



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

Registered Community Design

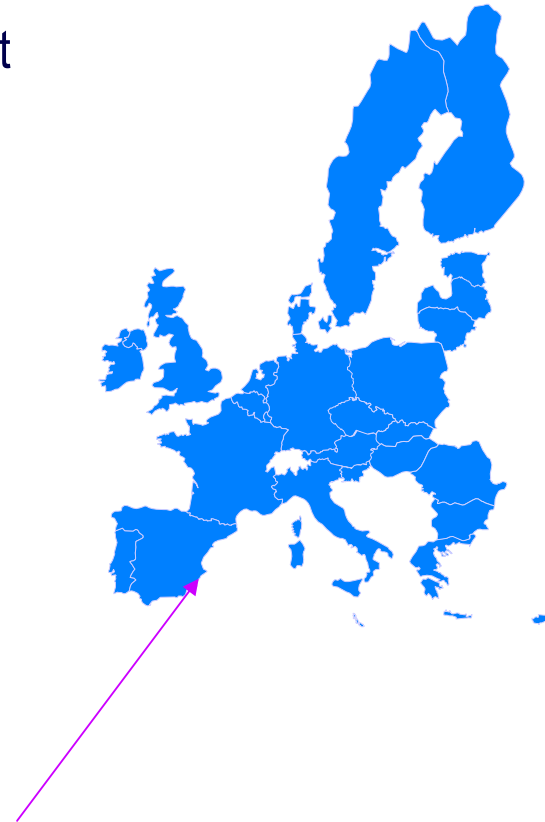
International Symposium, Protection on Industrial Designs,
Santiago, Chile
16-17 November 2011

www.oami.europa.eu



RCD began on 1st of April 2003.

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 – Office for Harmonization in the Internal Market (OHIM), Alicante



One application procedure

One language (any of the 22 EU languages)

One payment, in one currency (€)

Multiple application

- unlimited number of designs
- reduced cost
- all designs in the same Locarno class

Deferment

delay of publication up to 30 months
from filing/priority

Maximum life: 25 years





Definitions

Requirements for protection

Scope of protection



Art. 3 CDR

Design: the appearance of the whole or a part of a product resulting from its features.

Product : any industrial or handicraft item, including inter alia:

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



ABCDEFGHIJKLMNOPQRSTU
 VWXYZ
 ÁÀÄÅÄÄÆÇÈÉÊËÌÍÎÏÑ
 ÓÔÕÖØŒŠŠŮÚŰÝŽĐþ
 abcdefghijklmnopqrstuvwxyz
 åäãäääæçêëèèìíîñóôõöø
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 „”

Excluded: computer programs



Natural products

Mere words and sequences of letters without figurative elements

Ideas

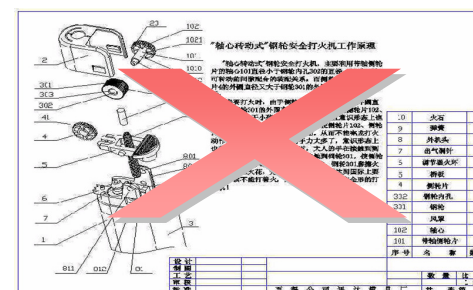
Functions

Smells and fragrances

Music and sounds



~~DIESEL~~



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



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 disclosed to the public earlier

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 1 year
after its first disclosure 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



Scope of Protection (Art. 10 CDR)

Includes any design producing the same overall impression
on the “informed user”



e-filing

Applications can be filed in any of the 22 EU languages directly to OHIM by...

- e filing (electronic application)
- Fax (confirmation copy within 1 month)
- Post/Courier
- Hand delivery



or through any National IP Office of the EU
(filing date: the date of receipt in the national office)



Art. 77 CDR

Applicants who do not have either their domicile or their principal place of business or a real and effective industrial or commercial establishment in the Community must appoint a representative with its domicile or its principal place of business or a real and effective industrial or commercial establishment in the Community.



Grounds for Non-Registrability

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



No examination on:

- Art. 4 to 8 CDR (novelty, individual character, visible in normal use, dictated by its technical function, interconnections)
- relative grounds (earlier rights)
- whether the applicant is entitled



- Obscene or immoral images, racist images or messages and Nazi symbols are not acceptable



- Flags and religious symbols are acceptable provided they are used in a proper and decent way



- Registering images of famous people without their permission would not be seen as being against public policy



Art. 36(1)CDR

1. Request for design registration

2. Information identifying the applicant

3. Representation of the design suitable for reproduction

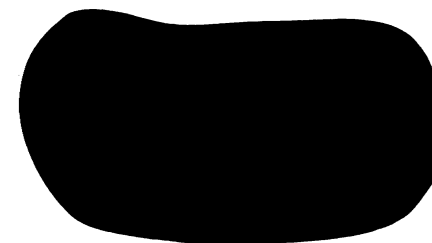
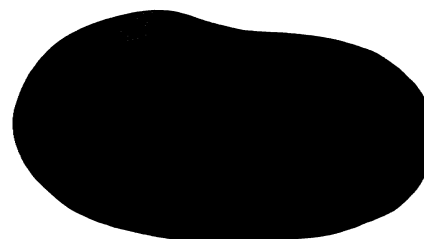
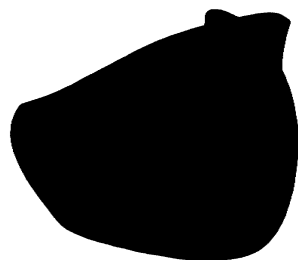
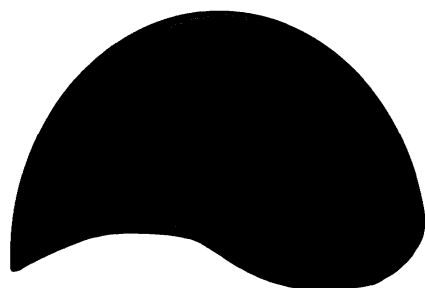
according to *Art. 4(1)CDIR*:

Good quality - *it should clearly show the details of the design for which protection is sought*

Neutral background - *it should be only the design and nothing else shown*



INDP: Lounge chairs





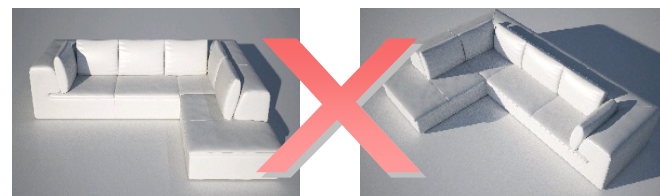
INDP: Chair





- The representation can be photos, computer drawings or drawings by hand, in BW or colour
- Maximum seven (7) different views

- All views should show the **same product**



- All views should show the **same colour**

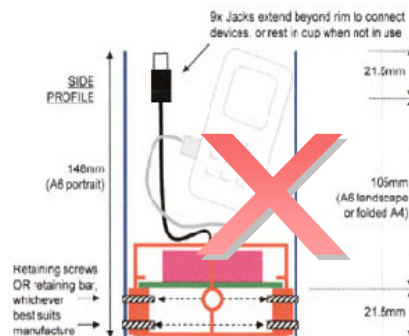


- **Only one view per electronic attachment** (e-filing restriction)

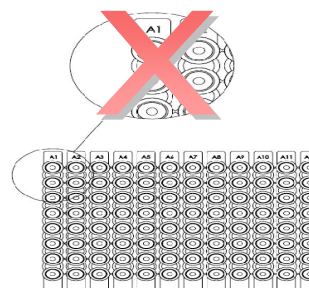




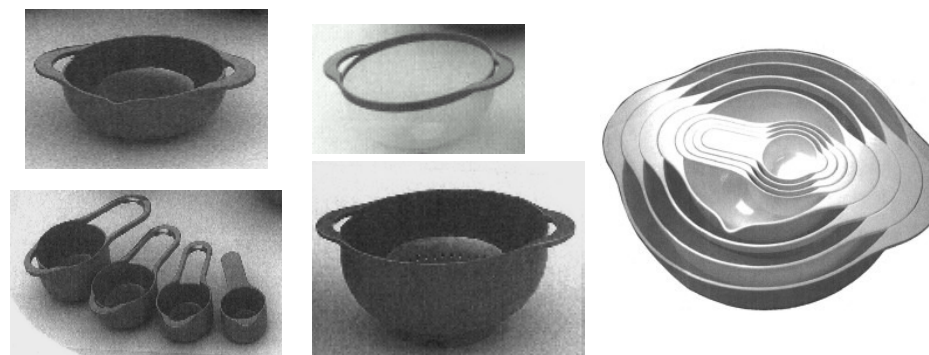
- Views should not contain **explanatory text, wording, numbers or symbols**



- Detailed views of portions** of the design should not be shown together with the design



- Set of articles & complex products** must contain in the representation a global view of the design





The application must contain an indication of product. The term must be clear and not too generic, so that the classification is possible.

The classification of the Community Designs is based on the 9th Edition (2008) of LOCARNO international system (32 classes & 223 sub-classes).

OHIM has prepared in the 22 EU languages an extended version of Locarno, the **“EUROLOCARNO”** list (+/-13000 terms) which is searchable online and constantly enriched with new terms.

The classification is not mandatory for the applicant. OHIM classifies the designs ex officio.



Art 36(6) CDR

Indication and classification of the products does not affect the scope of protection of the design. What is protected is the appearance of the product and not the product itself...





Art. 42 & 44 CDR

- Previous application/registration filed maximum 6 months before the filing date of the Community design application.

Possible to claim priority at the time of filing or within 1 month from the filing date.

Certified copy of the previous application/registration certificate should be received at the OHIM within 3 months after the date of claiming the priority.

- Exhibition priority can be claimed within 6 months from the date of the first disclosure during the exhibitions falling within the terms of the Convention on International Exhibitions signed in 1928.

Aichi, Japan 2005

Saragossa, Spain 2008

Shanghai, China 2010





- **Registration fee**
- **Publication fee**
- **Deferment fee** (only when the applicant requests deferred publication)

Payment should be made at the time of filing the application
Surcharge for late payment: 25% of the missing amount

Ways of payment:

- **Current account** in OHIM held by the applicant
- **Transfer** to a bank account held by OHIM
- **Credit card** (allowed only in e-filing)
- **In cash** at the premises of OHIM

- Cheques are not acceptable



Reason for Fee	Fee (1st design)	Additional fee (each design from 2nd to 10th)	Additional fee (each design after the 11th)
Registration	€230	€115	€50
Publication	€120	€60	€30
Deferred Publication	€40	€20	€10



- Community Designs Bulletin
- Daily publication
- Only electronic



2011/250 001937301-0004

21	001937301-0004
25	PL EN
22	25/10/2011
15	25/10/2011
45	03/11/2011
11	001937301-0004
73	Fabryka Mebli Tapicerowanych Tombea Sp. z o.o. ul. Owocowa 4, Łowęcin 62-020 Swarzędz POLONIA
74	KANCELARIA PATENTOWA PATENTBOX ROMUALD SUSZCZEWICZ ul. Piekary 6/17 61-823 Poznań POLONIA
51	06 - 01
54	BG - Мебели за сядане ES - Muebles de asiento CS - Sedací nábytek DA - Sæddemøbler DE - Sitzmöbel ET - Istmed EL - Καθίσματα EN - Seating furniture FR - Meubles pour s'asseoir IT - Mobili per sedere LV - Mēbeles sēdēšana LT - Sėdimieji baldai HU - Űlőbűtorok MT - Għamara biex wiehed joqghod bilqieghda NL - Zitmeubilair PL - Meble do siedzenia PT - Mobiliário de assento RO - Mobilier pentru șezut SK - Nábytok na sedenie SL - Sedežno pohištvo FI - Istuinkalusteet SV - Sittmöbler



e-Certificate since 15/11/2010



OAMI - OFICINA DE ARMONIZACIÓN DEL MERCADO INTERIOR
MARCAS, DIBUJOS Y MODELOS

OHIM - OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
TRADE MARKS AND DESIGNS

- 21 000289277-0001
- 25 ES - EN
- 22 24/01/2005
- 15 24/01/2005
- 45 05/04/2005
- 11 000289277-0001
- 72 (4)
- 73 PLASTIKEN, S.L.U.
Avenida de Valencia, 3
E-46101 Palomar (Valencia)
ESPAÑA
- 74 IBERN CAÑACELL
Travessera de Gracia, 30 - 1º C
E-08021 Barcelona
ESPAÑA
- 51 07 - 07
- 54 - Cubos [uso doméstico]
- Bins [pro domestic]
- Gútvendék [háztartásigébrű]
- Eimer
- Mijpotten
- Kôbo [domácni použitie]
- Buckets [household]
- Bacias de ménage
- Secchi [per la casa]
- Spēni [saimniecības]
- Kibirai [duktiniai]
- Vödör [háztartási]
- Eimer [haldus]
- Eimers [voor huishoudelijk gebruik]
- Vebra [gospodinstvo domove]
- Baldes [uso doméstico]
- Vedra [do domácnosti]
- Vėdra [gospodiniška]
- Ämparid [kottaloukskäytön]
- Hinkar [huish]



0001.1



0001.2



0001.3



The Community design is renewable in blocks of 5 years

Maximum protection: 25 years

“e-Renewal” is possible and recommended, also available in paper form in all 22 languages

OHIM informs the right holders via mail 6 months before the end

Late renewal is possible, no later than 6 months after the end



Reason for Fee	Fee
Renewal (first)	€90
Renewal (second)	€120
Renewal (third)	€150
Renewal (fourth)	€180
Late Renewal	25% of late fee (per design)



Time limits:

Invalidity can be filed any time after publication

Invalidity application must contain all grounds for invalidity (no submission of new grounds after date of filing)

Language of proceedings:

1st language of the contested Community design

Invalidity fee: 350€

Invalidity is for the whole EU territory





Art. 25(1) CDR

- (a) **Not a design**
- (b) Does not fulfil requirements of Art. 4 to 9 CDR:
novelty, individual character, designs dictated by their technical function, designs of interconnections, component parts invisible in normal use, **designs contrary to public policy or morality**
- (c) Holder not entitled
- (d) Anticipated by prior design
- (e) Interfering earlier sign
- (f) Interfering earlier copyright
- (g) Improper use of items listed in Art. 6ter of the Paris Convention or other emblems of public interest in a Member State



Who can appeal?

Any party to the proceedings adversely affected by a decision

- Applicant in case of total or partial rejection of his design application
- The losing party in an Invalidity decision

Time Frame:

the appeal must be filed to OHIM (3rd Board of Appeal) 2 months as from the date of the notification of the decision

Appeal fee: 800€





- Action against decisions of the Board of Appeal
- Time Frame:
2 months as from the date of notification of the decision of the Board of Appeal
- General Court can annul or alter the contested decision
- OHIM is required to give execution to the judgment

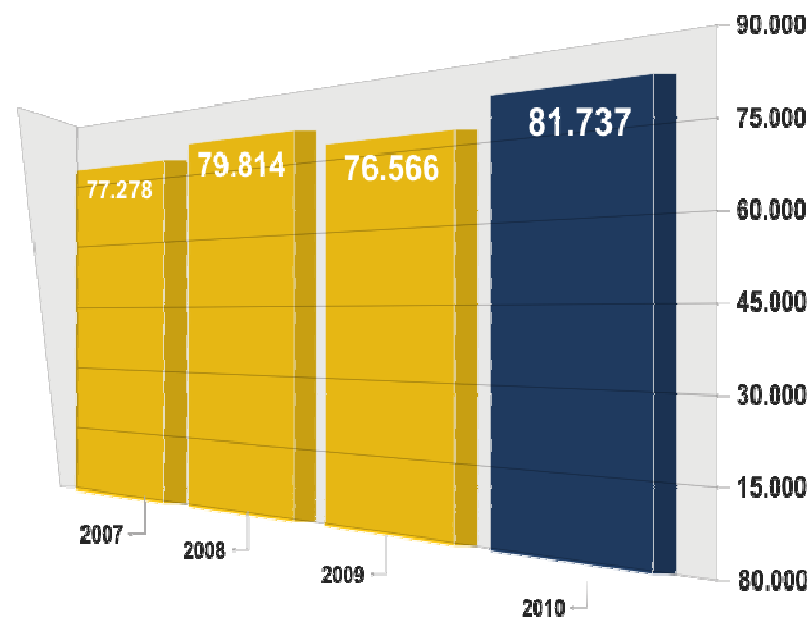
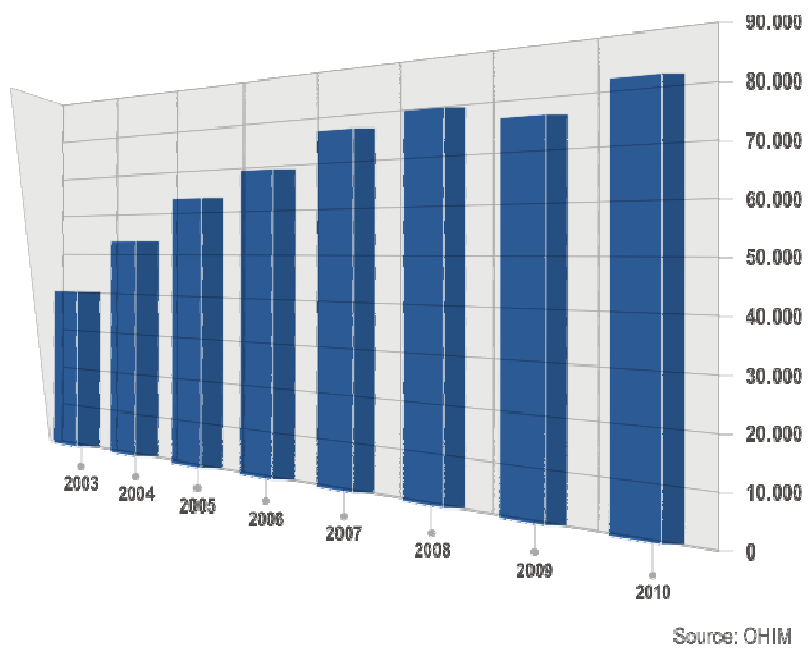


Statistics





DESIGN RECEIVED





2011:

Nr. of applications/year:	≈ 20.000
Single applications:	≈ 49%
Multiple applications:	≈ 51%
Nr. of designs/application:	≈ 4
Method of filing:	≈ 70% e-filing
Office response time:	≈ 95% within 10 days
Objections:	≈ 80% no objection
Registrations:	≈ 95%
Fast track (publication within 48h)	≈ 8%
Percentage of designs deferred:	≈ 9%

In total:

Designs subject to an invalidity claim:	≈ 0.25%
Design renewal rate:	≈ 50%



Electronic applications with:

- Payment by current account
- Indication of product from the EuroLocarno classification tool
- No priority claim/Priority claim with supporting documents submitted

=> **FAST TRACK**

The screenshot shows the Eurodesign web application interface. At the top, there is a header with the 'euro design' logo, 'Version 2.3.0 RC4', and 'Eurodesign'. A navigation menu includes 'InBox', 'Search Deposit', 'Agenda', 'Statistics', and 'Letters'. Below the menu, there is a language selection bar with options: EN, BG, CS, DA, DE, EL, EN, ES, ET, FI, FR, HU, IT, LT, LV, MT, NL, PL, PT, RO, SK, SL, SV, and Unknown. The main content area is a table with columns for 'Application N°', 'Language', 'Task', and 'Date of Receipt'. The table lists 20 applications, with the first 9 marked as 'Fast track' and the remaining 11 as 'To Examine'.

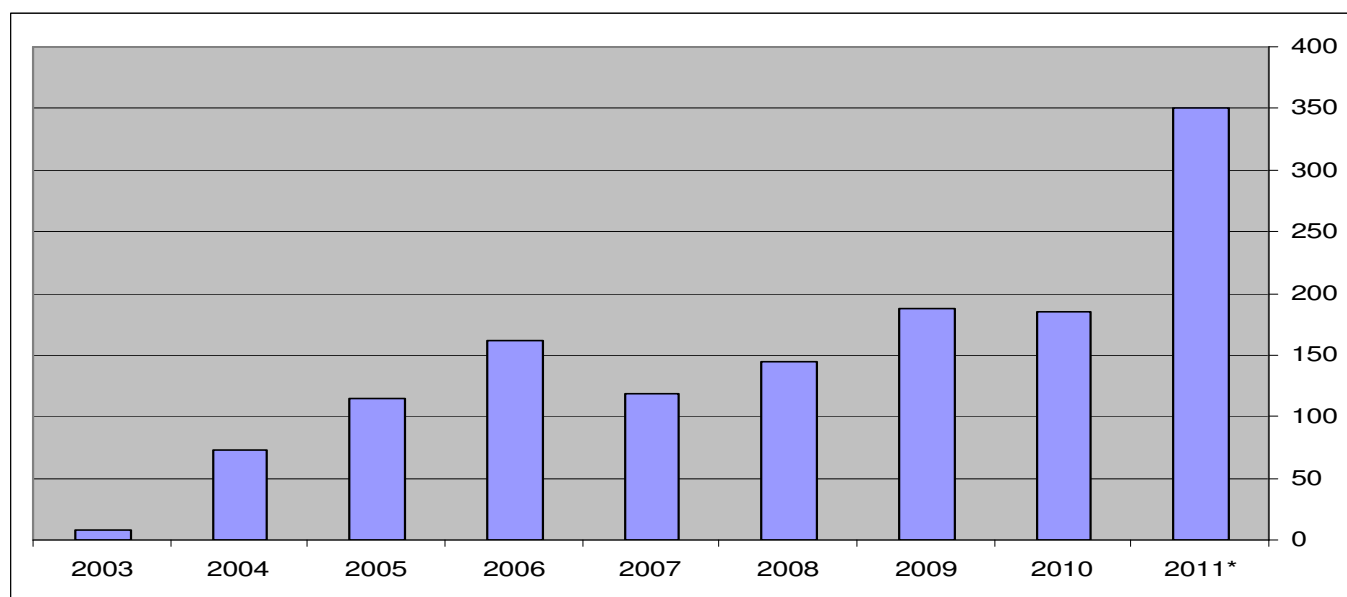
Application N°	Language	Task	Date of Receipt
000019992	EN-English	Fast track	
000020133	EN-English	Fast track	
000020307	EN-English	Fast track	
000054255	EN-English	Fast track	
000054412	EN-English	Fast track	
000540220	EN-English	Fast track	
000540246	EN-English	Fast track	
000540279	EN-English	Fast track	
000544362	EN-English	Fast track	
000001360	EN-English	To Examine	
000100134	EN-English	To Examine	
000100137	EN-English	To Examine	
000100141	EN-English	To Examine	
000100143	EN-English	To Examine	
000020000	EN-English	To Examine	
000054429	EN-English	To Examine	
000540056	EN-English	To Examine	



Design invalidity requests

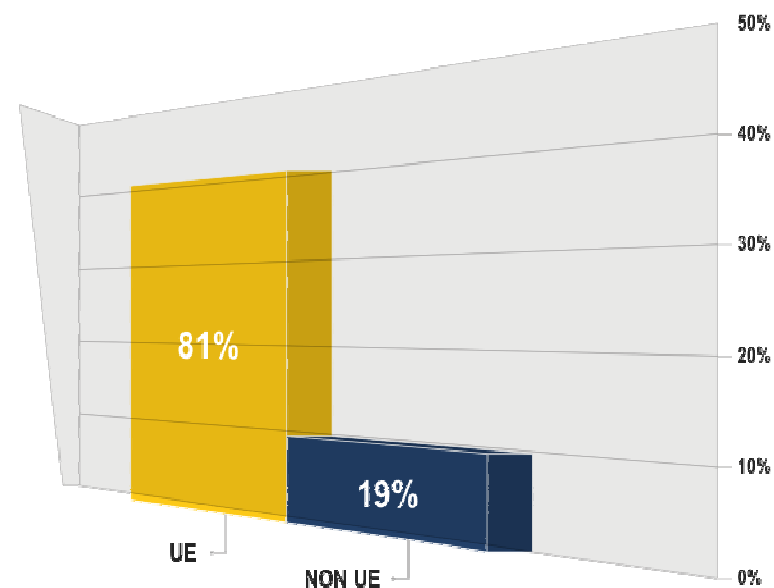
≈ 1300 invalidity requests

≈ 700 decisions issued


















	Estados - Staaten - States - Etats - Stati	2003 - 2010	Total Insgesamt Total Total Totale	%
1	DE	129,002	129,002	22.68
2	IT	76,820	76,820	13.51
3	FR	45,609	45,609	8.02
4	US	43,351	43,351	7.62
5	GB	35,428	35,428	6.23
6	ES	32,082	32,082	5.64
7	NL	17,366	17,366	3.05
8	JP	16,879	16,879	2.97
9	CH	15,243	15,243	2.68
10	AT	13,774	13,774	2.42
11	PL	10,867	10,867	1.91
12	DK	10,525	10,525	1.85
13	SE	10,328	10,328	1.82
14	BE	9,044	9,044	1.59
15	HK	6,063	6,063	1.07
16	KR	5,272	5,272	0.93
17	CN	5,258	5,258	0.92





78% RCDs
in 13 classes

	Class - Klasse - Class - Classe - Classe	%	
Furniture 	06	12.56	
Packaging 	02	8.70	 Clothing, footwear
	09	7.24	
	23	6.29	 Sanitary equipment
Electronic equipment 	14	5.81	
	26	5.71	 Lighting apparatus
Household goods 	07	5.58	
	32	4.78	 Logos
Building elements 	25	4.56	
	08	4.48	 Tools
Jewels 	11	4.40	
	12	4.35	 Vehicles and part of
Toys 	21	3.61	



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Online SEARCH Options



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

OHIM

www.oami.europa.eu

Design Service

<http://oami.europa.eu/ows/rw/pages/RCD/index.en.do>

Publication Bulletin Online

http://oami.europa.eu/bulletin/rcd/rcd_bulletin_en.htm

RCD-Online

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



Possible search by:

- *Design number*
- *Owner's name*
- *Filing Date*
- *Locarno Class*
- *Product indication*



Appeal decisions on designs

http://oami.europa.eu/search/legaldocs/la/EN_boa_index.cfm

RCD Invalidation decisions

<http://oami.europa.eu/ows/rw/pages/RCD/caseLaw/decisionsOffice/invalidation2.en.do>

Case-Law of the General Court

<http://oami.europa.eu/ows/rw/pages/RCD/caseLaw/appealsOffice.en.do>



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

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



twitter/oamitweets



youtube/oamitubes