



The Registered Community Design

“Industrial designs: Past, Present and Future”
devoted to the 150th Anniversary of the First Russian Design Law
Rospatent, Moscow. 24 April 2014.



REGISTERED COMMUNITY DESIGN

GENERAL INFORMATION AND STATISTICS



Registered Community Design: Some important traits...

One application procedure

One language (any of the 23 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

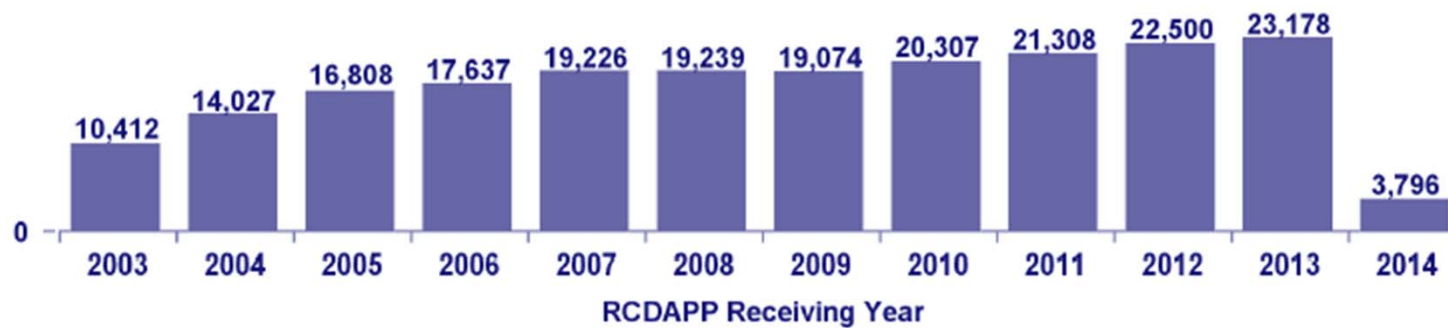
Maximum life: 25 years





RCD Applications

Total:

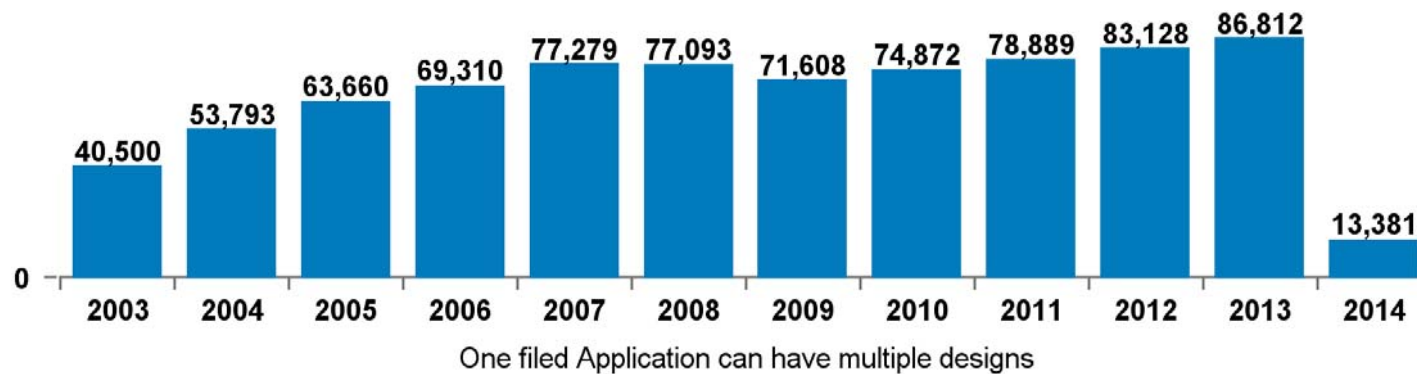


2003-2013
+123%



Designs Received

Total: 790,325



2003-2013
+114%



REGISTERED COMMUNITY DESIGN

DEFINITIONS, REQUIREMENTS & SCOPE OF PROTECTION



A design is...

Art. 3 CDR

Design: the appearance of the whole or a part of a product resulting from its features.

Product : any industrial or handicraft item, including inter alia:

- Parts assembled into a complex product
- Packaging
- Get-up
- Graphic symbols
- Typographic typefaces



Excluded: computer programs



Not a design

Natural products



Mere words and sequences of letters without figurative elements

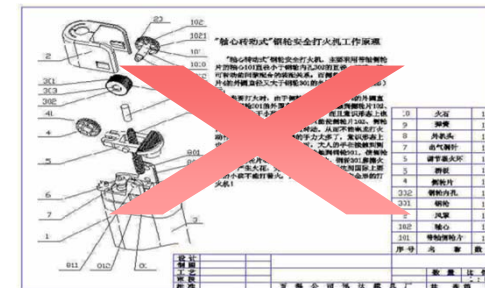
~~DIESEL~~

Ideas

Functions



Smells and fragrances



Music and sounds

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



Requirements for Protection

(Art. 4, 5, 6, 8, 9 CDR)

- ✓ Novelty
- ✓ Individual character

No protection for:

- component parts of a complex product which are not visible during normal use
- designs which are solely dictated by the technical function of the product
- designs of interconnections
- designs contrary to public policy and accepted principles of morality



Novelty (Art. 5 CDR)

Novelty = no identical design disclosed to the public earlier

A design shall be deemed to have been made available to the public before a certain date if:

- it has been published following registration
- exhibited
- used in trade
- otherwise disclosed (internet, magazines...)

No need that such disclosure takes place in EU



Grace Period

Art. 7(2) CDR

The novelty of the design is destroyed 1 year
after its first disclosure to the public



Individual Character (Art. 6 CDR)

Individual character = different overall impression on the “informed user” from any design disclosed earlier

The degree of freedom of the designer in developing the design is taken into consideration



Scope of Protection (Art. 10 CDR)

Includes any design producing the same overall impression
on the “informed user”

Applications can be filed in any of the 23 EU languages directly to OHIM by...

e-filing 

- e filing (electronic application)
- Fax (confirmation copy within 1 month)
- Post/Courier
- Hand delivery

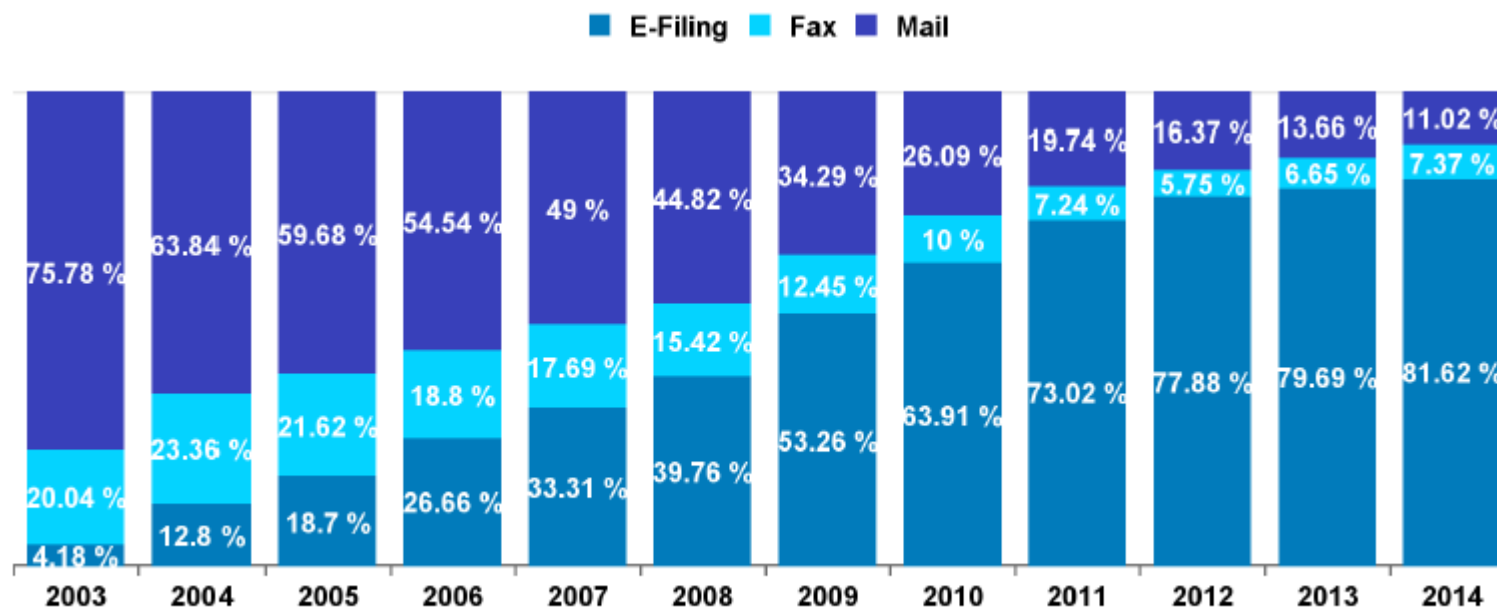


or through any National IP Office of the EU
(filing date: the date of receipt in the national office)



Means for filing

The importance of e-filing (as % of total annual filings)



Grounds for Non-Registrability

- Not corresponding to the definition of a design
- Against public policy and accepted principles of morality



No examination on:

- Art. 4 to 8 CDR (novelty, individual character, visible in normal use, dictated by its technical function, interconnections)
- relative grounds
- whether the applicant is entitled

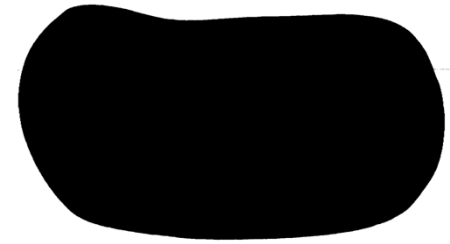
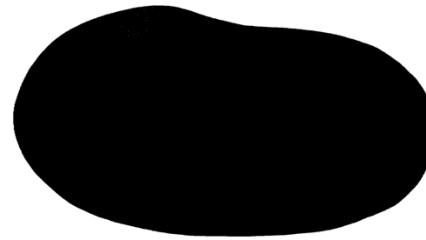
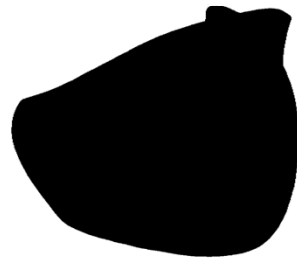
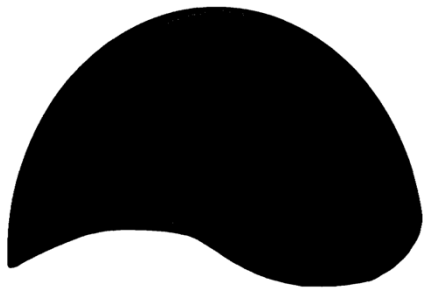


- Obscene or immoral images, racist images or messages and Nazi symbols are not acceptable
- Flags and religious symbols are acceptable provided they are used in a proper and decent way
- Registering images of famous people without their permission would not be seen as being against public policy

Art. 36(1)CDR

1. Request for design registration
2. Information identifying the applicant
3. Representation of the design suitable for reproduction according to *Art. 4(1)CDIR*:
 - Good quality* - it should clearly show the details of the design for which protection is sought
 - Neutral background* - it should be only the design and nothing else shown

INDP: Lounge chairs



Not neutral background

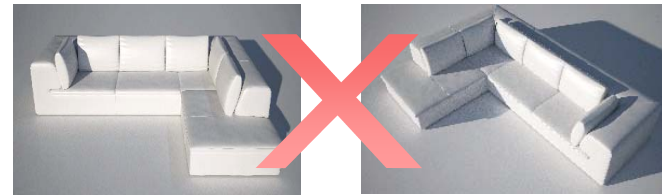


INDP: Chair



- The representation can be photos, computer drawings or drawings by hand, in BW or colour
- Maximum seven (7) different views

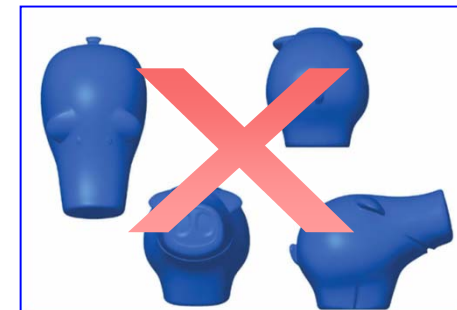
- All views should show the same product



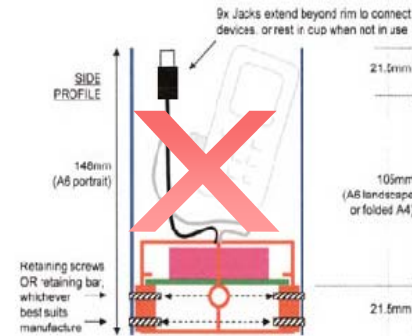
- All views should show the same colour



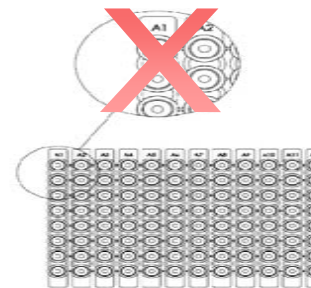
- Only one view per electronic attachment (e-filing restriction)



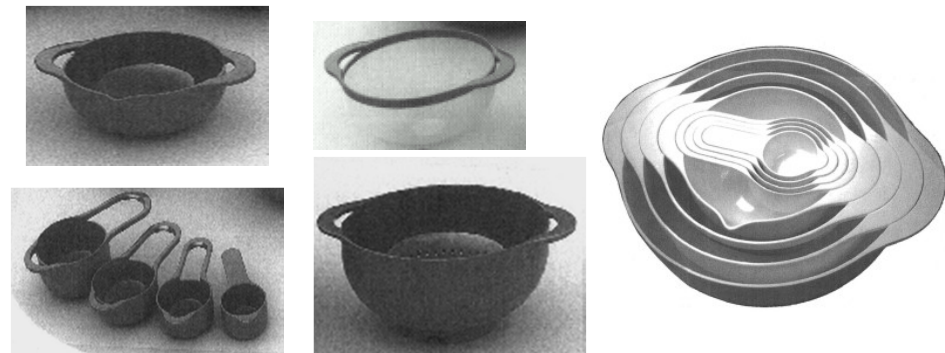
- Views should not contain explanatory text, wording, numbers or symbols



- Detailed views of portions of the design should not be shown together with the design



- Set of articles & complex products must contain in the representation a global view of the design



The application must contain an indication of product. The term must be clear and not too generic, so that the classification is possible.

The classification of the Community Designs is based on the 9th Edition (2008) of LOCARNO international system (32 classes & 219 sub-classes).

OHIM has prepared in the 22 EU languages an extended version of Locarno, the “**EUROLOCARNO**” list (+/-14000 terms) which is searchable online and constantly enriched with new terms.

The classification is not mandatory for the applicant. OHIM classifies the designs ex officio.

Art. 42 & 44 CDR

- Previous application/registration filed maximum 6 months before the filing date of the Community design application.

Possible to claim priority at the time of filing or within 1 month from the filing date.

Certified copy of the previous application/registration certificate should be received at the OHIM within 3 months after the date of claiming the priority.

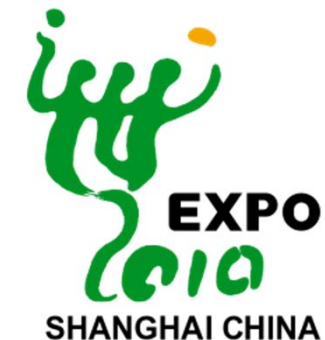
- Exhibition priority can be claimed within 6 months from the date of the first disclosure during the exhibitions falling within the terms of the Convention on International Exhibitions signed in 1928.

Aichi Japan, 2005

Saragossa Spain, 2008

Shanghai China, 2010

Yeosu Korea, 2012





Art. 77 CDR

Applicants who do not have either their domicile or their principal place of business or a real and effective industrial or commercial establishment in the Community must appoint a representative with its domicile or its principal place of business or a real and effective industrial or commercial establishment in the Community.

Table of fees



Reason for Fee	Fee (1 st design)	Additional fee (each design from 2 nd to 10 th)	Additional fee (each design after the 11 th)
Registration	€230	€115	€50
Publication	€120	€60	€30
Deferred Publication	€40	€20	€10

Renewal



The Community design is renewable in blocks of 5 years

Maximum protection: 25 years

The use of the design is not obligatory

“e-Renewal” is possible and recommended, also available in paper form in all 22 languages

OHIM informs the right holders via mail 6 months before the end. Late renewal is possible, no later than 6 months after the end

Reason for Fee	Fee
Renewal (first)	€90
Renewal (second)	€120
Renewal (third)	€150
Renewal (fourth)	€180
Late Renewal	25% of late fee (per design)

- Community Designs Bulletin
- Daily publication
- Only electronic



2011/250 001937301-0004

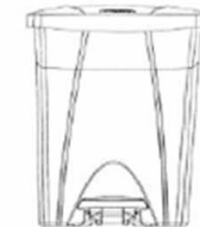
21	001937301-0004
25	PL EN
22	25/10/2011
15	25/10/2011
45	03/11/2011
11	001937301-0004
73	Fabryka Mebli Tapicerowanych Tombea Sp. z o.o. ul. Owocowa 4, Łowęcin 62-020 Swarzędz POLONIA
74	KANCELARIA PATENTOWA PATENTBOX ROMUALD SUSZCZEWICZ ul. Piekary 6/17 61-823 Poznań POLONIA
51	06 - 01
54	BG - Мебели за сядане ES - Muebles de asiento CS - Sedací nábytek DA - Sæddemøbler DE - Sitzmöbel ET - Istmed EL - Καθίσματα EN - Seating furniture FR - Meubles pour s'asseoir IT - Mobili per sedere LV - Mēbeles sēdēšana LT - Sėdimieji baldai HU - Űlőbűtorok MT - Għamara biex wiehed joqgħod bilqiegħda NL - Zitmeubilair PL - Meble do siedzenia PT - Mobiliário de assento RO - Mobilier pentru șezut SK - Nábytok na sedenie SL - Sedežno pohišstvo FI - Istuinkalusteet SV - Sittmöbler

e-Certificate since 15/11/2010



OAMI - OFICINA DE ARMONIZACIÓN DEL MERCADO INTERIOR
MARCAS, DIBUJOS Y MODELOS
OHIM - OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
TRADE MARKS AND DESIGNS

- 21 000289277-0001
- 25 ES - EN
- 22 2401/0005
- 15 2401/0005
- 45 0504/0005
- 11 000289277-0001
- 72 01
- 73 PLASTIKEN, S.L.U.
Avenida de Valencia, 3
E-46001 Paterna (Valencia)
ESPAÑA
- 74 ISERN, CAFACELL
Travessera de Gracia, 30 - 1º C
E-08021 Barcelona
ESPAÑA
- 51 07 - 07
- 54 - Cubos [uso doméstico]
- Obery [iro doméstico]
- Ouhspende [il hushokningbrug]
- Elmer
- Meqajdaniambird
- Kädo [kaxid] [pöytä]
- Buckets [household]
- Seaux de ménage
- Secchi [per la casa]
- Espajo [saimeo] [beiz]
- Kibrei [butina]
- Viodik [hätartas]
- Bramel [fied-dar]
- Emmens [voor huishoudelijk gebruik]
- Wacka [zgodzinowe domowe]
- Baldas [uso doméstico]
- Vacka [ilo doméstico]
- Vacka [gospodarska]
- Anpant [kotitalouskäyttöön]
- Hinkar [hushåll]



0001.1



0001.2



0001.3

Who can appeal?

Any party to the proceedings adversely affected by a decision

- Applicant in case of total or partial rejection of his design application
- The losing party in an Invalidity decision

Time Frame:

the appeal must be filed 2 months as from the date of the notification of the decision

Appeal fee: 800€



- Action against decisions of the Board of Appeal
- Time Frame:
2 months as from the date of notification of the decision of the Board of Appeal
- General Court can annul or alter the contested decision
- OHIM is required to give execution to the judgment



Time limits:

Invalidity can be filed any time after publication

Invalidity application must contain all grounds for invalidity (no submission of new grounds after date of filing)

Language of proceedings: 1st language of the contested Community design

Invalidity fees: 350€

Invalidity is for the whole EU territory



Art. 25(1) CDR

- (a) Not a design
- (b) Does not fulfil requirements of Art. 4 to 9 CDR:
novelty, individual character, designs dictated by their technical function, designs of interconnections, component parts invisible in normal use, designs contrary to public policy or morality
- (c) Holder not entitled
- (d) Anticipated by prior design
- (e) Interfering earlier sign
- (f) Interfering earlier copyright
- (g) Improper use of items listed in Art. 6ter of the Paris Convention or other emblems of public interest in a Member State



Information:



(+ 34) 965 139 100 (switchboard)



(+ 34) 965 139 400 (e-business technical incidents)



(+ 34) 965 131 344 (main fax)



information@oami.europa.eu

e-businesshelp@oami.europa.eu



[twitter/oamitweets](https://twitter.com/oamitweets)



[youtube/oamitubes](https://youtube.com/oamitubes)



Presentation	-		
Status	DRAFT / APPROVED		
Approved by owner	-	-	-
Authors	-	-	-
	-	-	-
Contributors	-	-	-
	-	-	-

Revision history			
Version	Date	Author	Description
0.1	DD/MM/YYYY	-	-
0.1	DD/MM/YYYY	-	-
0.1	DD/MM/YYYY	-	-



**OFFICE FOR HARMONIZATION
IN THE INTERNAL MARKET**
(TRADE MARKS AND DESIGNS)

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Thank You