Protection of Industrial Designs in the European Union

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Forms of Protection
TRADEMARK
- Distinctive character
- Non descriptive
- Specific goods & services

COPYRIGHT
- Art of work
- Originality
- Individual character

DESIGNS
- The appearance of the whole or a part of a product
- Novelty
- Individual character

PATENTS
- Technical
- Novelty
- Inventive character

UNFAIR COMPETITION
- Product established in the market
- Competition situation
- Risk of confusion
Design Protection and Copyright

- **requirements** different from country to country (no harmonization in Europe)

- **high threshold** for obtaining protection

Bauhaus Wagenfeld Glass Lamp
Design Protection and Trademark

- **requirements** harmonized throughout Europe
- **high threshold** due to requirement of distinctiveness

RCD 744115-0001

CTM 6065049
Design Protection and Patent

- design protection for features **not solely** dictated by technical function

- design does not protect abstract invention but specific **embodiment**

RCD 34269-0001

German Patent
DE 103 16 371
Requirements for Protection
Design

A design is the appearance of a product.
A product is an industrial or handicraft item.
Novelty

A design is new if no other identical design has been made available to the public before.
prior design

RCD 202155-0007

Decision of the Invalidity Division, 24 July 2007 (ICD 3309)
Individual Character

A design has individual character if no other design has been made available before producing the same overall impression on an informed user.
prior design

RCD 202155-0006

Decision of the Invalidity Division, 24 July 2007 (ICD 3291)
Technical Function

A feature of design shall not be protected if it is solely dictated by the technical function
Decision of the Boards of Appeal, 22 October 2009 (R 690/2007-3)
Visibility

A design of a component part of a complex product shall not be protected if it is not visible in normal use.
normal use

Decision of the Boards of Appeal, 3 August 2009 (R 1052/2008-3)
Thank you for your attention