

# Filing for an Industrial Design in the European Union

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## European Regulation (EC) 6/2002

- Council Regulation (CDR): *12 December 2001*
- Implementing Regulation (CDIR): *21 October 2002*
- Fees Regulation (CDFR): *16 December 2002*

## DEFINITIONS

## Art. 3(a)CDR

**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

## Art. 3(b)CDR

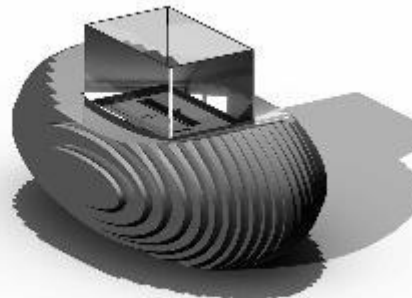
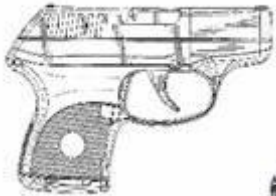
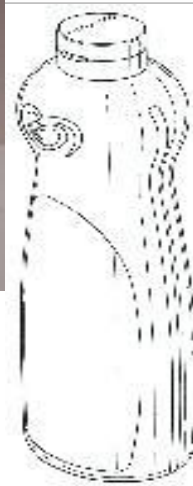
### **Product:**

any industrial or handicraft item, including inter alia:

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

Excluded: “Computer programs”

## WHAT CAN BE PROTECTED?



## Complex Products:

product composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.

## Parts intended for assembly into a complex product



RCD 49424-0001



## Packaging and Get-up



## Logos

**ROHTO**



City of  
Manchester  
Stadium



SOLÉ

*Dove*



## Graphical user interfaces

(RCD 722442-0001)

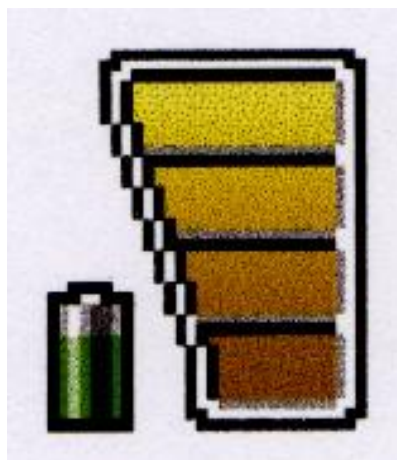


## Extracts from websites

(RCD 22389-0001)



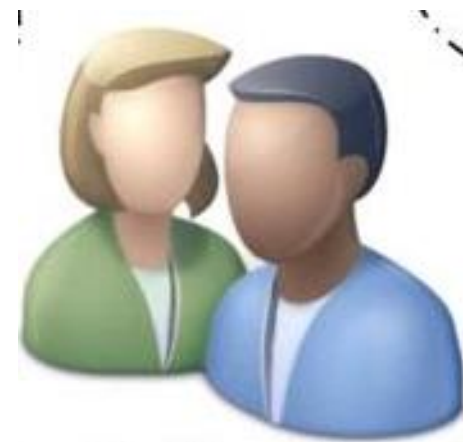
## Icons



RCD 171582-0022



RCD 319264-0001



RCD 329552-0004

**Animated icons**  
(RCD 1068001-0002)





Conséquemment, l'emploi des couleurs de luminosité pâle ou moyenne comme le rouge, orange, jaune, vert, violet et bleu doit être évité pour des textes complets sur fond blanc.

## **Set of articles**

Articles having aesthetic and functional complementarity  
(common features, being on sale or intended to be used together)



RCD 63664-0001

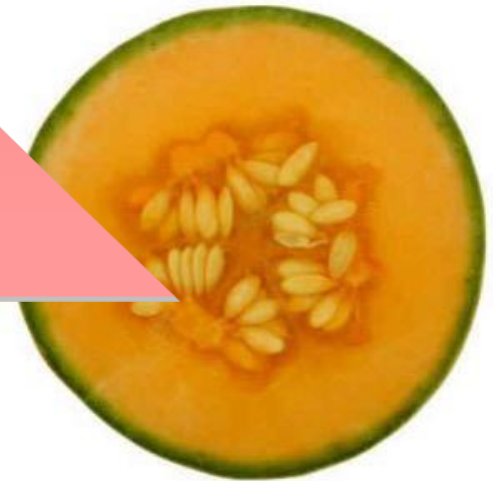
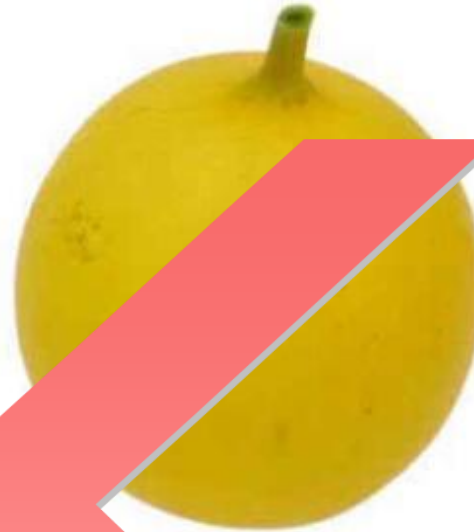
WHAT CAN NOT BE PROTECTED?



**Any product that does not comply with the definition of a design as foreseen in the Community Design Regulation:**

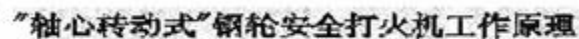
- **Natural products**
- **Ideas**
- **Functions** (patents)
- **Smells and fragrances**
- **Music and sounds**

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



## “Process of producing fertilizer”





“轴心转动式”钢轮安全打火机，主要利用带轴侧轮的轴心101直径小于钢轮内孔302的直径，使轴心可转动的间隙配合的装配关系，而侧轮的外圆直径又大于钢轮301的外圆直径。

(46)

打火时，由于侧轮片401的外圈直径比侧轮片102的外圈直径小，而且意识形态上也不认为侧轮片102、侧轮片401是打火的关键部位，从而不能来或打火的手力大多了，意识形态上也非常不重视。这时，大人的手在接触到侧轮片401时，侧轮片401磨擦到侧轮片301，使侧轮片301磨擦到侧轮片102，侧轮片301磨擦火，从而达到国际上要求的安全形的打火。

10	火石	1
9	弹簧	1
8	外机头	1
7	出气铜针	1
5	调节器火环	1
5	桥板	1
4	侧托片	1
332	钢轮内孔	1
331	钢轮	1
2	风罩	1
102	轴心	1
101	转轴侧轮片	1
序 号	名 称	数 量

设计		
制图		
工艺		
审核		
批准		

百得公司 邦达模具厂

数 量	比 例
	2 : 1
挂 表 值 非	

## REQUIREMENTS FOR PROTECTION

## Requirements for Protection

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

**Novelty**

**Individual character**

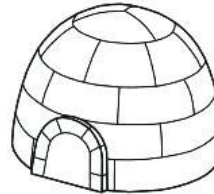
**No protection for:**

- 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 has been disclosed to the public earlier



### Disclosure:

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 one year after its first disclosure

Application for a design registration must be filed no later than 1 year from the first time the design has been available to the public



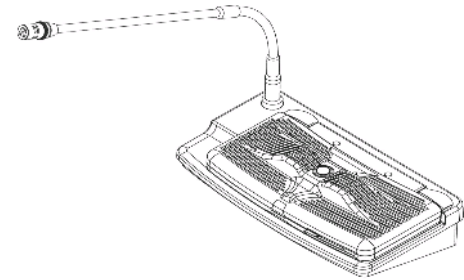
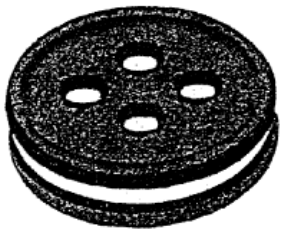
## Individual Character

(Art. 6 CDR)

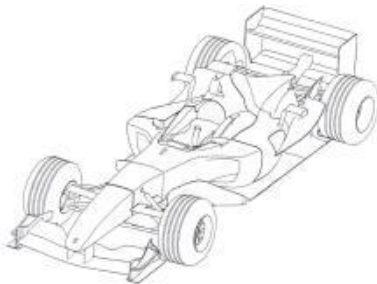
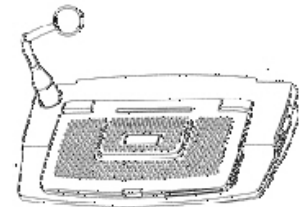
**Individual character** = different overall impression on the “informed user” from any design disclosed earlier

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

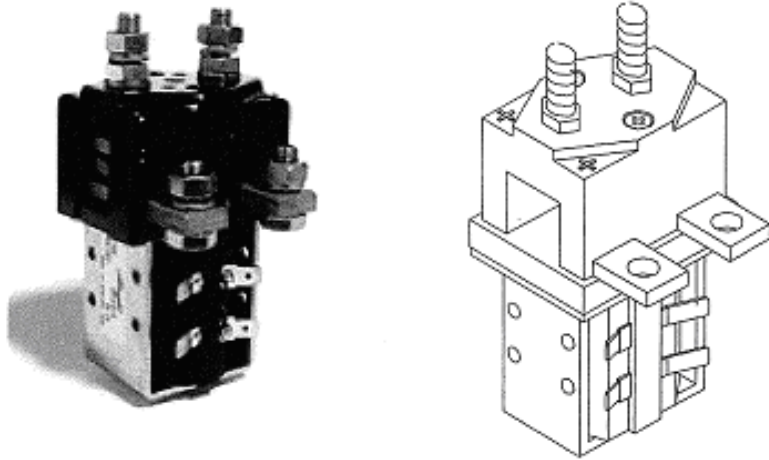
## Same Overall Impression



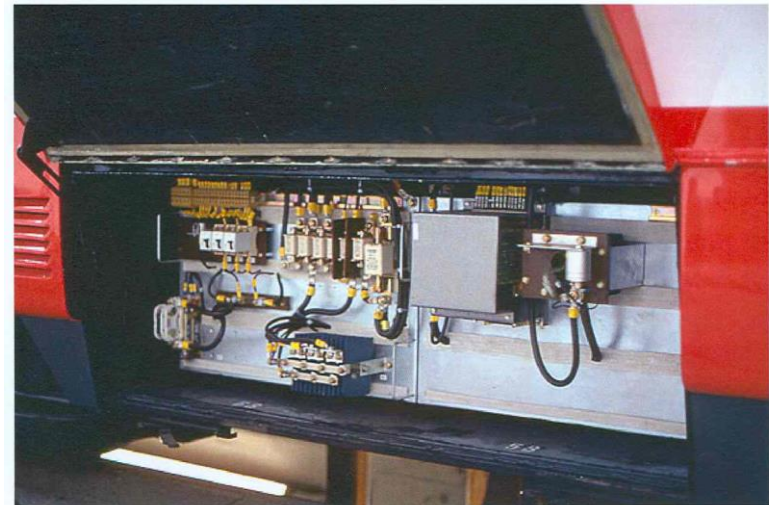
1.1



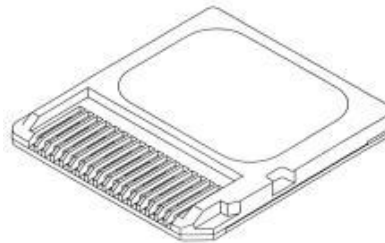
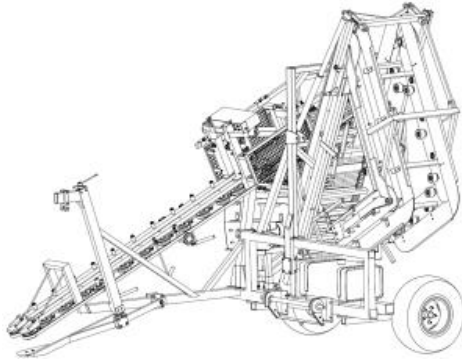
Not visible during normal use



“normal use”



## Designs solely dictated by technical function & Designs of interconnections (Art. 8 CDR)



Article 8(1) CDR denies protection where “aesthetic considerations play no part in the development of the designs, the sole imperative being the need to design a product that performs its function in the best possible manner.”

No protection for features which were chosen exclusively for the purpose of designing a product that performs its function, contrary to features that were chosen, at least to some degree, for the purpose of enhancing the product’s visual appearance.

## Public Policy and Morality (Art. 9 CDR)



## FORMS OF PROTECTION

# Forms of Protection

(Art. 1(2) CDR)

A design can be protected in EU as:

**1. UNREGISTERED Community Design (UCD)**

**2. REGISTERED Community Design (RCD)**

The **UCD** has been a reality since the 6<sup>th</sup> of March 2002.

All new creations disclosed for the first time in the EU after this date are protected by that right against copying, throughout the EU.

- max. life: 3 years
- no registration procedure
- no cost
- no grace period
- invalidity only at Courts





The **RCD** began on 1<sup>st</sup> of April 2003.

It confers on its holder the exclusive right to use the design and prevent others from making, offering, putting on the market, importing, exporting or using any product where the design is incorporated or applied to.



Administrative centre: *European Union Intellectual Property Office (EUIPO), Alicante*

## HOW TO APPLY



Applications can be presented:

- By e-filing
- By fax
- By post
- By personal delivery
- Or through any national IP office of the EU



## WHAT DOES THE EUIPO EXAMINE?

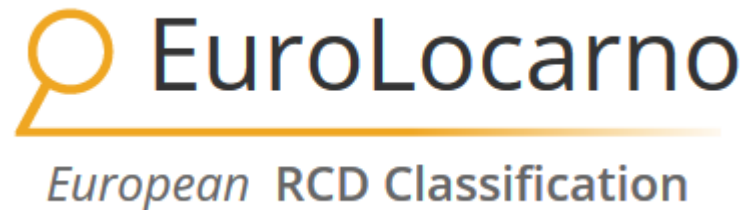
### Grounds for Non-Registrability (Art. 47 CDR)

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

### Formalities

- 2<sup>nd</sup> language of application
- Product indication/classification
- Priorities
- Fees
- Professional representative

### Representation of the design



## WHAT DOES THE EUIPO NOT EXAMINE?

- **Articles 4 to 8 CDR**
  - Novelty
  - individual character
  - visible in normal use
  - dictated by technical function
  - designs of interconnections
- **Relative grounds**
- **Whether the applicant is entitled**

## DEFERMENT OF PUBLICATION

- **DEFERMENT:** publication may be deferred for 30 months from the date of filing or, if a priority is claimed, from the date of priority.
- Only when filing the application
- Subject to an additional fee

**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

## HOW MUCH DOES IT COST?

	REGISTRATION	PUBLICATION		DEFERMENT OF PUBLICATION*
1 <sup>st</sup> DESIGN	230 EUR	+ 120 EUR	= <b>350 EUR</b>	40 EUR *
DESIGNS 2 TO 10	115 EUR	60 EUR	= 175 EUR	20 EUR *
DESIGN 11 AND ADDITIONAL	50 EUR	30 EUR	= 80 EUR	10 EUR *

## HOW LONG DOES IT TAKE?

**The Community Design will be registered: within 2 days of the filing date**



## HOW LONG DOES IT LAST?

**The Registered Community Design:**  
is renewed in blocks of 5 years  
**Maximum term of protection:**  
**25 years**





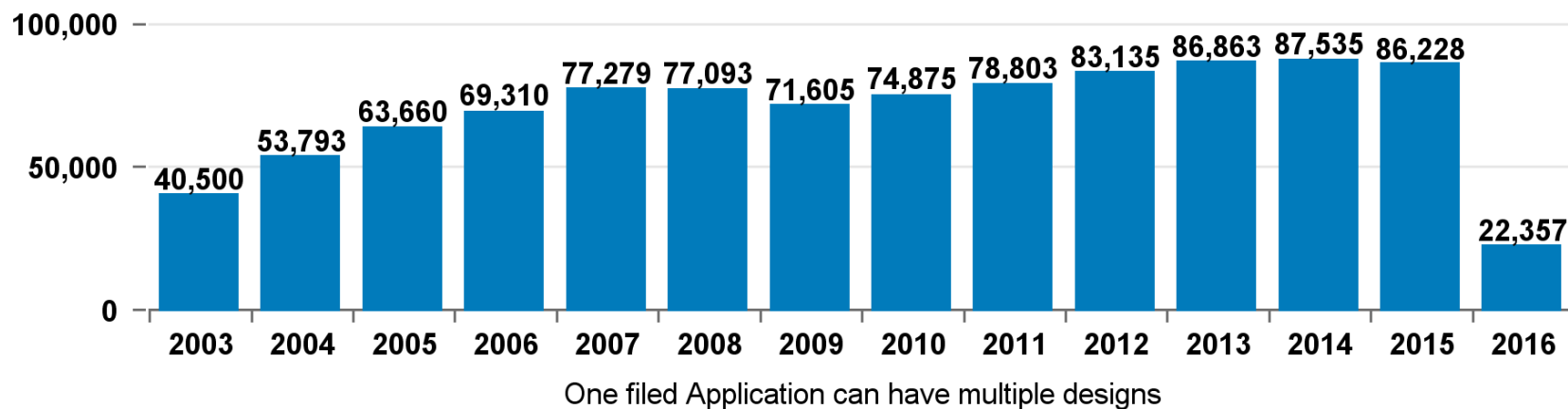
## ADVANTAGES

- One application procedure
- One language
- One Office
- One file
- One fee in one currency
- Possibility of filing multiple applications
- Possibility to defer publication



## SOME STATISTICS

Total Number of Designs received from the last ten years 973,036





[www.euipo.europa.eu](http://www.euipo.europa.eu)



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[youtube/euipo](https://youtube.euipo)

Thank you