



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

The Registered Community Design System

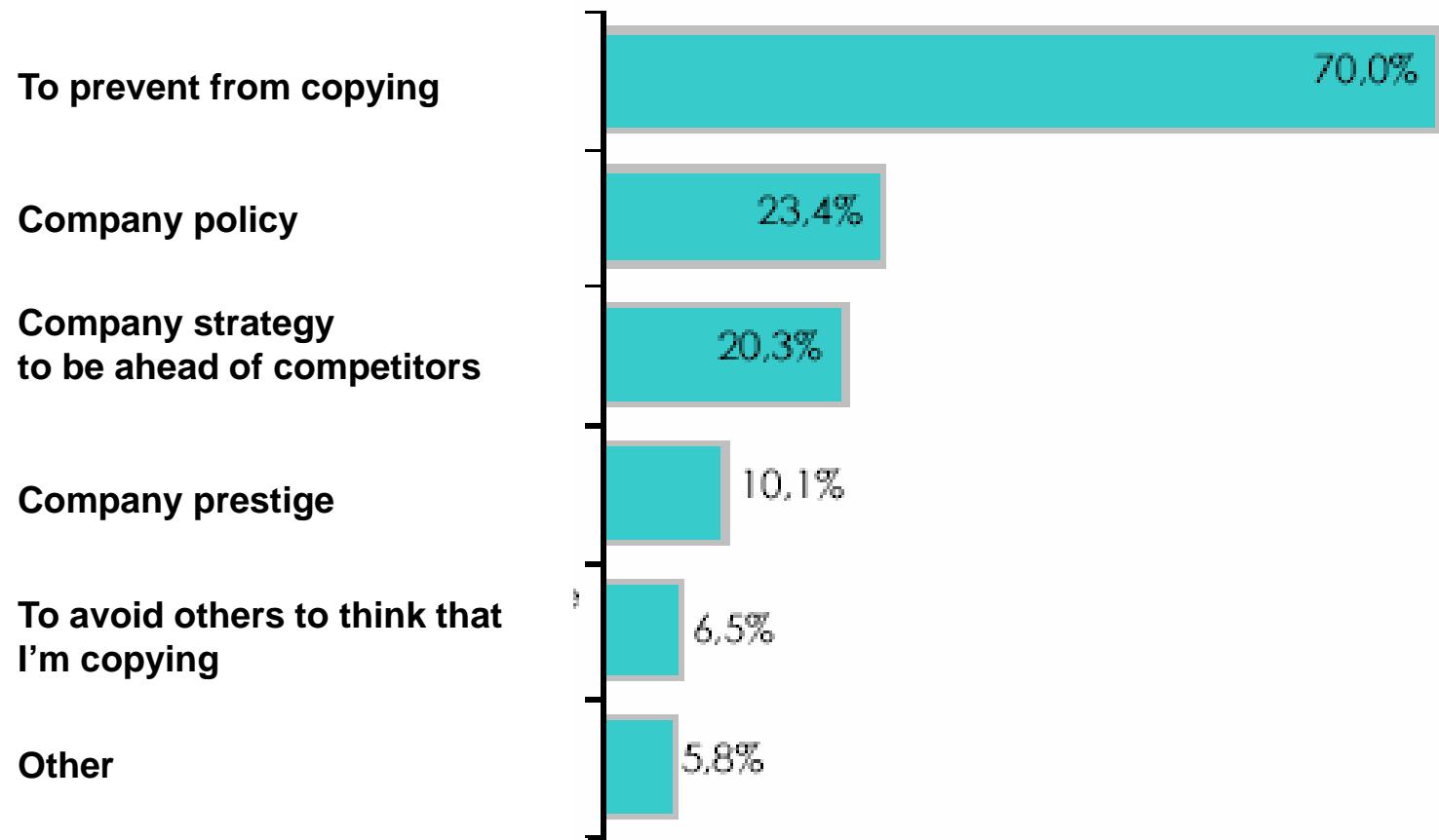
Seminar on Community trade mark and design protection.

Bernardo Viana – ICLAD - OHIM
Rospatent, Moscow, Russian Federation
7 March 2012

www.oami.europa.eu



Why protect your design?





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Community Designs

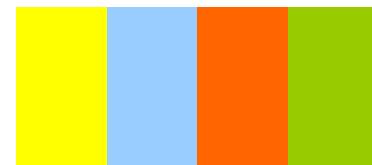
GENERAL DEFINITIONS



(Art 3 (a))

the appearance of the whole or a part of a product
resulting from the features of, in particular, the ...

lines



colours



shape



texture

contours



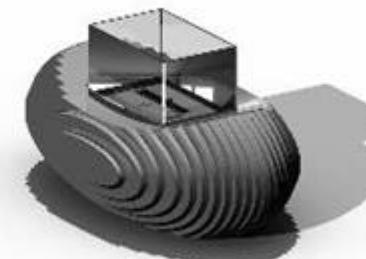
materials



ornamentation



Examples of RCD's





(Art 3 (b))

**“Product”: any industrial or handicraft item,
including inter alia**

- Parts intended to be assembled into a complex product
- Packaging and Get-up
- Graphic symbols
- Typographic typefaces

Excluded - computer programs



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Parts intended for assembly into
a complex product







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Graphic symbols



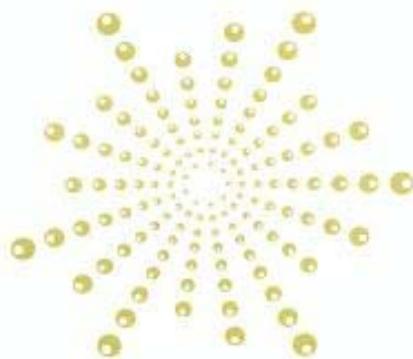
RCD 517859-0001



RCD 993324-0001



RCD 776463 - 0001



RCD 767660 - 0003



- Three alternative routes allowing companies to obtain titles for protection of trade marks and designs within the EU
 - National route (Design office in each MS)
 - International route (WIPO and offices in designated MS)
 - **Community route (OHIM)**



For protecting a CD, the design must:

- be new (worldwide novelty standard)
- have individual character (different overall impression)
- not be dictated by its technical function and/ or by interconnections
- **not be against public policy or morality**
- **comply with the definition of design**

REQUIREMENTS EXAMINED BY OHIM



A disclosure is not taken into account if it has happened
“during the 12 months period preceding the date of filing of
the application or, if a priority is claimed, the date of priority”

There is no need to claim the grace period when filing



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

- it has been published following registration or otherwise
 - exhibited
 - used in trade
 - otherwise disclosed
-
- no need that such disclosure takes place in EU



- 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



Main features

- Birth of right
 - application for registration
- Term of protection
 - 5 years renewable 4 times (max: 25 years)
- Unitary character
 - (equal effect throughout the Community)
- Exclusion of protection
 - (non visible parts, technical functions, interconnections, against public policy or morality)



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EXAMINATION PROCEEDINGS

(From filing to publication)



Any natural or legal person without any restrictions as to nationality



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How to file

e-filing 



www.oami.europa.eu



Sections

- > [Previous RCD Application](#)
- > [Applicant Reference](#)
- > [Languages](#)
- > [Applicant\(s\)](#)
- > [Representative\(s\)](#)
- > [Design\(s\)](#)
- > [Designer\(s\)](#)
- > [Priority Information](#)
- > [Exhibition Priority\(ies\)](#)
- > [Other Attachments](#)
- > [Fees](#)
- > [Signature](#)

[Save to PC](#) [Restore from PC](#) [Print](#) [Autohelp OFF](#)

Date of Application 11/10/2010

[Clear](#)

[Continue](#)

Fields that are indicated with an asterisk (*) are mandatory.

Previous RCD Application

Previous RCD to import: -

[Import](#)

[Search RCD:](#)

Applicant Reference *

Your reference: *

Languages *

First Language: *

[Select](#)

Second Language: *

[Select](#)

I want to receive all correspondence in the second language

Applicant Information *

Existing Applicant OHIM ID:

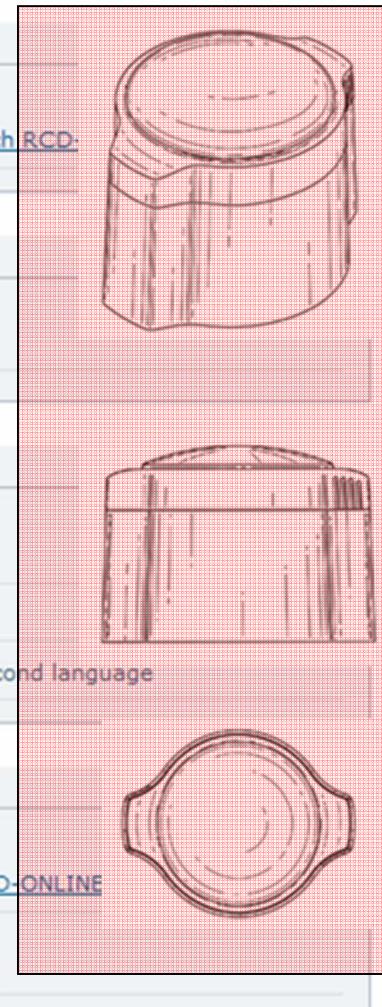
[Load](#)

[Search RCD-ONLINE](#)

Create Applicant:

[- Select -](#)

[Create](#)





- A clear and concise indication of the product to which the design will apply
- Indication of the languages (1st and 2nd)
- Registration fee
- Publication or deferment fee
- **Applicant non EU => Professional Representative**



(Art 78 CDR)

...any **legal practitioner** qualified in one of the Member States and having his place of business within the Community, to the extent that he is entitled, within the said State, to act as a representative in industrial property matters;

or whose name has been entered on the **list of professional representatives** referred to in Article 89(1)(b) of the Regulation on the Community trade mark

or whose names are entered on the **special list of professional representatives** for design matters...



English (en)

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THE TRADE MARKS AND DESIGNS REGISTRATION OFFICE
OF THE EUROPEAN UNION

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FindRep - Representative consultation service - Basic search

Quality plus

- ▶ Quality management system
- ▶ Service charter
- ▶ User satisfaction survey
- ▶ Complaints unit
- ▶ Technical Cooperation agreements with National offices
- ▶ Networks and Users' Groups
- ▶ Links
- ▶ MyPage
- ▶ Databases**
 - Search a Community trade mark
 - Search a Community design
 - Search classification for trade marks - EURONICE/EUROACE
 - Search classification for designs - EUROLOCARNO
 - Search for representatives - FindRep**
- EuroClass

Enter your search criteria

ID No:	<input type="text"/>
Name:	Begins with <input type="text"/>
First Name:	Begins with <input type="text"/>
Type:	All <input type="text"/>
Town:	Begins with <input type="text"/>
Country:	<input type="text"/>

Search **Clear**

Last updated on 10/10/2010

<http://oami.europa.eu/FRP/RequestManager?transition=start&source=Log-in.html&language=en&application=FRP>

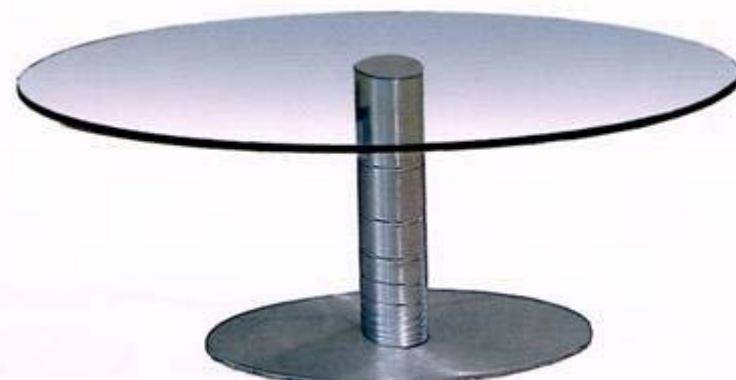
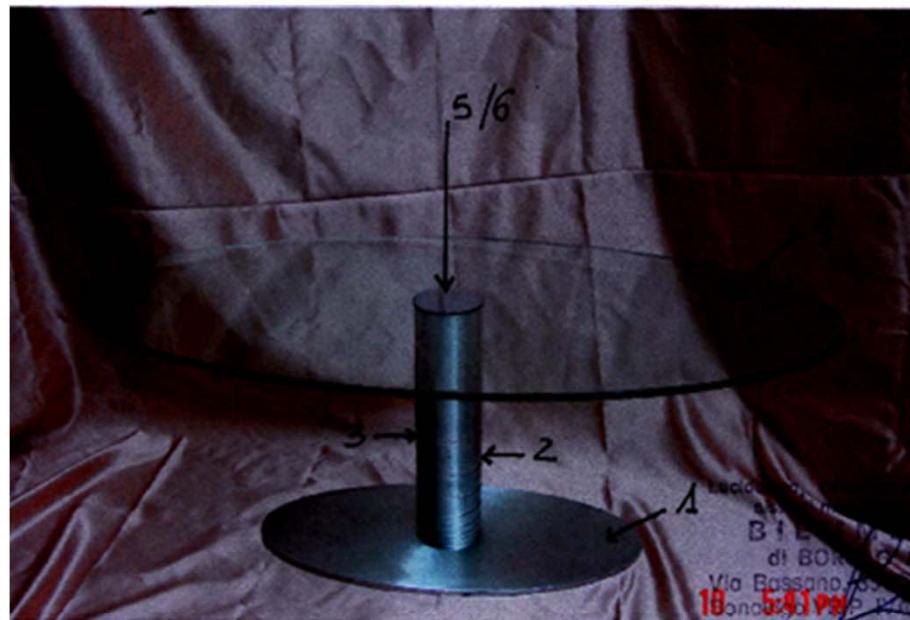


(Art 4 (1)IR)

- A drawing or a photograph of the design in black and white or colour – but a maximum of 7 views only
- Reproduced or pasted on white, opaque A4 paper (only one copy)
- **It should clearly show the details of the design for which protection is sought.**
- **It should be only the design and nothing else shown**
- **Disclaimers are accepted**



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Indication of product: Couches





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Filing date refused (fax)

RCD 475025-0001 Furniture (lounge chairs)





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Disclaimers





(Art 36 (6))

- The indication of the products in which the design is intended to be applied

The description explaining the representation or specimen

- The classification of the products

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



The international classification for designs is known as “LOCARNO”.

The Locarno Classification comprises a list of 32 classes and 223 subclasses.

OHIM has prepared in the 22 EU languages an extended version of Locarno, the “EUROLOCARNO” list, which is searchable online (+/- 13.000 terms).



(Art 37)

More than one design is allowed in an application, provided products are in the same Locarno class

Features

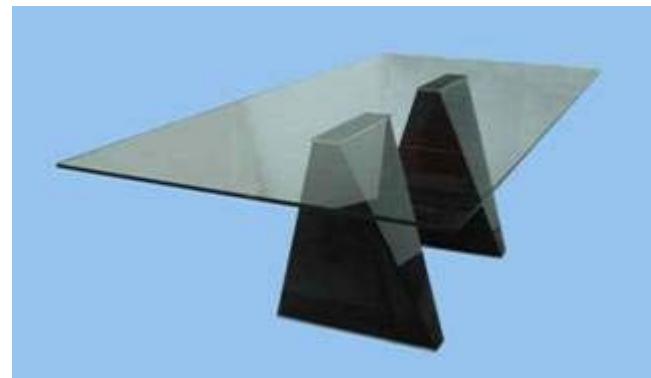
- No upper limit for number of designs
- Each design included will have its own independent life (deferred or not, invalidity, surrender, renewal, etc ...)
- Saves costs for applicant



Reason for Fee	Fee	Additional fee (designs 2-10 each)	Additional fee (designs 11+ each)
Registration	€230	€115	€50
Publication	€120	€60	€30
Deferred Publication	€40	€20	€10



A multiple application (class 06)





(Art 45)

Mainly formalities

- elements provided in application
- priorities
- whether professional representation is required

No examination on

- Requirements of protection (novelty, ind. charac..)
- Relative grounds (earlier rights)
- Whether the applicant is entitled

Grounds for non-registrability

- not a design application
- against public policy and morality



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Design ?

Na





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Morality



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Registering images of famous people without their permission would not be seen as being against public policy or accepted principles of morality





Appeal

- An appeal can be filed by any party adversely affected by a decision
- A notice of appeal must be filed in writing within two months from the date of notification of the decision
- Payment of the appeal fee (800€) is required from the person lodging the appeal



Publications

The “Community Designs Bulletin”

- Daily
- Only electronic
- Contains registrations and entries in the Register



21	000649496-0001
25	EN IT
22	10/01/2007
15	10/01/2007
45	06/02/2007
11	000649496-0001
72	Stella McCartney
73	Coutts & Co. (Private Unlimited Company) 440 Strand London WC2R 0QS REINO UNIDO
74	PINSENT MASONS 1 Park Row Leeds, West Yorkshire LS1 5AB REINO UNIDO
51	19 - 08
54	BG - Кредитни карти ES - Tarjetas de crédito CS - Kreditní karty DA - Kreditkort DE - Karten (Kredit-) ET - Krediitkaardid EL - Πιστωτικές κάρτες EN - Credit cards FR - Cartes de crédit IT - Carte di credito LV - Kreditkartes LT - Kreditinės kortelės HU - Hitelkártyák MT - Karti tal-kreditu NL - Creditcards PL - Karty kredytowe RO - Cărți de credit PT - Cartões de crédito SK - Kreditné karty SL - Kreditne kartice FI - Luottokortit SV - Kreditkort



- Deferment: the delay of the publication of a design for a period up to 30 months, at the request of the applicant.
- Deferment can be requested only at the time of filing.
- An extra fee has to be paid for deferment.

2005/045 000317557-0001

21	000317557-0001
22	01/04/2005
15	01/04/2005
11	000317557-0001
73	Bang & Olufsen Holding A/S Peter Bangs Vej 15 DK-7600 Struer DINAMARCA
74	SANDEL, LØJE & WALLBERG Frederiksgade 7 DK-1265 København K DINAMARCA



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RCD-ONLINE SEARCH SYSTEM





English (en)

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- ▶ **Databases**

Search a Community trade mark

Search a Community design

Search classification for trade marks - EURONICE/EUROACE

Search classification for designs - EUROLOCARNO

Search for representatives -

RCD-ONLINE - Design consultation service - Basic search

International registrations of industrial designs administered by WIPO can now provide protection for the entire EC. Consult the Hague Express Database by clicking [here](#).

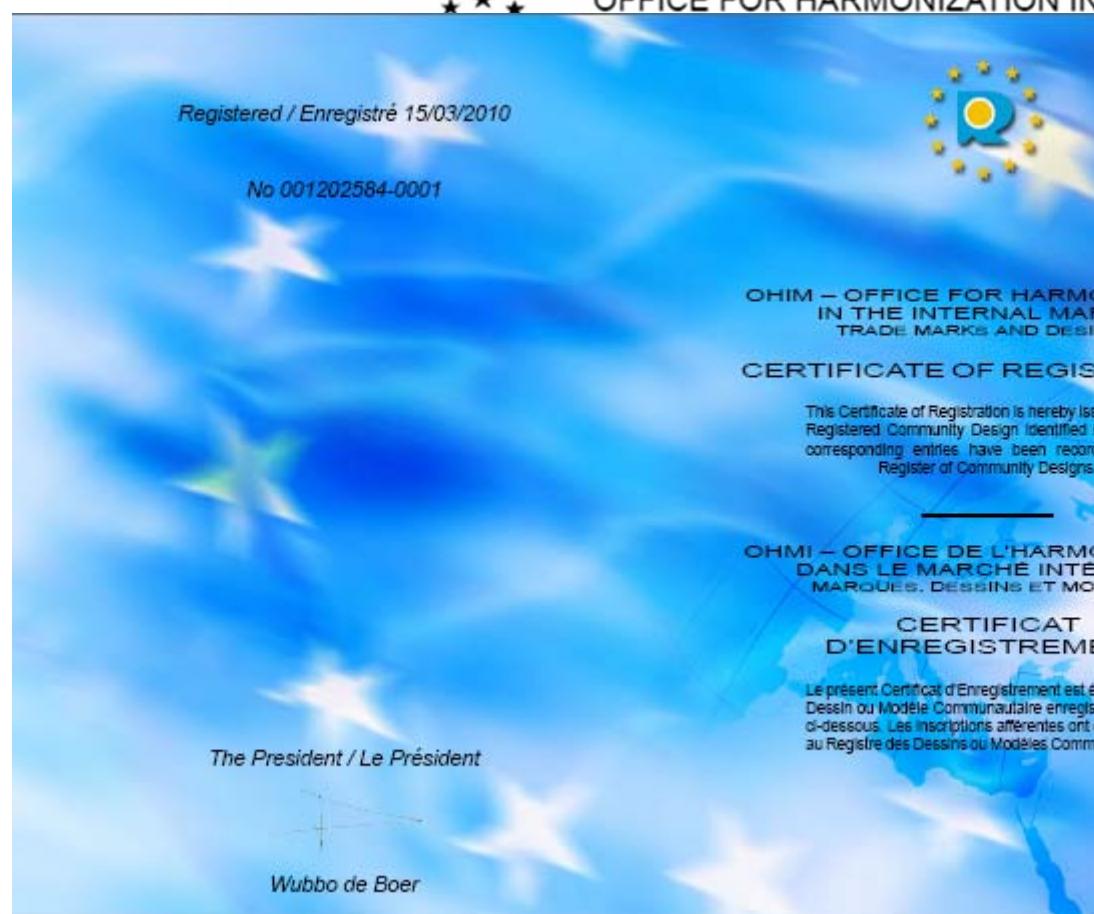
Enter your search criteria

Design number -
Owner **Is**
Filing date **From** **To**
Locarno class-subclass **Any** **Any**
Indication of the product **Is**
Sorting criteria **Design number** **Ascending**

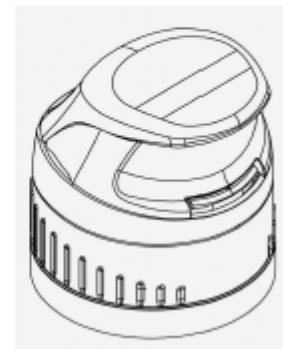
Search **Clear**

Last updated on: 11/10/2010

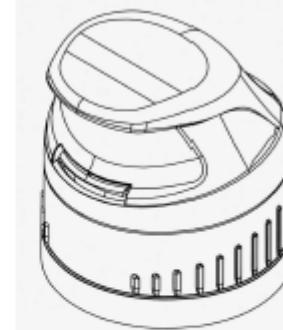
<http://oami.europa.eu/RCDOnline/RequestManager?>



- 21 001202584-0001
25 EN - FR
22 15/03/2010
15 15/03/2010
45 09/04/2010
11 001202584-0001
72 Jean-Yves Rognard
73 Cristal Closures Switzerland GmbH
Romania, 83
Ch-4153 Reinach
SUIZA
74 BRYER, SHELLEY, JOHN AMOR, GREENWOOD LLP
7 Gay Street
Bath BA1 2PH
REINO UNIDO
09 - 07
54 0001.1 - Средства за запаяване за опаковане
0001.2 - Medios de cierre para embalaje
0001.3 - Uzávěry na obalový materiál
0001.4 - Lukkeanordninger til emballage
0001.5 - Schließmittel für Verpackungen
0001.6 - Ssigmedelvisstidit pakendamiseks
0001.7 - Méthod d'empaquement pour emballage
0001.8 - Closing means for packaging
0001.9 - Dispositifs de fermeture pour emballage
0001.10 - Mezzi di chiusura per imballaggio
0001.11 - Isealipujus nostiilglaas (lõiteli)
0001.12 - Peikudüü üldtarbel
0001.13 - Záro' eszközök csomagoláshoz
0001.14 - Mezzi bixx tagħhaq għali-ppekka
0001.15 - Stabilgen voor verpakking
0001.16 - Zamkljeċċa da opakaw
0001.17 - Meios de fecho para embalagem
0001.18 - Sisteme de închidere pentru ambalaj
0001.19 - Uzávěry na obalové materiály
0001.20 - Zapiralja za ovajhno
0001.21 - Suljemistiliset pakkamiseen
0001.22 - Stängningsanordningar för förpackning



0001.1



0001.2



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INVALIDITY



- (a) not a design
- (b) does not fulfil requirements of Art 4-9
 - novelty, individual character
 - technical function, public policy and morality
- (c) holder not entitled
- (d) anticipated by prior design
- (e) in conflict with prior distinctive sign
- (f) in conflict with prior copyright
- (g) improper use of certain emblems etc.



With registration by OHIM

The “Registered Community Design”

- maximum 25 years
- accessible for all nationalities, sectors, companies
- easy filing (e-business)
- no unnecessary formalities

Cost effective

- € 350 for registering 1 design
- less than € 200 for registering 10 designs (multiple filing)

Swift grant of rights

- 80% of designs published in 2 weeks



- To grant a right to a company or a designer
- A right valid in all EU countries
- An asset for the company
- A right to exploit in the market
 - The owner has an exclusive right of the design
 - He may stop, making, offering, putting on the market, importing, exporting, using or stocking for such purposes, products incorporating the design
 - He may negotiate licenses



THE COMMUNITY DESIGN SYSTEM

WHAT IS A COMMUNITY DESIGN?

WHAT CAN BE PROTECTED?

WHAT CANNOT BE PROTECTED?

WHY IS THE FILING DATE IMPORTANT?

THE EXAMINATION OF AN APPLICATION

HOW CAN AN RCD BE INVALIDATED?

PUBLICATION AND/OR DEFERMENT?

HELP WITH APPLICATIONS

PROTECTING YOUR RIGHTS

WHO CAN FILE?

HOW MUCH DOES IT COST?

HOW AND WHERE DO YOU FILE?

IN WHICH LANGUAGE?

REPRESENTATION OF THE DESIGN

NOT TO FORGET!

WHAT HAPPENS IF I AM COPIED?

BASIC
The Quick Guide
to Designs

[http://oami.europa.eu/ows/rw/resource/documents/OHIM/multimedia/quickGuide/en/designs.html?
download=true&identifier=5911](http://oami.europa.eu/ows/rw/resource/documents/OHIM/multimedia/quickGuide/en/designs.html?download=true&identifier=5911)



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