



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

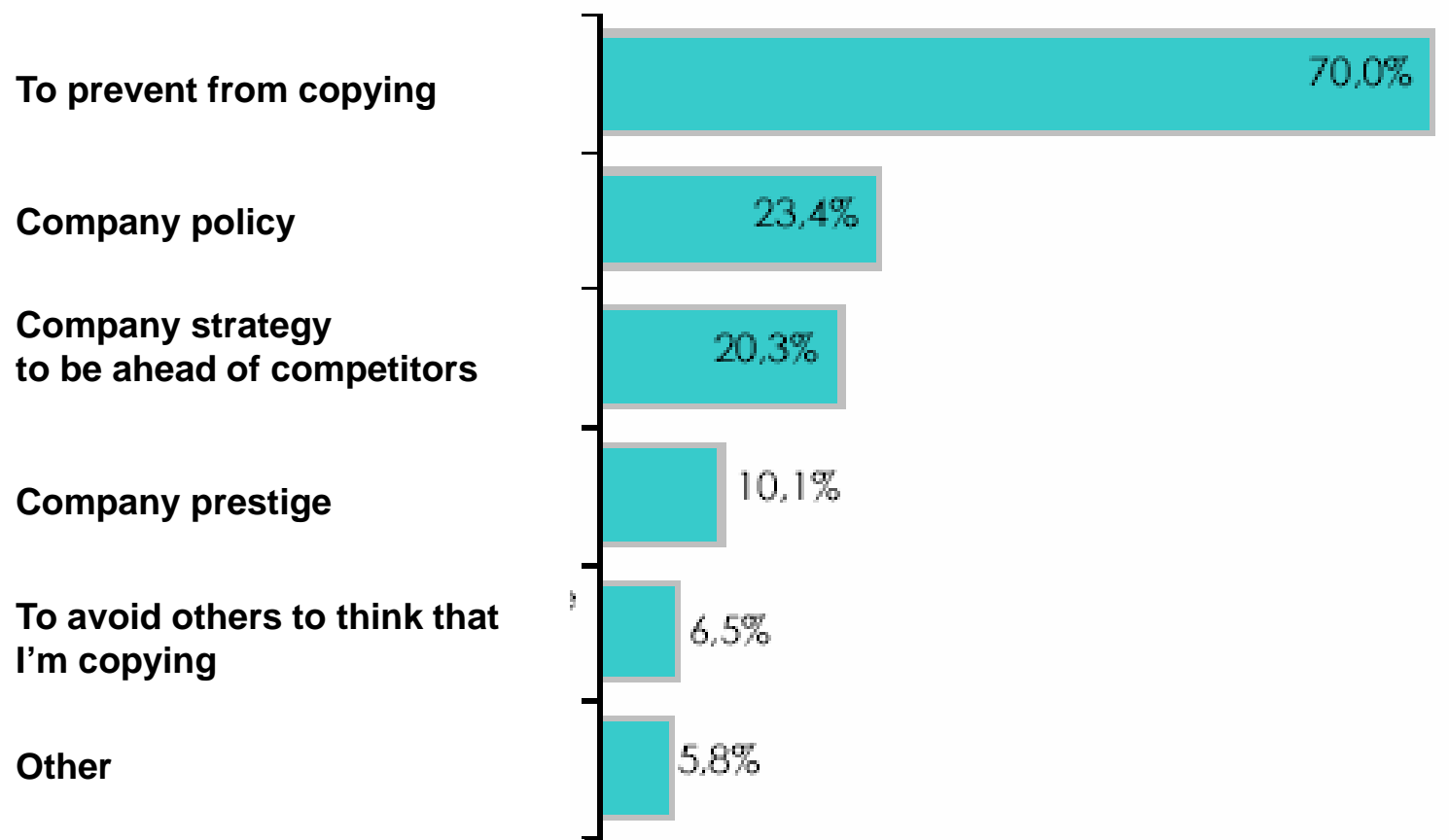
The Registered Community Design System

Seminar on Community trade mark and design protection.

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



Why protect your design?





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Community Designs

GENERAL DEFINITIONS

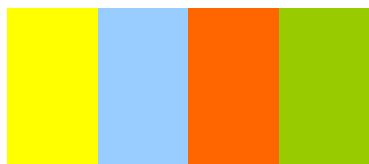


(Art 3 (a))

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



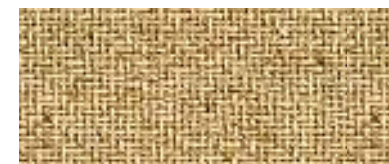
lines



colours



shape



texture



contours



materials

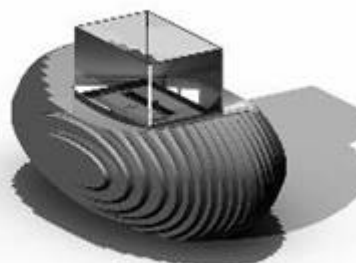


ornamentation



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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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Packaging and Get-up





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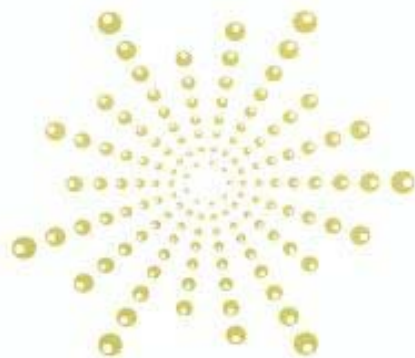
Graphic symbols



RCD 517859-0001



RCD 993324-0001



RCD 767660 - 0003



RCD 776463 - 0001



- 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: *

Second Language: *

☐ I want to receive all correspondence in the second language

Applicant Information *

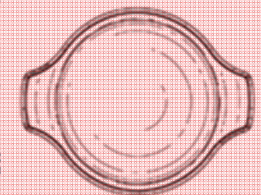
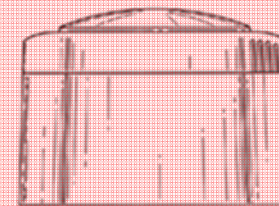
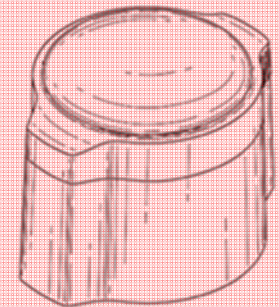
Existing Applicant OHIM ID:

[Load](#)

[Search RCD-ONLINE](#)

Create Applicant:

[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...



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Professional representation

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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

FindRep - Representative consultation service - Basic search

Enter your search criteria

ID No:

Name:

First Name:

Type:

Town:

Country:

Last updated on 10/10/2010

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

www.oami.europa.eu

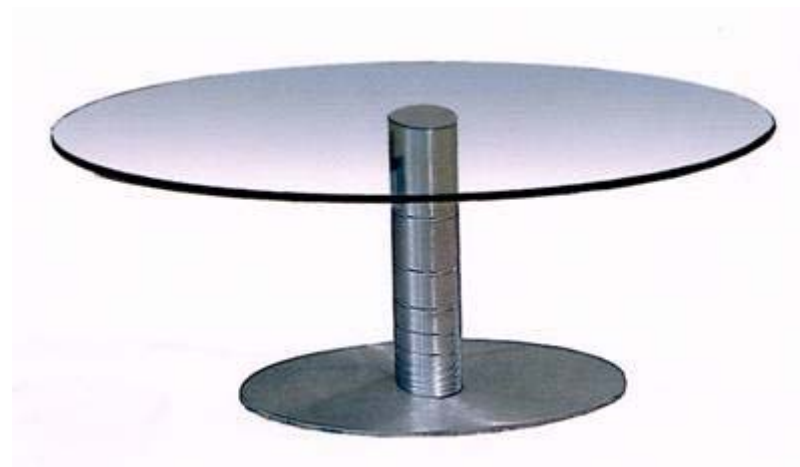
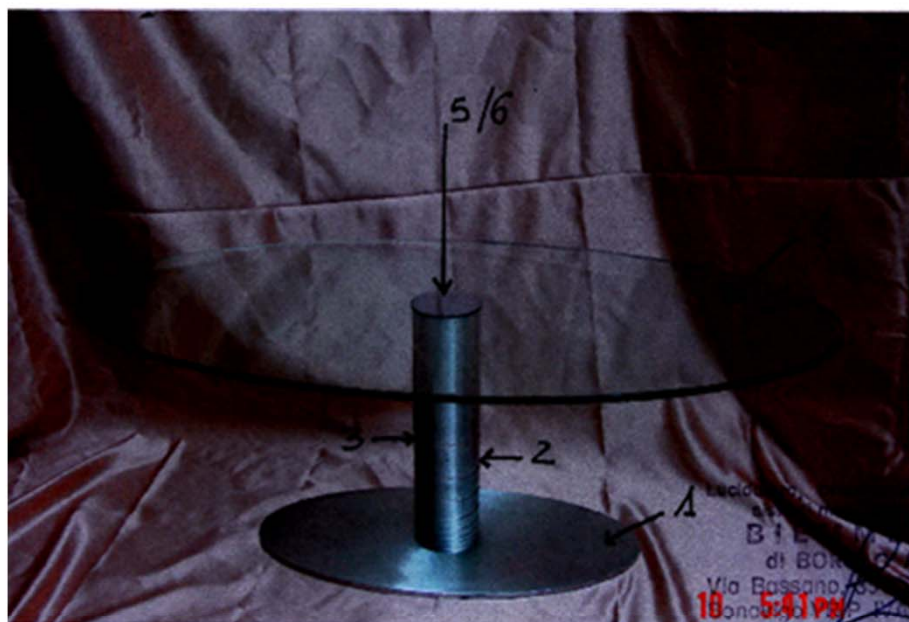


(Art 4 (1)IR)

- 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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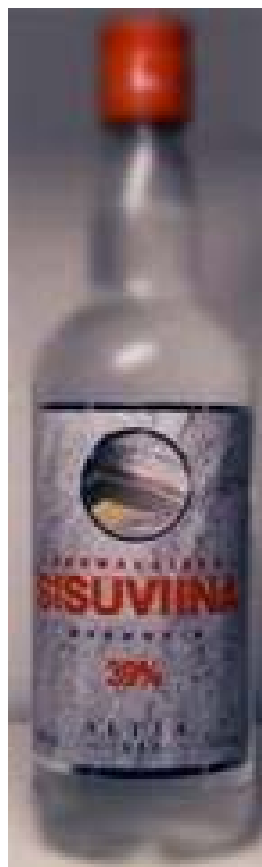
Indication of product: Couches





RCD 475025-0001 Furniture (lounge chairs)







(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

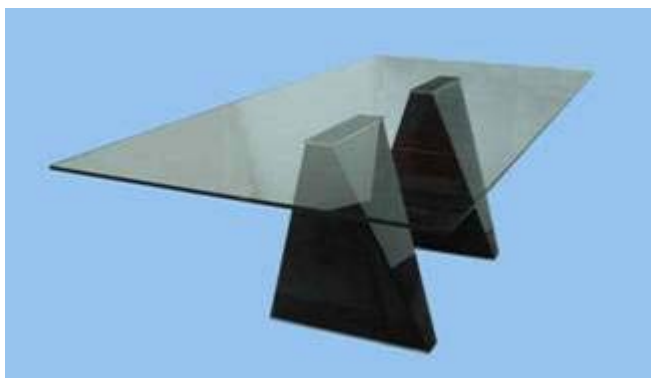
- No upper limit for number of designs
- Each design included will have its own independent life (deferred or not, invalidity, surrender, renewal, etc ...)
- Saves costs for applicant



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



Na







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





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- ▶ **Databases**
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 - Search a Community design
 - Search classification for trade marks - EUIPO/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 Name Is

Filing date From To

Locarno class-subclass Any Any

Indication of the product Is

[EUROLOCARNO](#)

Sorting criteria Design number Ascending

[Search](#) [Clear](#)

Last updated on: 11/10/2010

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



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RCD Online



OFFICE FOR HARMONIZATION IN



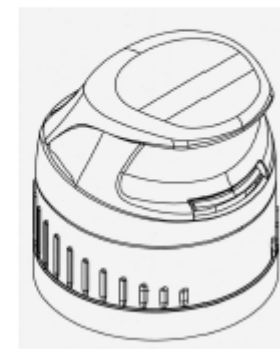
Please find enclosed the certificate of registration for C which was published in the Community Designs Bull OHIM's website: <http://oami.europa.eu>).



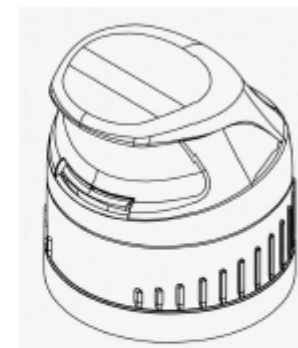
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TRADE MARKS AND DESIGNS

OHIM – OFFICE DE L'HARMONISATION DANS LE MARCHÉ INTÉRIEUR
MARQUES, DESSINS ET MODÈLES

- 21 001202584-0001
25 EN - FR
22 15/03/2010
15 15/03/2010
45 09/04/2010
11 001202584-0001
72 Jean-Yves Rognaud
73 Obrist Closures Switzerland GmbH
Romanshorn, 83
CH-4153 Reinach
SUIZA
74 BRYER, SHELLEY, JOHN AMOR, GREENWOOD LLP
7 Gay Street
Bath BA1 2PH
REINO UNIDO
51 09 - 07
54 BG - Среда за затваряне за опаковки
ES - Medios de cierre para embalaje
CS - Uzávěry na obalový materiál
DA - Lukkeanordninger til emballage
DE - Schließmittel für Verpackungen
ET - Sulgemisevahendid pakendamiseks
EL - Μέσα αερόστεγης για συσκευασία
EN - Closing means for packaging
FR - Dispositifs de fermeture pour emballage
IT - Mezzi di chiusura per imballaggio
LV - Iesaiņojumu noslēgšanas līdzekļi
LT - Pakuočių uždarikiai
HU - Záró eszközök csomagoláshoz
MT - Mezzi biex taġġir għall-ippakkjar
NL - Stutlingen voor verpakking
PL - Zamknięcia do opakowań
PT - Meios de fecho para embalagens
RO - Sisteme de închidere pentru ambalaje
SK - Uzávěry na obalové materiály
SL - Zapirila za ovojnino
FI - Sulkemisevälineet pakkaamiseen
SV - Stängningsanordningar för förpackning



0001.1



0001.2

57
55

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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

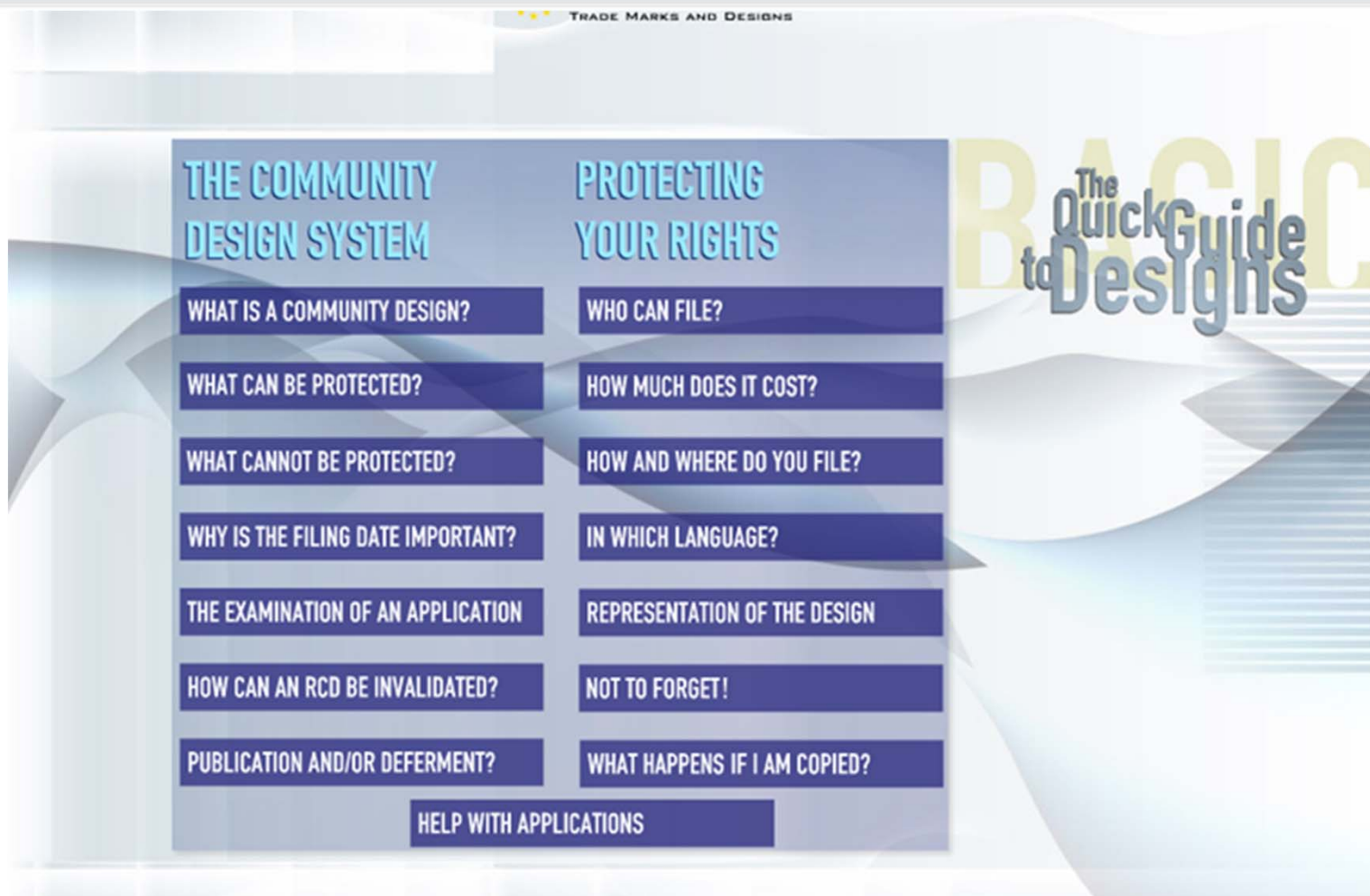
- € 350 for registering 1 design
- less than € 200 for registering 10 designs (multiple filing)

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 stopped, making, offering, putting on the market, importing, exporting, using or stocking for such purposes, products incorporating the design
 - He may negotiate licenses



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



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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



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