeguard clause is to avoid the situation where design rights can be invalidated by infringers claiming that antecedents can be found in remote places or museums.

- presumption to be refuted by holder of contested Community design (T-22/13, 21/05/2015, Umbrellas)

Examination restricted to facts, evidence and arguments provided by the parties

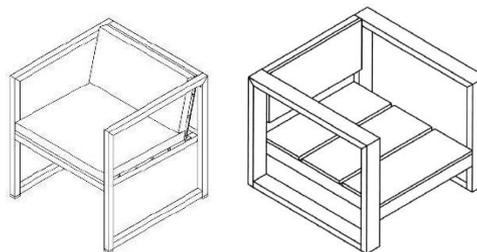
CDR/CDIR do not specify the kind of evidence required to show prior art . Parties are free to choose evidence (T-450/08, 09/03/2012 – Phials)

Disclosure cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence (T-450/08, 09/03/2012 – Phials)

COMPARISON OF DESIGNS IS NOT AN IMPERFECT RECOLLECTION TEST

Direct comparison

When the nature of the product in which the compared designs are incorporated makes it possible, the overall impression left by these designs will be assessed on the assumption that the informed user can make a direct comparison between them (judgment of 18/10/2012, joint cases C 101/11 P and C 102/11 P, Ornamentation, § 54-55).



Decision of 25/05/12, R 970/2011-3 – ‘Armchairs’

left: contested RCD, right: prior design

Different overall impression

1. What is the sector to which the products related to the designs belongs?
2. Who is the informed user of those products in accordance with their purpose? What is their degree of awareness of the prior art and the level of attention?
3. What is the designer's degree of freedom in developing his design (Art. 6(2) CDR)?
4. Comparison of the designs at issue, taking into account the sector in question, the designer's degree of freedom and the overall impressions produced on the informed user by the contested design and by any earlier design which has been made available to the public.

THE SAME OVERALL IMPRESSION

Decisions taken



Decision of 15/01/2014, R 2232/2011-3, 'Shoes'
left: contested RCD, right: prior design

DIFFERENT OVERALL IMPRESSION

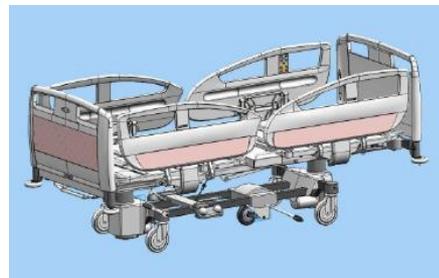
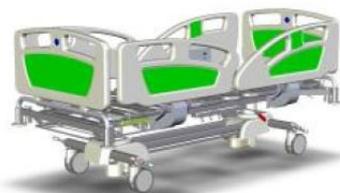
Decisions taken



Decision of 04/01/2016, R 2298/2014-3, 'Boots'
left: contested RCD, right: prior design

DIFFERENT OVERALL IMPRESSION

Decisions taken



Decision of 17/12/2014, R 2091/2012-3, 'Nursing beds'
left: contested RCD, right: prior design

THE SAME OVERALL IMPRESSION

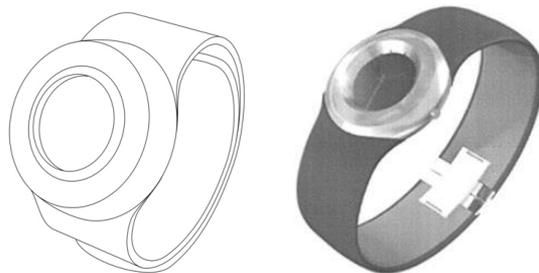
Decisions taken



Decision of 13/05/2015, R 915/2013-3, 'Furniture legs'
left: contested RCD, right: prior design

THE SAME OVERALL IMPRESSION

Decisions taken



Decision of 20/01/2014, R 1495/2012-3, 'Part of watches'
left: contested RCD, right: prior design

DIFFERENT OVERALL IMPRESSION

Decisions taken



Decision of 07/02/2014, R 2152/2012-3, 'Luminous devices for vehicles'
left: contested RCD, right: prior design

RCD examination in post registration invalidation proceedings (before EUIPO or a national Community design court)

UCD challenged solely before a national Community design court.

Invoked:

- by any natural or legal person if absolute / by the holder of an earlier right if relative ground
- at any time after publication of registration

even after a Community Design has lapsed or has been surrendered if legitimate interest is shown (Art. 24(2) CDR).

RCD can be also invalidated only partially

A Community design may be declared invalid if, by virtue of a court decision, the right holder is not entitled to the Community design

A legal proceeding shall be initiated within three years after the date of RCD's publication unless the RCD was applied for, disclosed or assigned in bad faith.

COMMITMENTS

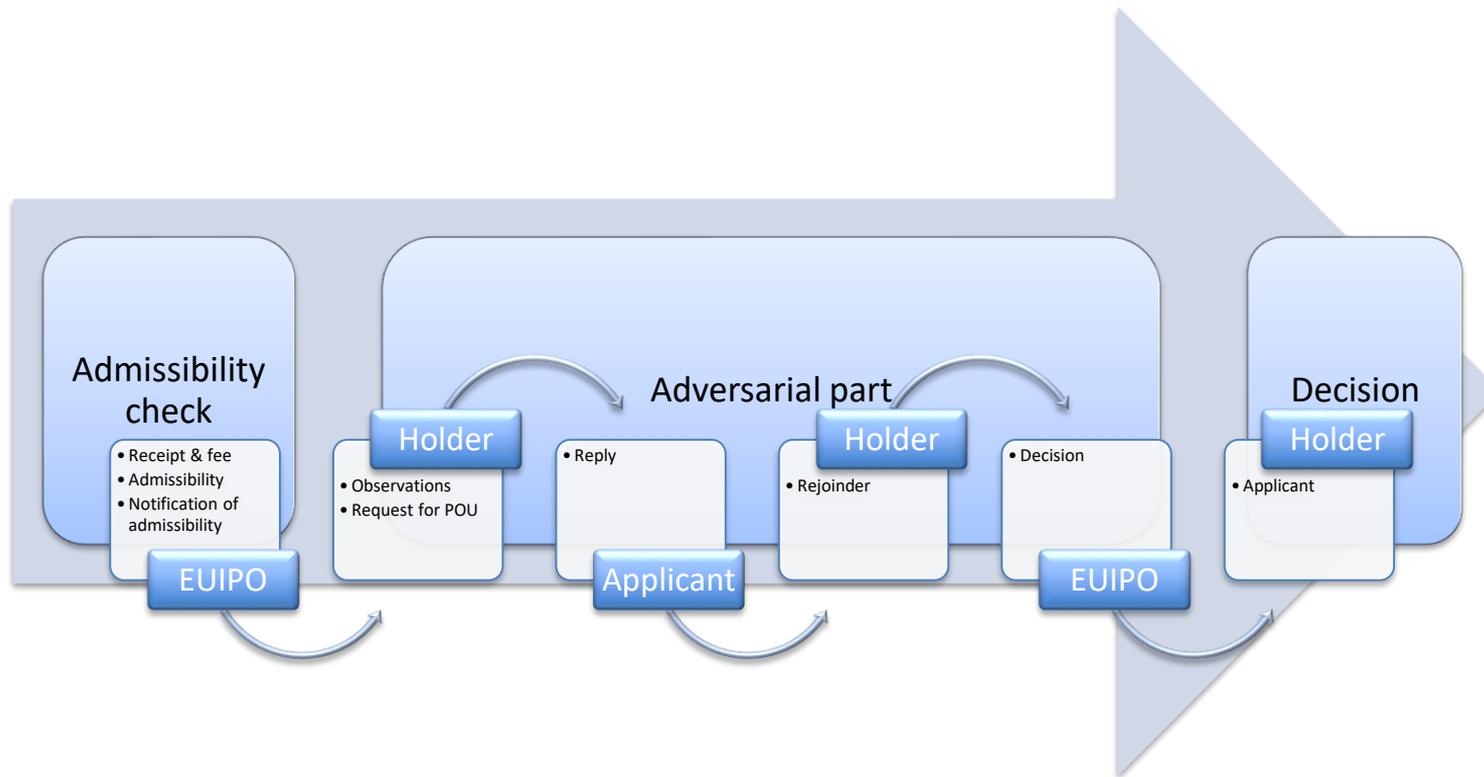
Timeliness: 10 weeks from closing the exchange of communications between the parties till the decision notification

Decision takers: 8 (all of them part time, having different language profiles)

Office languages: 5 (DE, EN, ES, FR, IT)

- one RCD per application
- surrendered designs are decided on merits only if it is in the legal interest of the applicant in writing:
 - on the Office form (not obligatory)
 - via e-filing Office application
 - with reasoned statement
- evidence (original document/printed materials or copies/scans, electronic carriers accepted)
- is considered to be filed only after payment of the invalidity fee: EURO 350,-

- the Office holds the invalidity proceedings in 5 languages (EN, FR, DE, IT, ES)
- the RCD holder is allowed to defend in the language of RCD registration (24 EU languages); the Office arranges and pays for translation into the proceedings language in such case
- the parties may agree on any EU official language; the parties and the Office bear their own costs of translations



The RCD is declared invalid with the effects “ex tunc”

for the whole EU territory

The design may be maintained in the Register in amended form

Appeal has suspensive effect

- 3rd Board of Appeal at OHIM
- General Court (EU): the court of first instance
- Court of Justice of EU: the court of second instance

[DIRECTIVE 98/71/EC](#) of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs

[COUNCIL REGULATION \(EC\) No 6/2002](#) of 12 December 2001 on Community designs (CDR)

[COMMISSION REGULATION \(EC\) No 2245/2002](#)** of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs (CDIR)

[COMMISSION REGULATION \(EC\) No 2246/2002](#) of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs (CDFR)

Council Regulation No 1891/2006 of 18 December 2006 amending Regulations (EC) No 6/2002 and (EC) No 40/94 to give effect to the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

Commission Regulation (EC) No 876/2007 of 24 July 2007 amending Regulation (EC) No 2245/2002 implementing Council Regulation (EC) No 6/2002 on Community designs following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs

GUIDELINES FOR EXAMINATION OF DESIGN APPLICATIONS FOR REGISTRATION AND INVALIDITY APPLICATIONS

- as of 01/07/2012
- reviewed every second year with a new edition published online
- procedural and substantial practice
- harmonization with EUTM practice
- case-law

SCOPE OF PROTECTION OF COMMUNITY DESIGNS

- Includes any design which does not produce on the informed user a different overall impression
- The degree of freedom of the designer in developing the design is taken into consideration

THE COMMUNITY DESIGN COURTS HAVE EXCLUSIVE JURISDICTION:

- for infringement actions and - if permitted under national law - actions in respect of threatened infringement of Community designs;
- for actions for declaration of non-infringement of Community designs, if they are permitted under national law;
- for actions for a declaration of invalidity of an unregistered Community design;
- for counterclaims for a declaration of invalidity of a Community design raised in connection with actions infringement or threatened infringement.

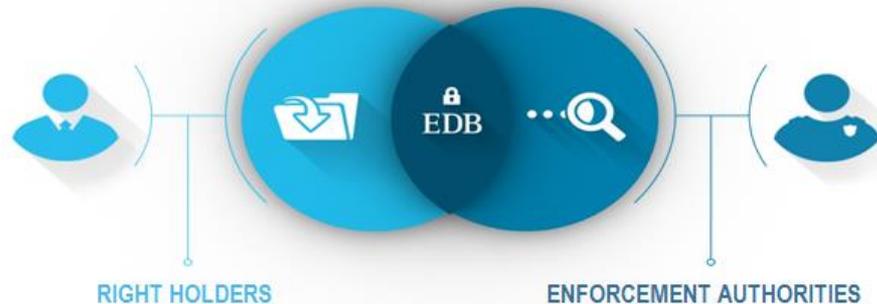
Enforcement Database (EDB)



WHAT IS EDB?

Free of charge, secure platform enabling real-time exchange of information between right holders and enforcement authorities

BUILT UPON TMview AND DesignView



The EDB is a legal tool:

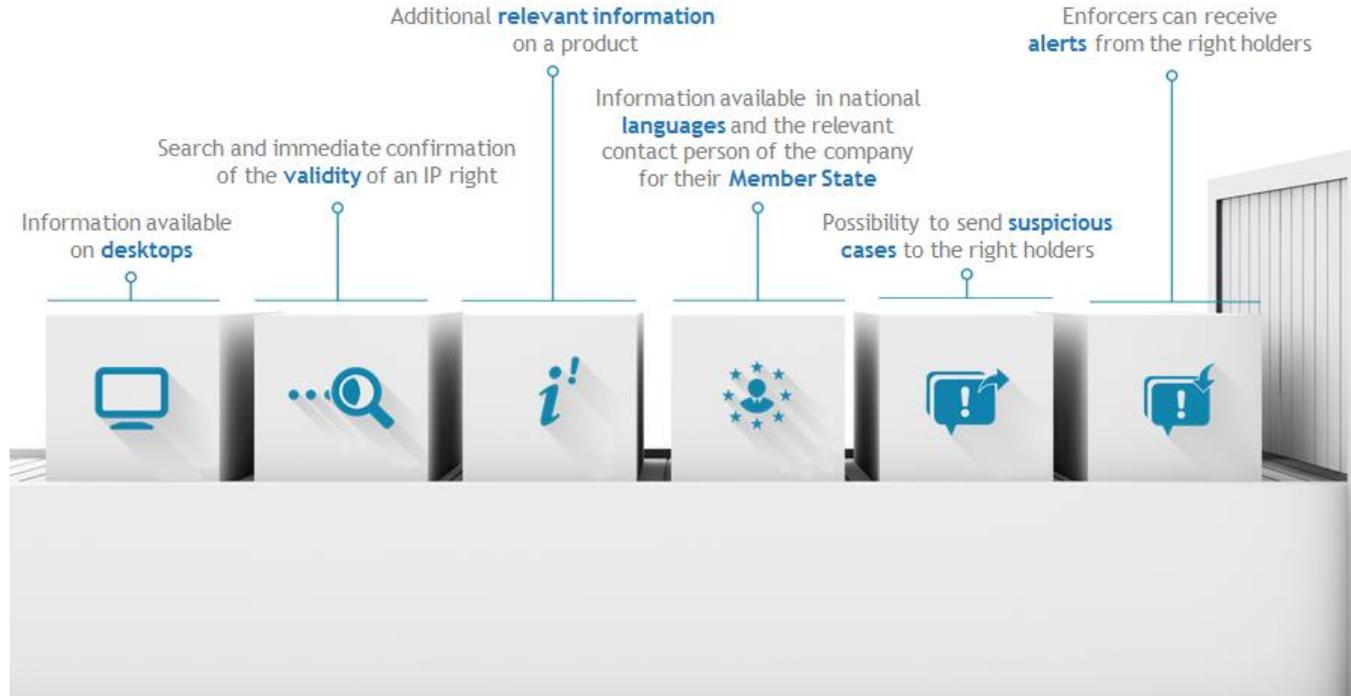
its use by law enforcement authorities is founded on article 2(1) of Regulation EU 386/2012 establishing the mandate of the EU Observatory

WHO PARTICIPATES?

A joint effort



WHAT ARE THE BENEFITS FOR ENFORCERS?





THANK YOU
GRACIAS
MERCÍ
BEDANKEN



CARIFORUM



EU-CARIFORUM Regional project, funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)

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