

# CP6 - GRAPHICAL REPRESENTATION OF DESIGNS

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Name  
4 March 2021

## TOPICS

- Introduction to Convergence Project
- Scope of CP6
- The Practice
  - Disclaimers
  - Types of views
  - Neutral Background
- Practice implementation

# INTRODUCTION TO CONVERGENCE PROJECT

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## Introduction – Starting Point

### Internal dimension

- Setting up the Office and its internal processes
- Achieve internal efficiency.



### External dimension

User oriented



## Convergence Project - Importance



# EUIPN

EUROPEAN UNION

INTELLECTUAL PROPERTY NETWORK

**Colaborative Network**  
connecting

IP Offices, user associations and other  
IP organisations

[EUIPN Website](#)

## The EUIPN – How does it work

- Project-based approach
- Objectives and priorities set up by the Members of the Network
- EUIPO provides infrastructure and resources



## The Convergence Project - Aim

### 1 Legal Certainty

Increased legal certainty due to greater **consistency** and **predictability** in decisions made.

LEGAL  
CERTAINTY

### 4 Time and cost savings

Potential reduction in application processing times and cost savings for both IPO and users.

TIME AND COST  
SAVINGS

### 3 Quality and usability

Effective and efficient access to protection offered by registration systems

QUALITY AND  
USABILITY

CONVERGENCE

### 2 Clarity and transparency

Communication initiatives keep stakeholders informed of advancements in a timely manner, with unified information

CLARITY AND  
TRANSPARENCY

## The Convergence Projects- Principles



- ❖ Focus on Practices → **No legislative amendments required**
- ❖ Commitment of implementation by the **Participating National IP Offices**



## EUIPN Convergence Projects

CP3: Distinctiveness - Figurative Marks containing descriptive/non-distinctive words

CP4: Scope of Protection Black and White Marks

CP5: Relative Grounds – Likelihood of Confusion (Impact of non-distinctive/weak components)

CP6: Graphic Representation of Designs

CP8: Use of a Trade Mark in a Form Differing from the One Registered

CP9: Distinctiveness of Three-Dimensional Marks (Shape Marks) Containing Verbal and-or Figurative Elements when the Shape is not Distinctive in itself

CP10: Criteria for Assessing Disclosure of Designs on the Internet

CP11: New Types of Marks

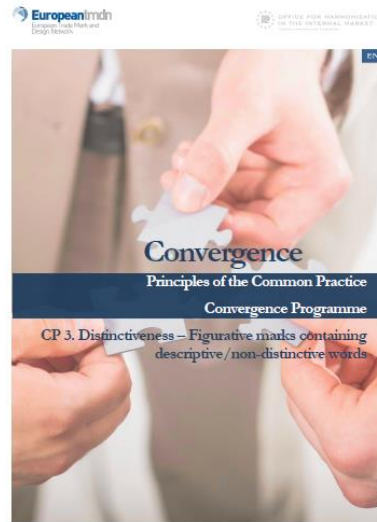
CP12: Proof of Use in Appeal Proceedings

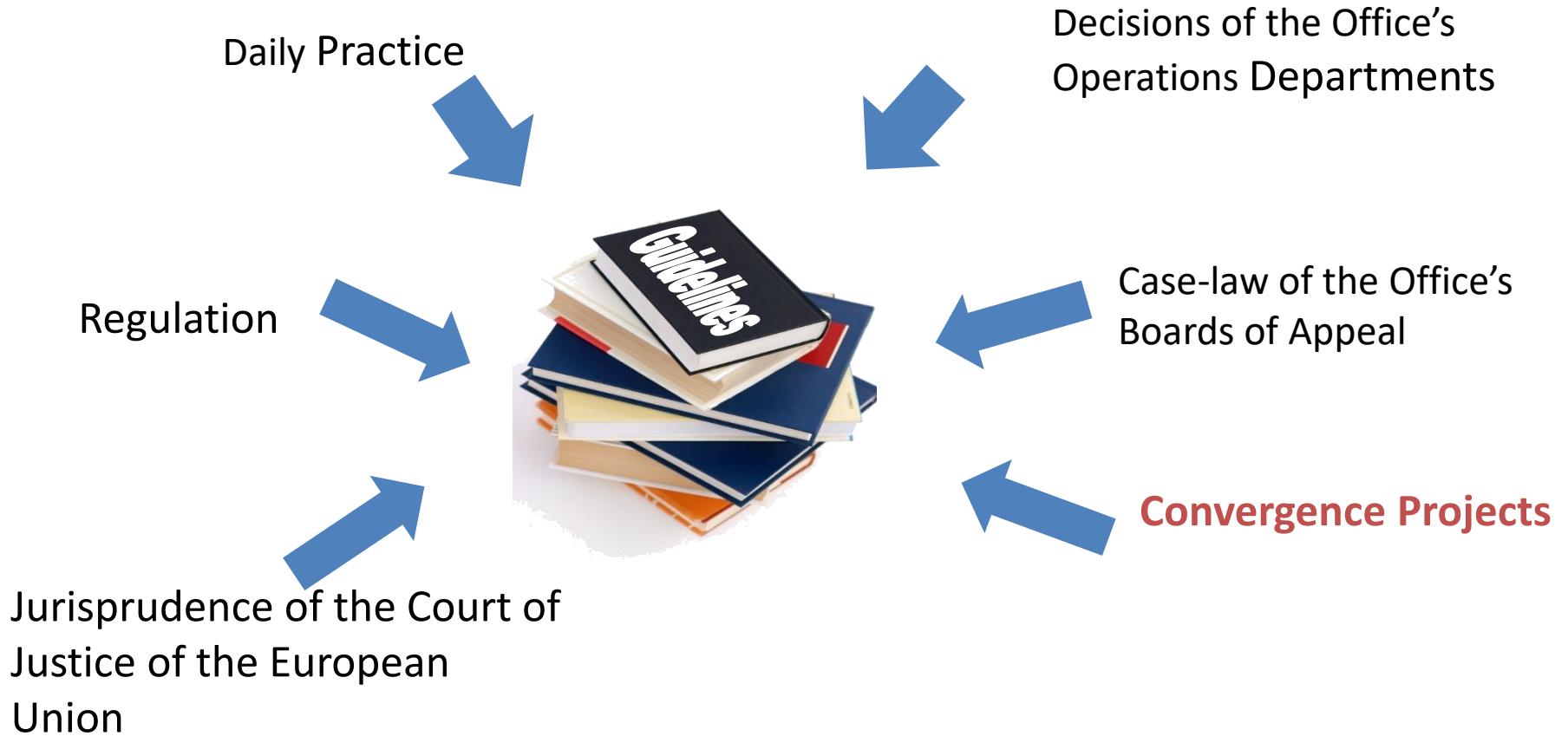
# The Convergence Projects - Results

‘Common  
Communications’

published

ONLINE





# The Convergence Projects - Results

## Inclusion in EUIPO Guidelines

Motivos de denegación absolutos — Marcas descriptivas

**DIRECTRICES RELATIVAS AL EXAMEN DE LAS MARCAS DE LA UNIÓN EUROPEA**

**OFICINA DE PROPIEDAD INTELECTUAL DE LA UNIÓN EUROPEA (EUIPO)**

**PARTE B**

**EXAMEN**

**SECCIÓN 4**

**MOTIVOS DE DENEGACIÓN ABSOLUTOS**

**CAPÍTULO 4**

**MARCAS DESCRIPTIVAS**

**Artículo 7, apartado 1, letra c), del RMUE**

### 4.2 Apreciación del umbral figurativo

La presencia de elementos figurativos puede otorgar carácter distintivo a un elemento verbal descriptivo y/o no distintivo, de modo que se registre como marca de la Unión Europea. Por consiguiente, se otorga carácter distintivo a un signo si la estilización y/o los elementos gráficos de un signo son lo suficiente para que este pueda servir como indicación de origen.

En el marco de la Red Europea de Marcas, Dibujos y Modelos (ETM) varias oficinas de marcas de la Unión Europea acordaron una práctica común cuando una marca figurativa, que únicamente contiene elementos descriptivos o no distintivos, debería superar el examen de motivos absolutos. El uso de colores es habitual en el comercio y no se consideraría una indicación de procedencia. Sin embargo, no puede excluirse la posibilidad de que una composición especial de colores poco habitual y que el consumidor interesado pueda recordar fácilmente otorgue carácter distintivo a la marca.

La Práctica Común establece criterios para determinar si se cumple el requisito de carácter distintivo debido a los elementos figurativos de la marca, con

- **Elementos verbales**, como el tipo y fuente del texto, la combinación de los signos de puntuación y otros símbolos, o cómo se sitúan (arriba, abajo, etc.).
- **Elementos figurativos**, como el uso de formas geométricas simples y proporción (tamaño) de los elementos figurativos en relación con los verbales, o si el elemento figurativo es una representación de un producto o servicio, o está directamente relacionado con ellos, y si el elemento figurativo utiliza habitualmente en el comercio de los productos o servicios

<sup>2</sup>Véase la Comunicación Común sobre la Práctica Común del carácter distintivo - Marcas figurativas que contienen palabras descriptivas o no descriptivas, disponible en <https://www.tmdn.org/network/documents/10181/278891cf-6e4a-41ad-b8d8-1e0795c47cb1>

Motivos de denegación absolutos — Marcas descriptivas

*Ejemplos de carácter distintivo:*

Signo	Ejemplo
	Ejemplo CP3
FLAVOUR AND AROMA	Ejemplo CP3
	Ejemplo CP3

Signo	Asunto	Productos y servicios
	MUE n.º 13 448 097	Clases 5,9,11,37,42,45

ii Combinación con colores

La mera «adición» de un solo color a un elemento denominativo descriptivo carente de carácter distintivo, ya sea a las letras o en forma de fondo, no será suficiente para otorgar carácter distintivo a la marca.

El uso de colores es habitual en el comercio y no se consideraría una indicación de procedencia. Sin embargo, no puede excluirse la posibilidad de que una composición especial de colores poco habitual y que el consumidor interesado pueda recordar fácilmente otorgue carácter distintivo a la marca.

*Ejemplos de ausencia de carácter distintivo:*

Ejemplos CP3





# International Cooperation Practices´ Related Initiative Recent Developments

غير مميز		
البيانات/الخدمات	العلامة	الاساس المنطقي
الفئة 30: قهوة	<b>Flavour and aroma</b>	إضافة لون واحد إلى شكل حرف أساسي/هادي (حروف ملونة).
الفئة 30: قهوة	<b>Flavour and aroma</b>	إضافة لون واحد إلى شكل حرف أساسي/هادي (خلفية ملونة أو إطار ملون).
الفئة 30: قهوة	<b>Flavour and aroma</b>	
الفئة 30: قهوة	<b>Flavour and aroma</b>	إضافة لوان واحد إلى شكل حرف أساسي/هادي (إطار حام ملون).
الفئة 30: قهوة	<b>FLAVOUR AND AROMA</b>	إضافة لوان واحد إلى شكل حرف أساسي/هادي (تدرج لوان).
الفئة 30: قهوة	<b>Flavour and aroma</b>	في هذا المثال، فإن استخدام الكثير من الالوان المختلفة في الحروف قد يجذب انتباه المستهلك، ولكن لن يساعد في تمييز البضائع وأو الخدمات عن الأخرى، تمامًا كما لا يفهم ترتيب محدد للالوان من قبل المستهلك ولا يفكره الأخير.



პრაქტიკა.

დიზაინის

გრაფიკულად

გამოსახვა

# INTRODUCTION TO CP6

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## CP6 – Common Practice on the Graphic Representation of Designs



## SCOPE OF CP6

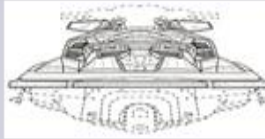
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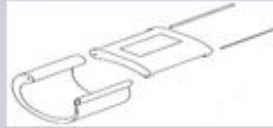
## CP6: Scope of CP6

### 4 different objectives:

Disclaimers



Types of views



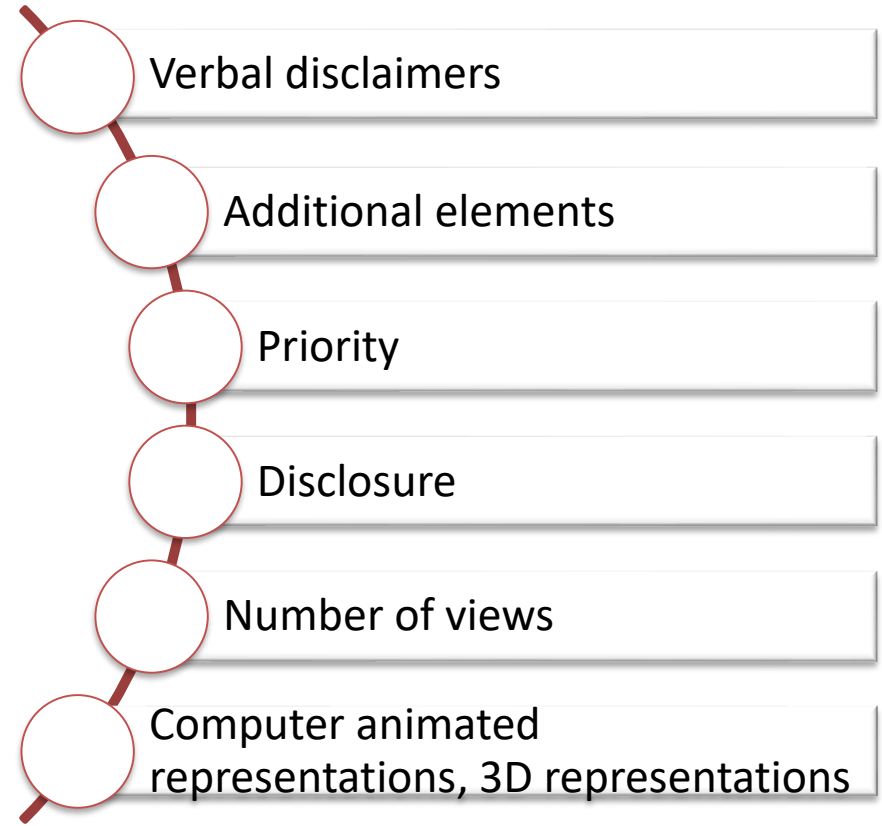
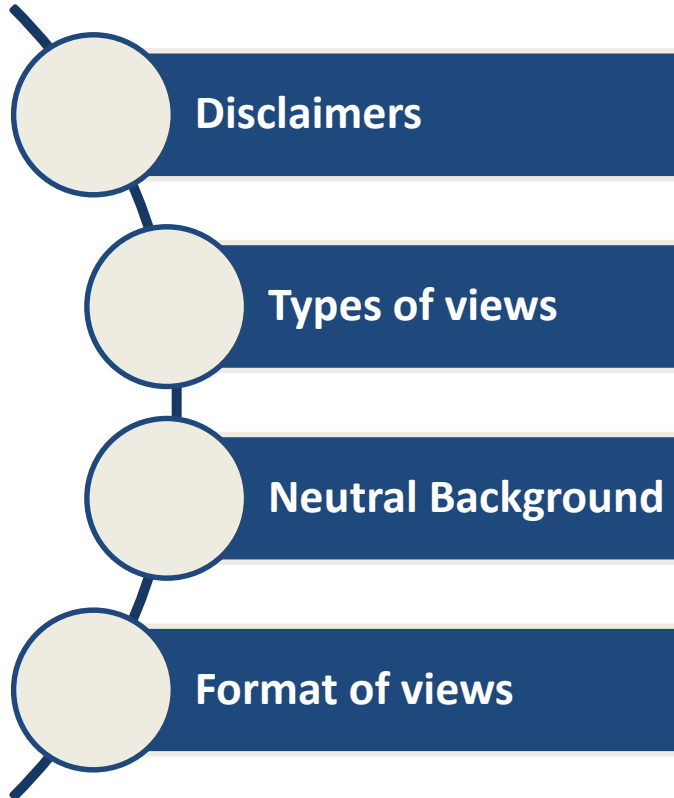
Neutral Background



Format of views

- Limited to Benchmarking
- Recommendations

## CP6: Out of Scope of the common practice



# THE PRACTICE

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## Objective 1: Use of visual disclaimers

Definitions

General  
requirements  
for  
acceptability

General  
recommenda  
tions

For each type  
of disclaimer:  
- Definition  
- Requirements  
- Examples



**Disclaimer**

## Objective 1: Use of visual disclaimers

### Definition

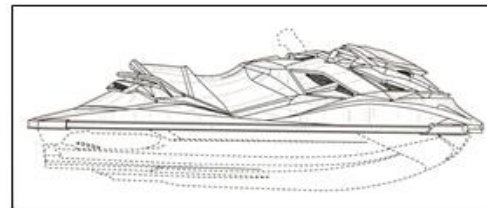
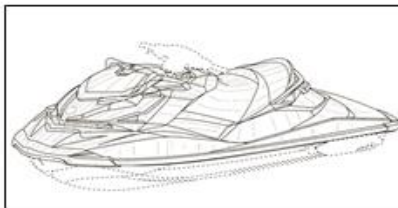
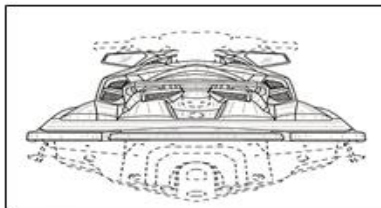
Visual disclaimers indicate that protection is not being sought for, and registration has not been granted for, certain features of the design shown in the representation. Thus, they indicate what is not intended to be protected.

## Objective 1: Use of visual disclaimers

### General Requirements

Visual disclaimers will only be accepted when:

- They **clearly** indicate that protection is not being sought for certain features of the design shown in the representation.
- They are shown **consistently** in all the views where the disclaimer appears.



## Objective 1: Use of visual disclaimers

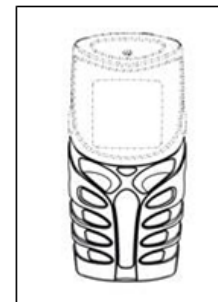
### General Recommendations

Graphic or photographic representations showing only the claimed design are preferred.

However, disclaimers can be used when the graphic or photographic representation of the design contains parts of the product for which no protection is sought. In these cases, the disclaimer must be clear and obvious: the claimed and disclaimed features must be clearly differentiated.



RCD No. 002182238-0002 (26.03) (Outdoor lighting) Owner: Stanisław Rosa trading as Zakład Produkcji Sprzętu Oświetleniowego ROSA

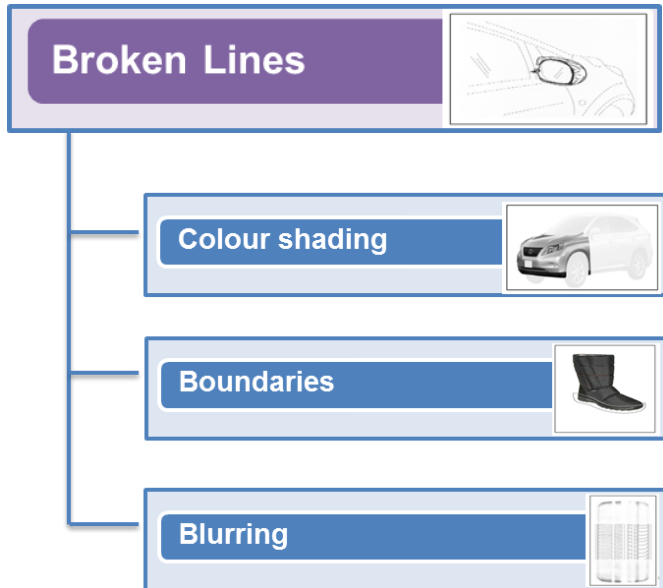


Community design lapsed No. 000030606-0003 (14.03) Key button arrangement for mobile telephones

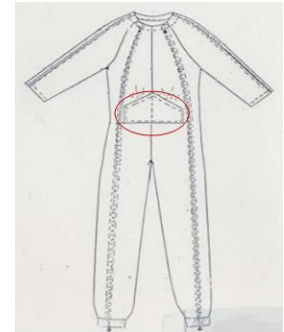
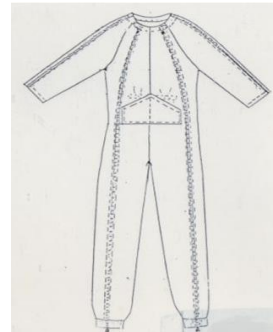
## Objective 1: Use of visual disclaimers

### Types of visual disclaimers

Where a disclaimer is used, broken lines are recommended:



**Note:** Only when broken lines cannot be used due to technical reasons (for example, when they are used to indicate stitching on clothing or patterns; or photographs are used), other disclaimers can be used.

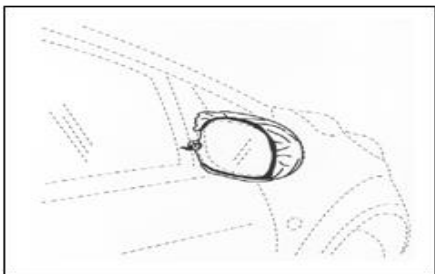




## Objective 1: Use of visual disclaimers

### a) Broken lines

Broken lines are used to indicate that no protection is sought for the features that are shown using the interrupted trace.



BX registered design No. 38212-0001 (12.16)  
(rearview mirrors) Owner: Interimage BV

### b) Colour shading

Colour shading is a type of visual disclaimer that consists of using contrasting tones of colour to obscure sufficiently the features for which protection is not being sought.



RCD No. 000910146-0004 (12.08 Automobiles (part of-)  
Owner: TOYOTA MOTOR CORPORATION

## Objective 1: Use of visual disclaimers

### c) Boundaries

With this type of visual disclaimer, the features for which protection is sought should be clearly indicated/represented within the boundary whereas all the features outside the boundary are considered to be disclaimed and therefore not protecte



RCD No. 001873688-0003  
(02.04 soles for footwear)  
Owner: SK



CP6 Example (12.16) (Air-intake grilles for vehicles)

### d) Blurring

Blurring is a type of visual disclaimer that consists of obscuring the features for which protection is not being sought and may only be accepted when the features for which protection is sought are clearly distinguishable from the disclaimed (blurred) features.



RCD No. 000RCD No. 000244520-0002  
(12.15) (Tyres for vehicle wheels, pneumatic) Owner: Nokian Tyres plc

## Objective 2: Types of views

**Definition  
of View**

**Forms/means of  
representation**

**General  
Recommendations**

**For each type  
of view:**

- **Definition**
- **Requirements**
- **Recommendations**

## Objective 2: Types of views

### Definition of View

A view is a visual representation of the design. It may reproduce the design from various directions (angles) or at different moments in time or in various states.

## Objective 2: Types of views

### General Recommendations

- In most cases, aspect views are enough for disclosing all the features of the design. However, the applicant may provide complementary/additional views in order to further disclose the features of the design.
- It is not obligatory for the applicant to file a certain number of views or a certain type of view as long as all the features of the design can be clearly perceived, e.g. one view may be sufficient.

RCD No. 002327015-0001 (12.11) (bicycle frames)  
Owner: Marcin, Kacper Hajek



RCD No. 002324756-0001 (06.01)  
(seating furniture) Owner: Axmann  
Investment GmbH

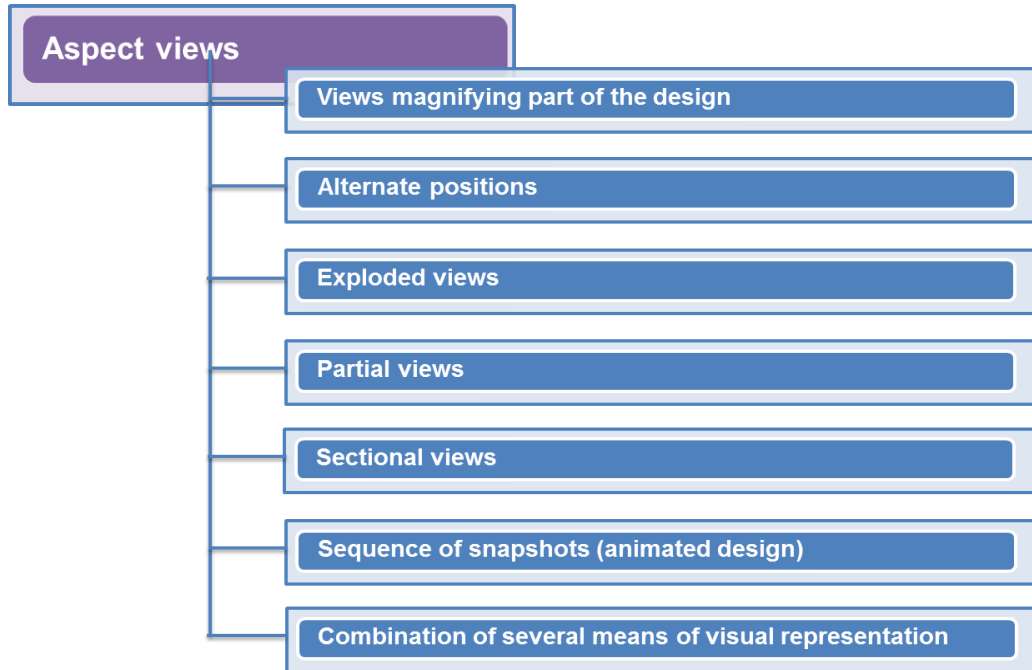


- In case of products consisting of several parts, at least one view must present the whole product.

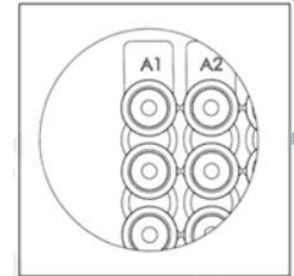
## Objective 2: Types of views

### Guidelines for each type of view

The use of aspect views to disclose the features of the design is preferred.



**Note:** However, the applicant is free to provide complementary/additional views.



## Objective 2: Types of views

### a) Aspect views

These types of views show the design from certain directions (angles) and encompass the following views: front view, top view, bottom view, right side view, left side view, back view and perspective views.

The applicant is recommended to file as many views as necessary to fully disclose the features of the design. In some cases one view can be sufficient.

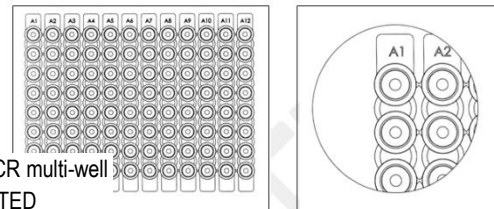


RCD No. 002325456-0001 (31.00) (Mixers, electric [kitchen]) Owner:KENWOOD LIMITED

### b) Views magnifying part of the design

This type of view shows one part of an overall design in an enlarged scale.

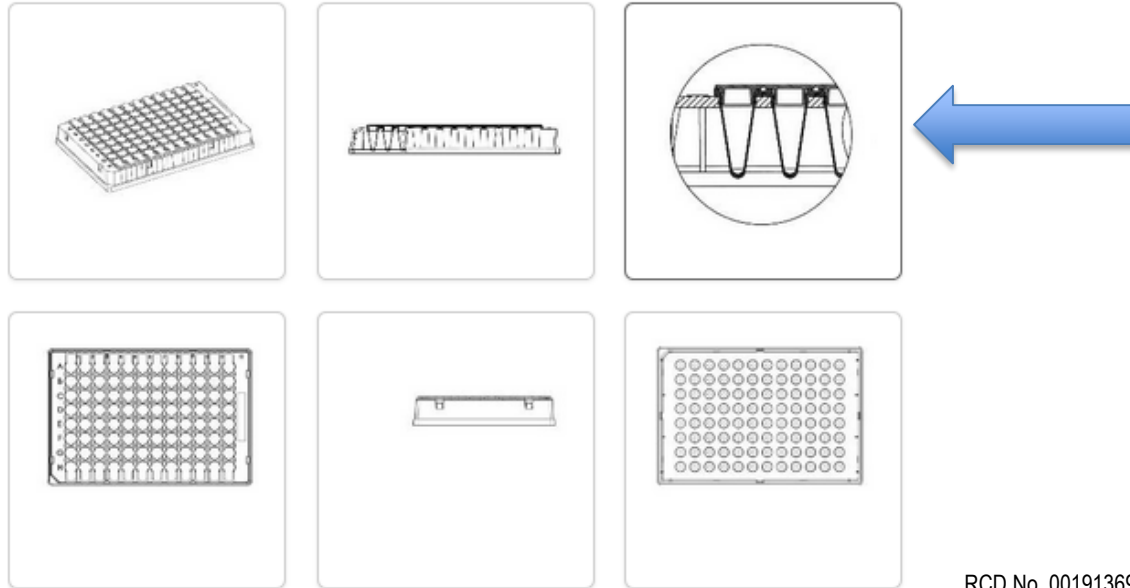
A single magnified view is acceptable provided that the magnified part is already visible in one of the other submitted views and it is presented in a separate single view.



RCD No. 001913690-0002 (24.02) (PCR multi-well plates) Owner: ABGENE LIMITED

## Objective 2: Types of views

### b) Views magnifying part of the



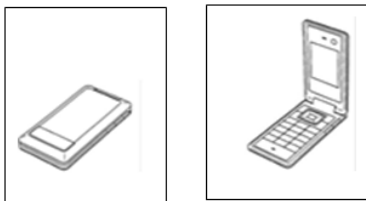


## Objective 2: Types of views

### c) Alternate positions

Designs with alternate positions have an appearance which can be modified into several configurations without any addition or removal of any parts.

The views showing the different configurations of the design must be shown separately.

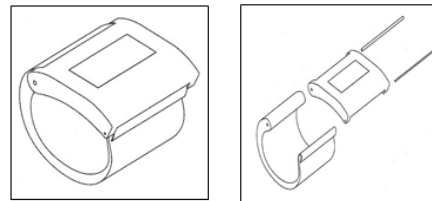


RCD No. 000588694-0012 (14.03) (Mobile phones) Owner: Fujitsu Mobile Communications Limited

### d) Exploded views

Exploded views consist of views where the parts of a product are shown disassembled in order to clarify how the parts fit together.

These views must be combined with at least one view representing the product assembled.



Croatian registered design No. D20140080 (24.01) (Bracelets with muscle stimulator) Owner: Dominik Žinić

## Objective 2: Types of views

### d) Exploded views



## Objective 2: Types of views

### e) Partial views

Partial views show a part of a product in isolation.

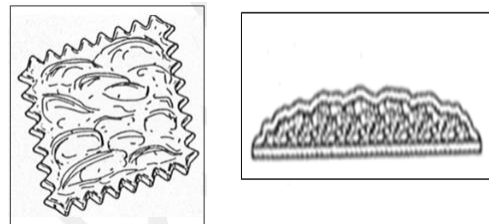
Partial views can be magnified and must be combined with at least one view representing the product assembled.



RCD No. 002038216-0001 (15.01, 23.04) (Air filters, Containers for air filters, for engines) Owner: BMC S.r.l.

### f) Sectional views

Cutaway portions that complement aspect views by illustrating a feature or features of the appearance of the product such as the contour, surface, shape or configuration of the product.

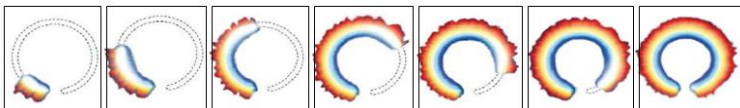


Spanish  
registered  
design No.  
10152702-D  
(01.01)  
(biscuits)  
Owner: CUE  
TARA, S.L.

## Objective 2: Types of views

### g) Sequence of snapshots (animated design)

Short sequence of views used to show a single animated design at different moments in time, in a clearly understandable progression. This applies to an animated icon (design consisting of a sequence) or an animated graphical user interface (design of an interface).



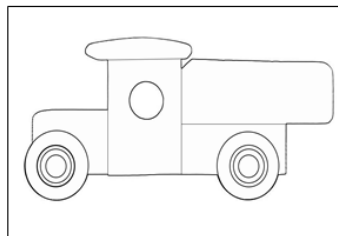
RCD No 2085894-0014 (14.04) (Animated screen displays) Owner: NIKE Innovate C.V.



RCD No 001068001-0002 (14.04) (Icons, Animated icons, Screen displays and icons)  
Owner: Deutsche Telekom AG

### h) Combination of several means of visual representation

It is recommended that a design should be represented using only one visual format (drawing, photograph) so as to avoid disclosing aspects that contribute to a different overall impression.



CP6 Example (21.01) (Vehicles [toys])

## Objective 3: Neutral background



The diagram features a large grey arrow pointing to the right. Inside the arrow's shaft are three dark blue rounded rectangular boxes with white borders, containing the text 'Colors', 'Contrast', and 'Shadows' from left to right.

**Colors**

**Contrast**

**Shadows**

## Objective 3: Neutral background

In order to assess if a background is neutral, the following aspects should be taken into consideration:

### a) Requirements related to colours

- A single or predominant colour in a background is always acceptable if it stands out against the colours of the design.
- Graduating colour and more than one colour in a background is acceptable if the design is clearly distinguishable.



Austrian lapsed design  
No. 1747/1999 (01.01)  
) (Ice lolly) Owner:  
Schöller Lebensmittel  
GMBH & CO. KG



(09.07) (Packages  
and containers for  
the transport or  
handling of goods)



CP6 Example (01.01) (Cakes)

## Objective 3: Neutral background

### b) Requirements related to contrast

All features of the design should be clearly visible.

The contrast is considered insufficient when the colour of the background and the design are similar and partly melt into each other.



BX registered design No. 38895-00  
(25.03) (shed) Owner: Herman  
Lankwarden



Portuguese lapsed design No. 420-0006  
(06.01) (chairs) Owner: Abril Mobiliário

### c) Requirements related to shadows/ reflections

Shadows or reflections are acceptable as long as all features of the design remain visible.

They are unacceptable when:

- There is limited colour contrast with the design, and/or
- shadows interfere with, or hide parts of, the design or they distort the contour of the design.



Danish  
registered  
design No. 2013  
00069 (12.11)  
(wheeled cargo  
bike) Owner:  
3PART A/S



CP6 Example (11.02)  
(flower vases)

## Practice Implementation



**Practice published as a common communication**



**Practice incorporated in EUIPO guidelines**



**Presentation to our global partners during WIPO Standing Committee 2018**



Questions?





[www.euipo.europa.eu](http://www.euipo.europa.eu)



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Thank you