

**CarlPI Training: Design Examination
Procedures. Concepts of Novelty and
Individual Character**



**Practice in the examination of industrial
drawings and models.
Novelty and singular character.**

**Marleny Cruz Gibert
Head of Departament for Patents**

21 March 2023



National Judicial Framework for Industrial Property

Industrial drawings and models

Decree-Law number 290, On Inventions, Drawings and Industrial Models, of November 20, 2011

Decree number 342, Regulation of Decree-Law No. 290, of February 28, 2018

Complementary resolutions: rates, forms, legal representation available at OCPI website: www.ocpi.cu

TITLE III

INDUSTRIAL DRAWINGS AND MODELS

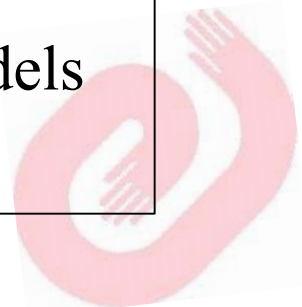
CHAPTER I

DEFINITION

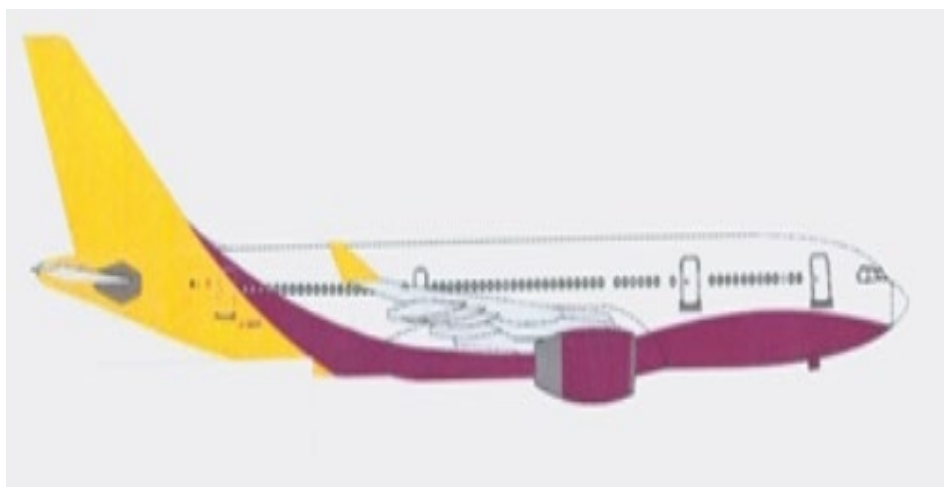
ARTICLE 91.1 - Constitutes industrial design all element or combination of flat elements, of aesthetic or decorative nature, be it of form, colour, designs, texture, with or without relief, or its combinations that, incorporated into an industrial or artisanal product, gives a special appearance that distinguishes it from similar products and can serve as prototype for its industrial or artisanal production.

2. Constitutes industrial model all volumetric, industrial or artisanal product, or its parts, which form, configuration, texture, material, or combinations, gives a special ornamental or aesthetic appearance, that differentiates it from similar products and can serve as industrial or artisanal prototype.

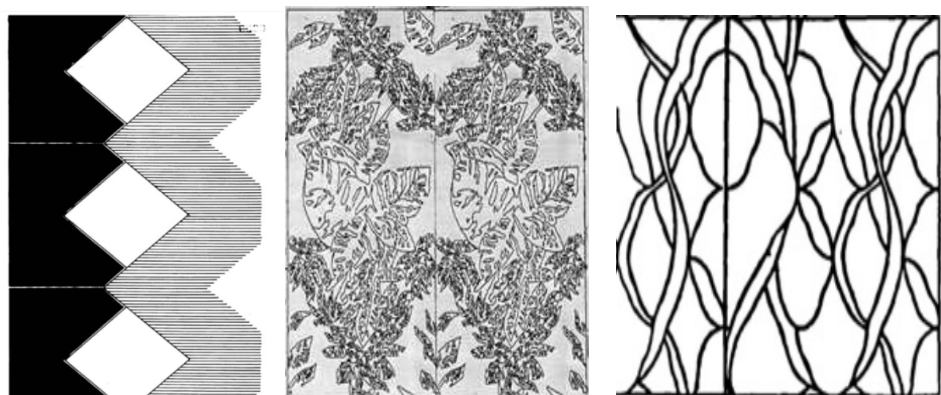
3. The regulations established for the protection of industrial drawings and models are common to both, unless the distinction is expressly made.



INDUSTRIAL DRAWING



2013 Combination and arrangement of colors
 Owner: MONARCH HOLDINGS LIMITED
 Record: 2302
 Legal Status: Expired

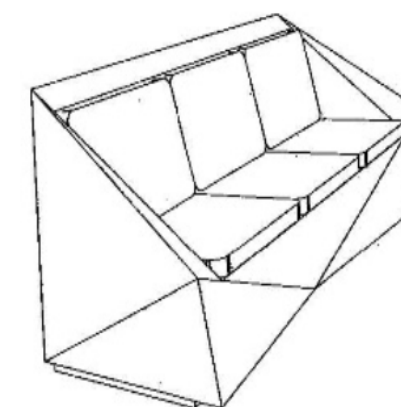


1987 and 1993
 Fabrics: Records 1636, 1789, 1785
 Owner: ONDI
 Legal Status: Expired

INDUSTRIAL MODEL



2018 Protractor
 Record 2351
 Owners: COMPANY "AGRICULTURAL MACHINERY DEVELOPMENT CENTRE" and Mechanical Company of Holguín "Heroes of July 26"
 Legal status: Current



Record 2354
 Owner: Yessika González CU
 Legal status: Expired



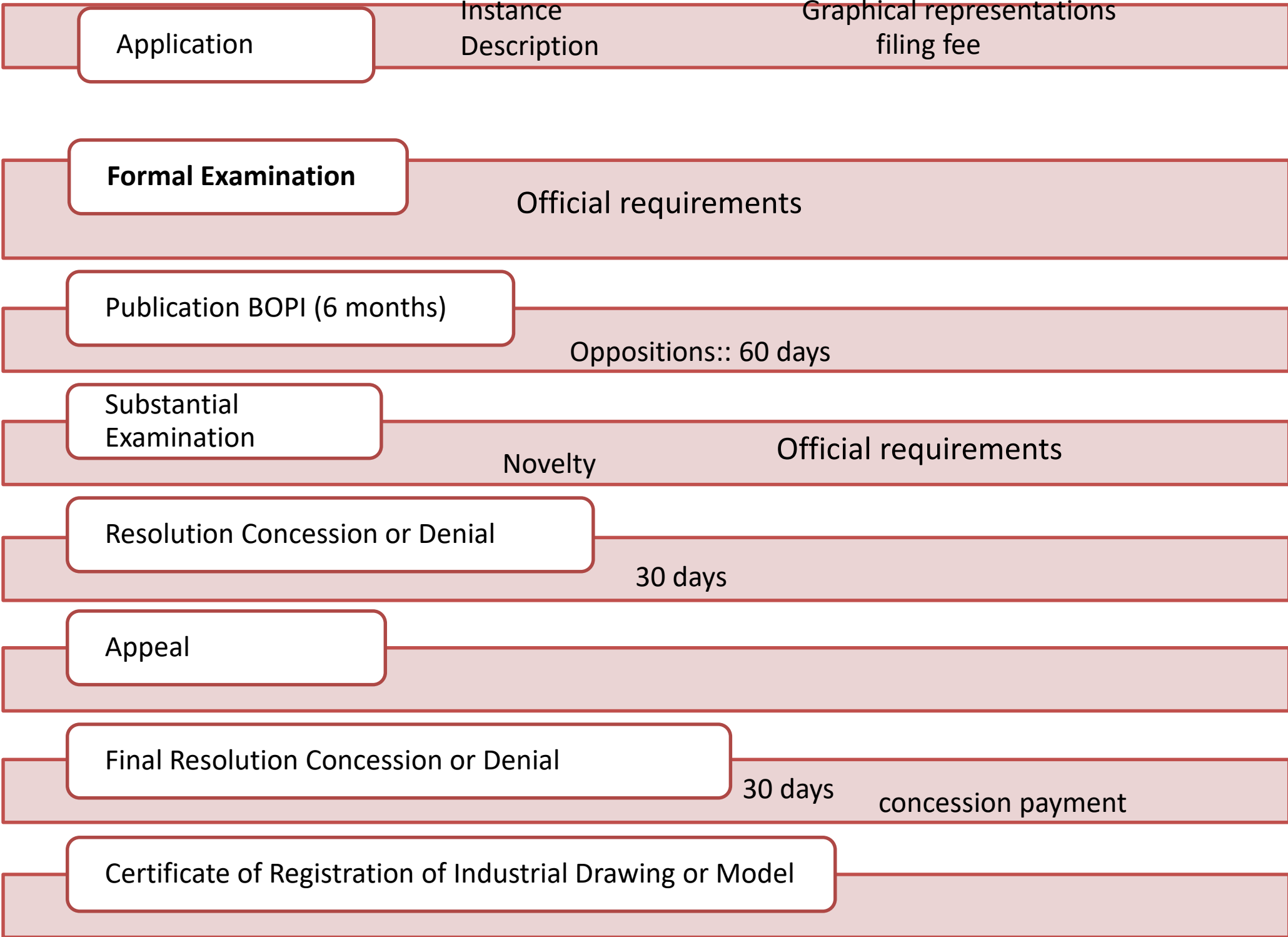
2014
 Registration: 2310
 Owner: Eddy Michel Conrado Atencio and Alejandro Rosales Trinchet, CU
 Legal Status: Current



Record: 2358
 Owners: Mario Vázquez Mora, Leandro Lamadrid López and Yenier Díaz Perojo CU
 Legal status: Expired



Concession procedure Industrial Drawings and Models





CHAPTER II

Decreto- Ley 290

REGISTRATION REQUIREMENTS

ARTICLE 93. – Registered are the drawings and models that possess novelty.

ARTICLE 94. – A drawing or model is considered new, when another identical one has not been made public and the general impression that it produces in an informed person is different from the general impression produced in that person by any other drawing or model, which had been made public before the date of priority.

2. Also taken into account for the purposes of determining novelty, is the content of an application for registration of a drawing or model in process before the Office, the priority date being prior to the priority date of an application for registration of drawing or model which is being examined, as long as its content has been or was previously made public.

3. A drawing or model is not new based on the mere presence of secondary differences in respect to previous drawings or models or that it refers to another genre of products.



Guía del Solicitante de Dibujos y Modelos Industriales



What are the requirements for obtaining registration of an Industrial Drawing or Model?



Artículo 94

Decreto-ley número 290

A drawing or model must meet the novelty requirement, that is, it is required to be universally new.

It is new when no other identical to it has been made available to the public (whether through a description, use or by any other means) and when the general impression it produces on an informed person differs from the general impression produced on said person by any other design or model, which has been made available to the public before the filing or priority date, if it is claimed.

It is important to point out that a drawing or model is not new for the mere fact that it presents minor differences with respect to previous drawings or models, or that it refers to another type of product.

Guía para el examen de Dibujos y Modelos Industriales



Dpto de Inveniones y Modelos Industriales
OCPI

SEPTIEMBRE 2021

- Precise comparison with the ET to identify if the differences are significant or secondary.
- Secondary differences: not easily noticeable, of second order, without conferring a special and different appearance.
- Consider the object in its entirety and not a parallel comparison, that is, detail by detail.
- Overall impression produced by the object into which the design is incorporated.

For the analysis of NOVELTY:

Frequent databases



The screenshot shows the WIPO Global Design Database website. The browser address bar is highlighted with a red box and contains the URL <https://www3.wipo.int/designdb/en/>. The website header includes the WIPO logo and navigation links like 'WIPO IP PORTAL', 'MENU', 'Global Design Database', 'HELP', 'ENGLISH', 'LOGIN', and 'WIPO'. The main content area is titled 'Global Design Database' and features a search interface with 'SEARCH BY' and 'FILTER BY' sections. The 'SEARCH BY' section includes fields for 'Indication of product', 'Design class', and 'Description'. The 'FILTER BY' section includes a table of design counts by country.

Source	Status	Designation	Locarno class	Reg. Year	Expiration	Holder
AL Designs	325	BG Designs	18,927	BN Designs	191	
BW Designs	203	CA Designs	192,536	CH Designs	134,303	
CN Designs	7,361,294	CR Designs	2,071	CU Designs	772	
DE Designs	1,282,153	EM Designs	1,555,631	ES Designs	487,203	
FR Designs	807,648	GE Designs	2,774	ID Designs	55,719	
IL Designs	15,050	IN Designs	96,021	IT Designs	52,576	
JP Designs	2,402,000	RU Designs	1,100,000	US Designs	1,100,000	

The search results are sorted by 'Reg. Date - desc' and show a list of designs with their NZ ID, title, registration date, and holder. Each design entry includes a grid of five thumbnail images representing different views of the design.

- NZ ID 430258 (2 Designs): ARTIFICIAL HAND, 2023-03-15, TASKA PROSTHETICS LIMITED. Includes five hand-related thumbnails.
- NZ ID 451815: a SNACK, 2023-03-14, INTERSNACK GROUP GMBH & CO. KG. Includes five snack-related thumbnails.
- NZ ID 451180: Dental appliance holder, 2023-03-14, DENTSPPLY SIRONA INC. Includes five dental appliance-related thumbnails.
- NZ ID 450425: Wheelbarrow, 2023-03-14, AMES Australasia Pty Ltd. Includes five wheelbarrow-related thumbnails.



Database



Browser address bar: <https://www.tmdn.org/tmdsview-web/welcome#/dsview>

Browser tabs: Comenzar a usar Firefox, IPAS, IPAS ADMIN, Trazas, DeepL Write: lleva tu e...

DESIGNview

Español (es) | Iniciar sesión | Registro

Busca 20,397,139 dibujos o modelos en toda la UE y otros países

Introduzca la indicación de producto

BÚSQUDA | BÚSQUDA AVANZADA

CONFIGURE LA BÚSQUDA

Territorios: Seleccionar territorios

Oficinas: Seleccione una o más oficinas



National database



Browser address bar: https://wiposearch.ocpi.cu/wopublish-search/public/designs?1&query=*>*

Comenzar a usar Firefox | IPAS | IPAS ADMIN | Trazas | DeepL Write: lleva tu e...



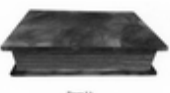
OFICINA CUBANA DE LA PROPIEDAD INDUSTRIAL | Ayuda | Acerca de | Español

Diseños | Patentes | Marcas

BÚSQUEDA BÁSICA | BÚSQUEDA AVANZADA | SELECCIÓN DEL USUARIO (0)

estuches tabaco | **Buscar** | Restablecer

Mostrando 1 a 3 de 3. [Navigation icons]

DIBUJO	TÍTULO	Nº. EXPEDIENTE	FECHA DE PRESENTACIÓN	Nº. REGISTRO	FECHA REGISTRO	FECHA PUBLICACIÓN	CLASIFICACIÓN LOCARNO	NOMBRE DEL SOLICITANTE	DISEÑADOR	SUBTIPO DE SOLICITUD	ESTADO LEGAL
	FRASCO O ENVASE	CU/I/1994 /000017	19/07/1994	I1809	10/01/1995	31/01/1996	09-01	EMPRESA CUBANA DEL TABACO (CUBATABACO)	Espinosa Vega, Carlos	Patente de Modelo Industrial	Expirada
	HUMIDORES DE TABACO	CU/I/1997 /000007	09/05/1997	I1927	28/01/1998	30/12/1998	27-06	Cotarelo Prieto, Armando	Cotarelo Prieto, Armando	Patente de Modelo Industrial	Expirada
	HUMIDOR O ESTUCHE PARA TABACO	CU/I/2020 /000010	07/12/2020	I2393	25/08/2022	02/07/2021	27-06	Rodríguez Lobaina, Jesser	Rodríguez Lobaina, Jesser	NL-Registro Mod. Indust. DL290	Registrada



Case study



Año CXIV

Boletín Oficial N°334

SOLICITUDES DE REGISTRO DE MODELO INDUSTRIAL PRESENTADAS EN VIRTUD DEL DECRETO-LEY 290

- (12)- Solicitud de Registro de Modelo Industrial
- (13)- S4
- (21)- 2015-0007
- (22)- 2015.08.13
- (30)- 2015.05.06 WO 002695395-0001
- (51)- 11-02
- (54)- TROFEO



Priority data

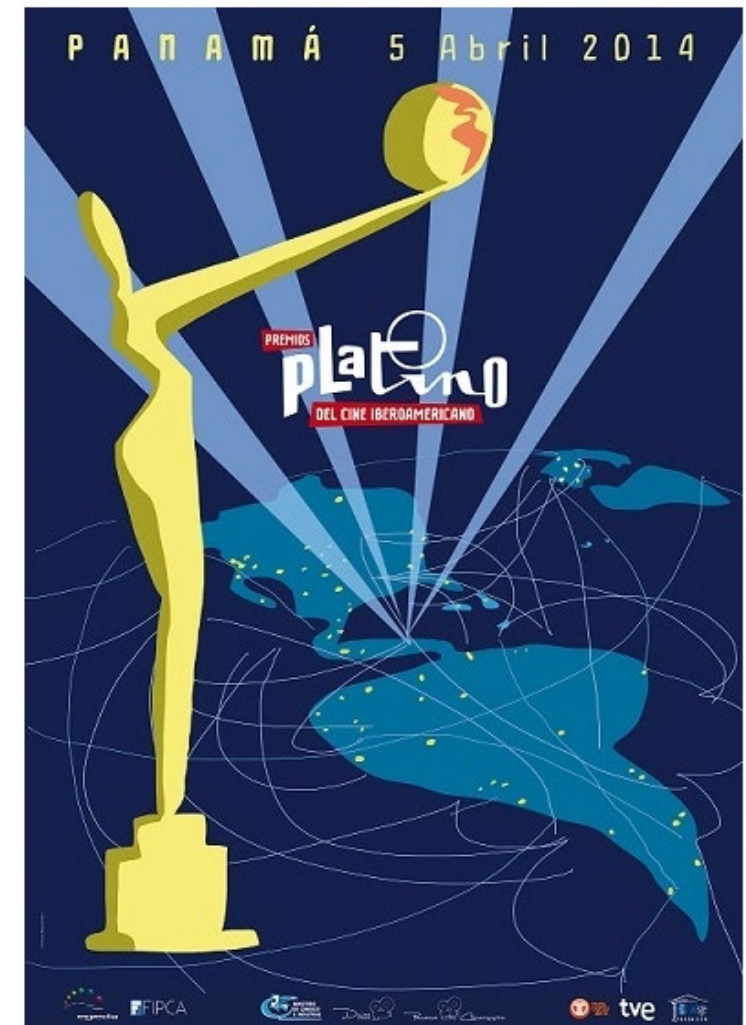
Trophy of the Ibero-American Cinema Platinum Awards



Denied for lack of novelty

Previous disclosures by the applicant

- Information about his presentation on February 14, 2014 at the Casa de América in Madrid.
- Poster of the awards corresponding to the first edition held in Panama City on April 5, 2014.
- Website of the Award and the author himself with diagrams and sketches



C. Locarno: 12-15. TYRES AND ANTI-SKID CHAINS FOR VEHICLES



Substantial remarks

Application Abandoned

Interferences: Disclosures of the Organization of Consumers and Users (OCU), published: 08.24 and 25.2020



PatentCU/I/2021/000001 - MACHINERY

13 submissions
Partial award

C. Locarno: 15-3 AGRICULTURAL AND FORESTRY MACHINERY



12.1

Submission 12 Denied

Remarks about the singular character



Interference cited

Disclosure date September 14, 2019

CHALLENGES

• **Technical preparation of examiners in the examination of industrial drawings and models**

• **Update the examination guidelines based on the quality of the award procedure**

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