What is a design?

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
What is a product?

“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

3 alternative ways allowing companies to obtain titles for protection of designs within the EU:

(1) The National design
(2) The International design
(3) The Community design
(1) National design

File individual applications at each of the National Offices

Each protection title subject to the different national laws

Translation Costs

Lawyers fees

(2) International design

A single fee is paid to WIPO

An individual fee is payable to some National Offices

No single unitary right is granted - 'bundle of rights'

Subject to national law of each country
(3) Community design

Single application procedure

Single payment
(reduced cost compared to accumulated national rights)

Single language, any of the 22 EU languages

Single administrative centre – OHIM Alicante

(3) Community design

- Multiple applications

- Deferment
\textit{(delay of publication up to 30 months)}

- Valid throughout EU under a single registered right to use and prevent others from making, offering, putting on the market, importing, exporting etc.
Community Design: a Design Right enforceable in 27 European Union States

PRODUCING WITHOUT CONSENT OF THE PROPRIETOR IS ILLEGAL

IMPORT WITHOUT THE CONSENT OF THE PROPRIETOR IS ILLEGAL

Examples of Community Designs

Office for Harmonization in the Internal Market (Trade Marks and Designs)

WWW.OAMI.EUROPA.EU
Parts intended for assembly into a complex product

RCD 23957 - 0001

RCD 634035 - 0002

RCD 508726- 0001

Packaging and Get-up

RCD 356910-0001; 338058-0004, 317920-0002, -0011

WWW.OAMI.EUROPA.EU
Graphic symbols

- RCD 551502 - 0001
- RCD 139860 - 0001
- RCD 423496 - 0015

Animated Icons (RCD 32602)
Extracts from websites (RCD 22389-0001)

Typographic typefaces

Hawkhurst LT Std Bold 41285. Bei jeder Schriftgestaltung wird der Grundcharakter eines Alphabets von einheitlichen Formmerkmalen der Buchstaben bestimmt. Bei jeder Schriftgestaltung wird der Grundcharakter eines Alphabets von einheitlichen Formmerkmalen der Buchstaben bestimmt. Bei je-
Remember…

What is protected is the **appearance of the product** and not

- the product itself
- the technical function of the product
- the capacity of a sign to be distinctive etc.

Ideas
Words without figurative elements
How to obtain a Community Design

Direct route

Application can be filed in any of the 22 languages directly to OHIM by fax, post/courier, e-filing or hand delivery

Application through EU National Offices
**Hague agreement**

Application via W.I.P.O. (*Hague agreement*)

Fax, Post/Courier

EU can be designated as part of an International Registration. No earlier national design application is necessary

Fees payable to WIPO

Legal representation only necessary if objections raised

---

**RCD Examination Flowchart**

1. Mail Room - Mail Dispatch
2. Examination
3. Registration
   - Publication
   - Deferment
Formalities

- data of applicant, languages, indication of product, description of product, designers, priorities, fees
- classification of products (Locarno classification system, 32 classes)
- whether legal representative is required (non-EU applicants)

Grounds for Non-Registrability

- not a design application
- against public policy and morality

Multiple application

An application can contain more than one design, provided that the products belong to the same Locarno class.

- No upper limit for number of designs
- Saves costs for the applicant
- Each design included will have its own independent life
Example of multiple application
(class 6 of Locarno classification)

Publications

• The “Community Designs Bulletin”
• Daily publication
• Only electronic publication
Deferred publication

- **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.

First filing date: **01/04/2003**. This is the date when OHIM began to register designs.
Renewals

- The Community design is renewable in blocks of 5 years
- Maximum protection: 25 years
- The use of the design is not obligatory

Licensing

- A Community design may be licensed for the whole or part of the Community. A licence can be exclusive or non-exclusive
- Fee (200 €)
- The proprietor must specify the duration and the territory
- A licence can be modified or cancelled any time
No opposition proceedings as in trade marks

**Grounds for Invalidity:**

- Not a design
- Does not fulfil requirements of novelty or individual character, offends public policy or morality etc.
- Holder not entitled
- Anticipated by prior design
- Interfering earlier rights
- Improper use of certain emblems

### Fees for Community Designs

<table>
<thead>
<tr>
<th></th>
<th>Fee (1st design)</th>
<th>Additional fee (designs 2-10 each)</th>
<th>Additional fee (designs 11+ each)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration</td>
<td>€230</td>
<td>€115</td>
<td>€50</td>
</tr>
<tr>
<td>Publication</td>
<td>€120</td>
<td>€60</td>
<td>€30</td>
</tr>
<tr>
<td>Deferred Publication</td>
<td>€40</td>
<td>€20</td>
<td>€10</td>
</tr>
<tr>
<td>Invalidity</td>
<td>€350</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal</td>
<td>€800</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Fees for Community Designs

<table>
<thead>
<tr>
<th>Fee</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewal (first)</td>
<td>€90</td>
</tr>
<tr>
<td>Renewal (second)</td>
<td>€120</td>
</tr>
<tr>
<td>Renewal (third)</td>
<td>€150</td>
</tr>
<tr>
<td>Renewal (fourth)</td>
<td>€180</td>
</tr>
<tr>
<td>Late Renewal</td>
<td>25% of late fee (per design)</td>
</tr>
</tbody>
</table>

---

### Statistics
RCD applications received

- 2003: 10,468
- 2004: 14,051
- 2005: 16,817
- 2006: 17,628
- 2007: 14,240

RCD filings per country

Country of origin: TOP 5

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>DE</td>
<td>23.86%</td>
</tr>
<tr>
<td>IT</td>
<td>15.37%</td>
</tr>
<tr>
<td>US</td>
<td>8.84%</td>
</tr>
<tr>
<td>FR</td>
<td>8.00%</td>
</tr>
<tr>
<td>UK</td>
<td>7.88%</td>
</tr>
</tbody>
</table>
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

Office for Harmonization in the Internal Market
(Trade Marks and Designs)
Avenida de Europa, 4
E-03008 Alicante
SPAIN