

International Symposium on Industrial Designs

How to Protect Designs :

Developments and Current Tendencies

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European Union



History

- Initial proposal in 1993
- Directive to EU Members States – 12 October 1998
- Directive implementation deadline – 28 October 2001
- Regulation commenced – 6 March 2002
- OHIM accepted filings from 1 January 2003 (dated 1 April 2003)

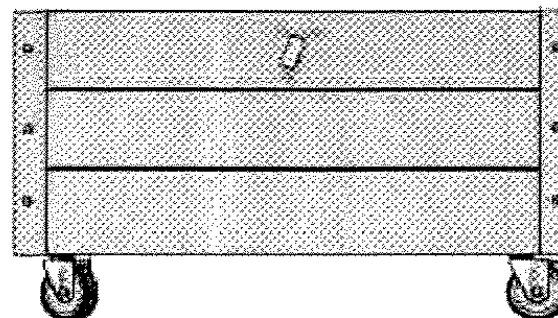
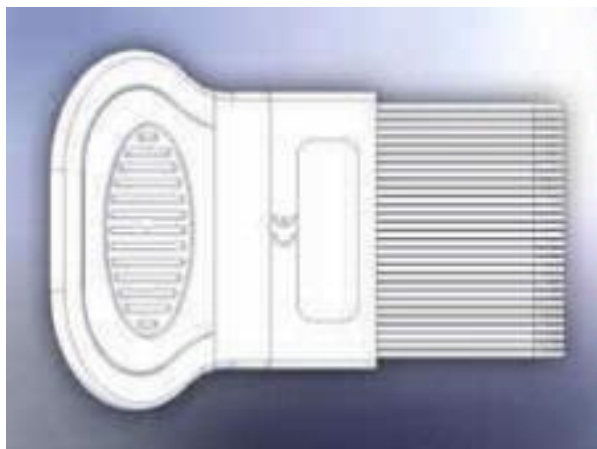
Design

- “The appearance of the whole or part of a product resulting from the features of, in particular, the lines, contours, colours, shapes, textures and/or materials of the product and / or its ornamentation”
- Includes:
 - parts of a product (e.g. back of a chair); and
 - parts of a complex product if visible whilst the product is in use (e.g. spare parts)
- Logos, fonts, packaging all included but not computer programs
- No test of ornamentality / aesthetics / eye appeal

Examples of RCDs



Examples of RCDs (*continued*)



Trade Marks as RCDs



Trade Marks as RCDs



Neonet



EASY CUT
PRODUCTION



evo



LIVE overseas



EGLO
LIGHT, WORLDWIDE.

Fonts

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z
 a b c d e f g h i j k l m n o p q r s t u v w x y z
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A quick brown fox jumped over a lazy dog. A quick brown
 fox jumped over a lazy dog. A quick brown fox jumped
 over a lazy dog. A quick brown fox jumped over a lazy
 dog. A quick brown fox jumped over a lazy dog. A quick
 brown fox jumped over a lazy dog. A quick brown fox
 jumped over a

Copyright



Not Protected

- Designs solely dictated by their technical function
- Interconnection
- Designs contrary to public policy / morality

Registered Community Design

- Up to 25 years (5 + 5 + 5 + 5 + 5)
- Protects any design which does not produce a different overall impression on the informed user
- Exclusive right to make, offer, put on the market, import, export or use a product in which the design is incorporated or to which it is applied
- Protects against any use, not just copying

Unregistered Community Designs

- No requirement for registration
- Lasts for three years
- Only protects from copying, not independent creation

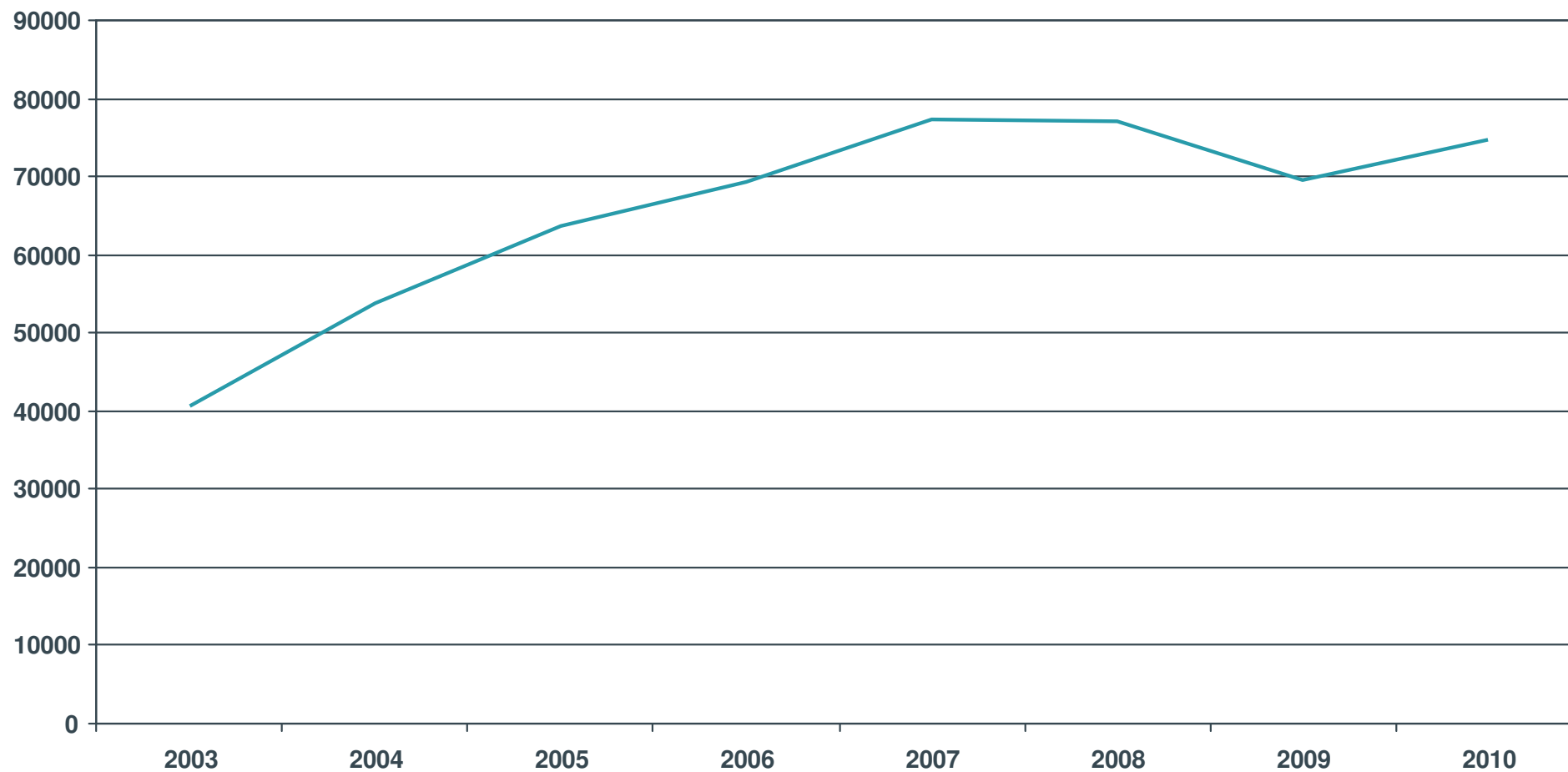
Advantages

- Inexpensive (€350 for the first design, only €80 for 11th or more design if filed at once)
- Quick – registered within days
- No examination on relative grounds – no “prior art” searches
- EU-wide injunctions against infringers
- EU-wide customs notification

When filing, consider:

- colour vs black and white
- line drawings vs photographs or computer generated images
- whole vs part
- words vs no words
- multiple designs in same class
- don't publish all the designs

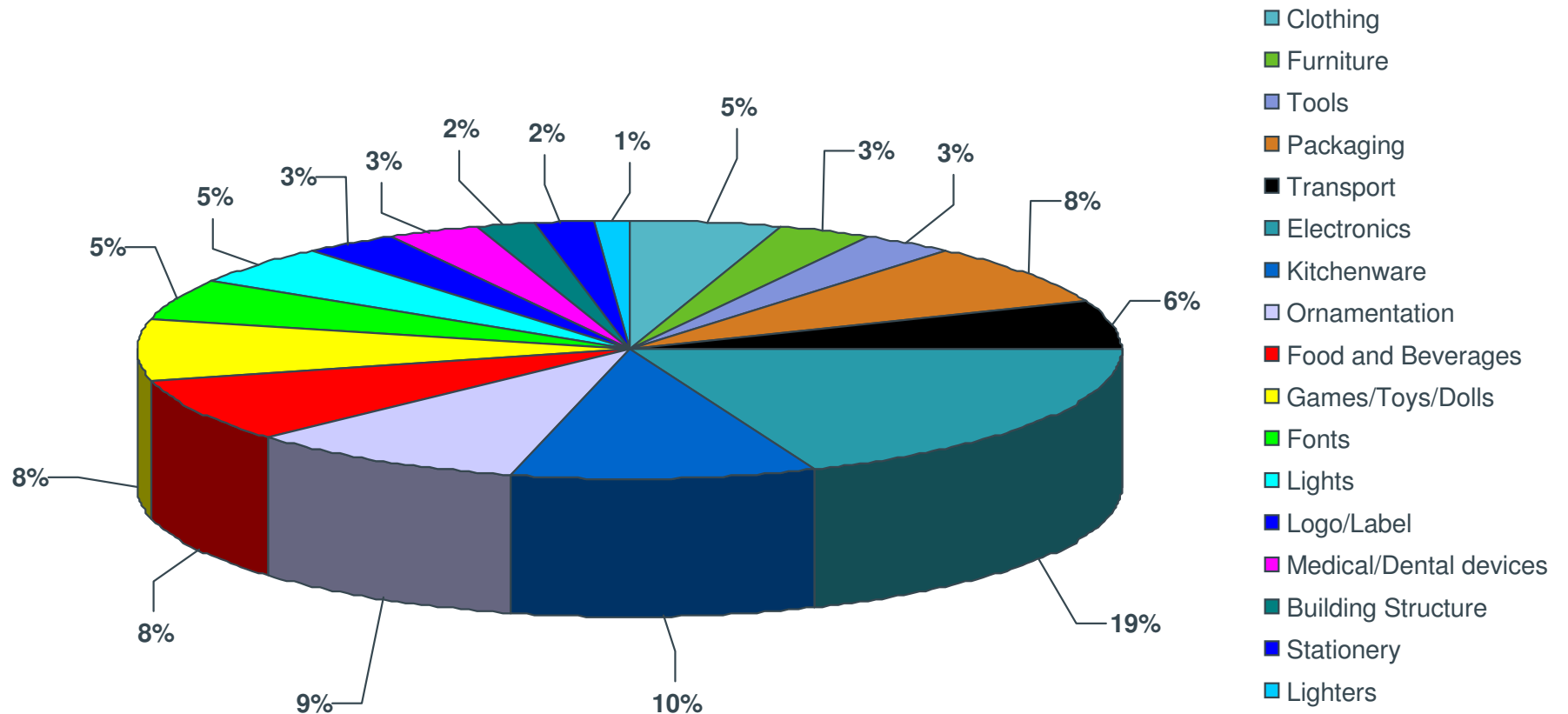
RCD Filings at OHIM



Total filings by Country of Applicant

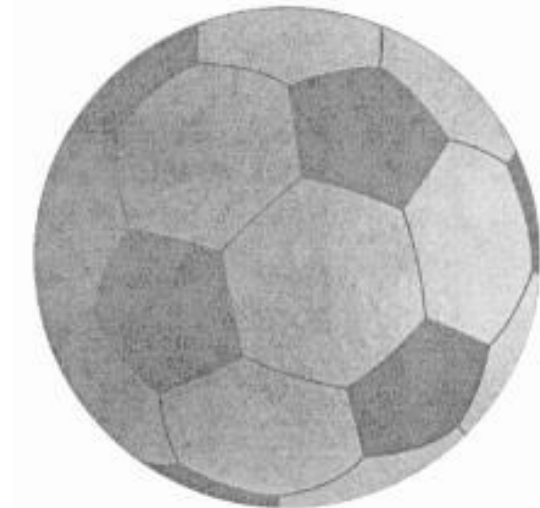
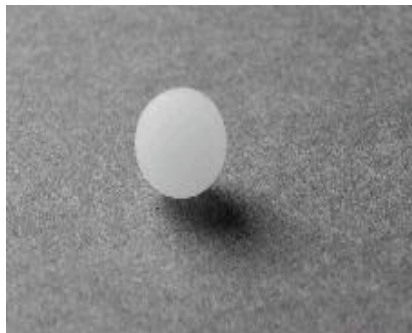
| Country | Number of Filings (to 31 Dec 2010) | Country | Number of Filings (to 31 Dec 2010) |
|-----------------------------|------------------------------------|--------------------|------------------------------------|
| 1. Germany | 128,973 | 14. Belgium | 9,057 |
| 2. Italy | 76,819 | 15. Hong Kong | 6,063 |
| 3. France | 45,602 | 16. Korea | 5,272 |
| 4. United States of America | 43,347 | 17. China | 5,258 |
| 5. United Kingdom | 35,424 | 18. Portugal | 4,934 |
| 6. Spain | 32,107 | 19. Taiwan | 4,800 |
| 7. Netherlands | 17,362 | 20. Finland | 4,693 |
| 8. Japan | 16,877 | 21. Czech Republic | 3,400 |
| 9. Switzerland | 15,243 | 22. Canada | 2,601 |
| 10. Austria | 13,774 | 23. Ireland | 2,243 |
| 11. Poland | 10,867 | 24. Australia | 2,163 |
| 12. Denmark | 10,529 | 25. Turkey | 1,848 |
| 13. Sweden | 10,326 | | |

Industries



Validity

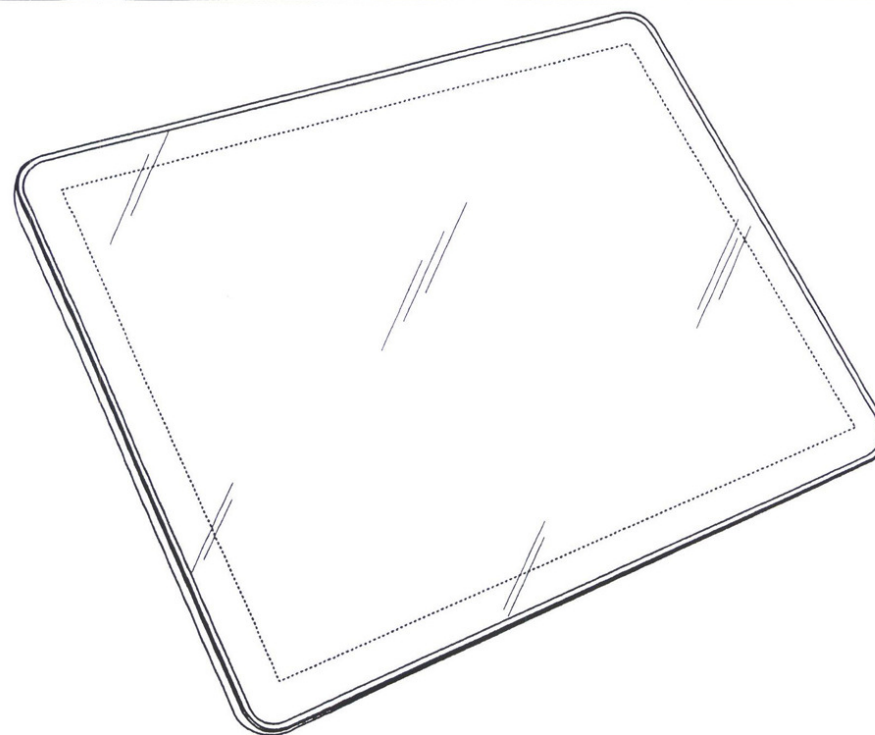
- “New” – differs in material details from designs previously made available to the public
- “Individual Character” – overall impression produced on the informed user differs from impression produced by any design made available to the public
- Many RCDs are likely to be invalid

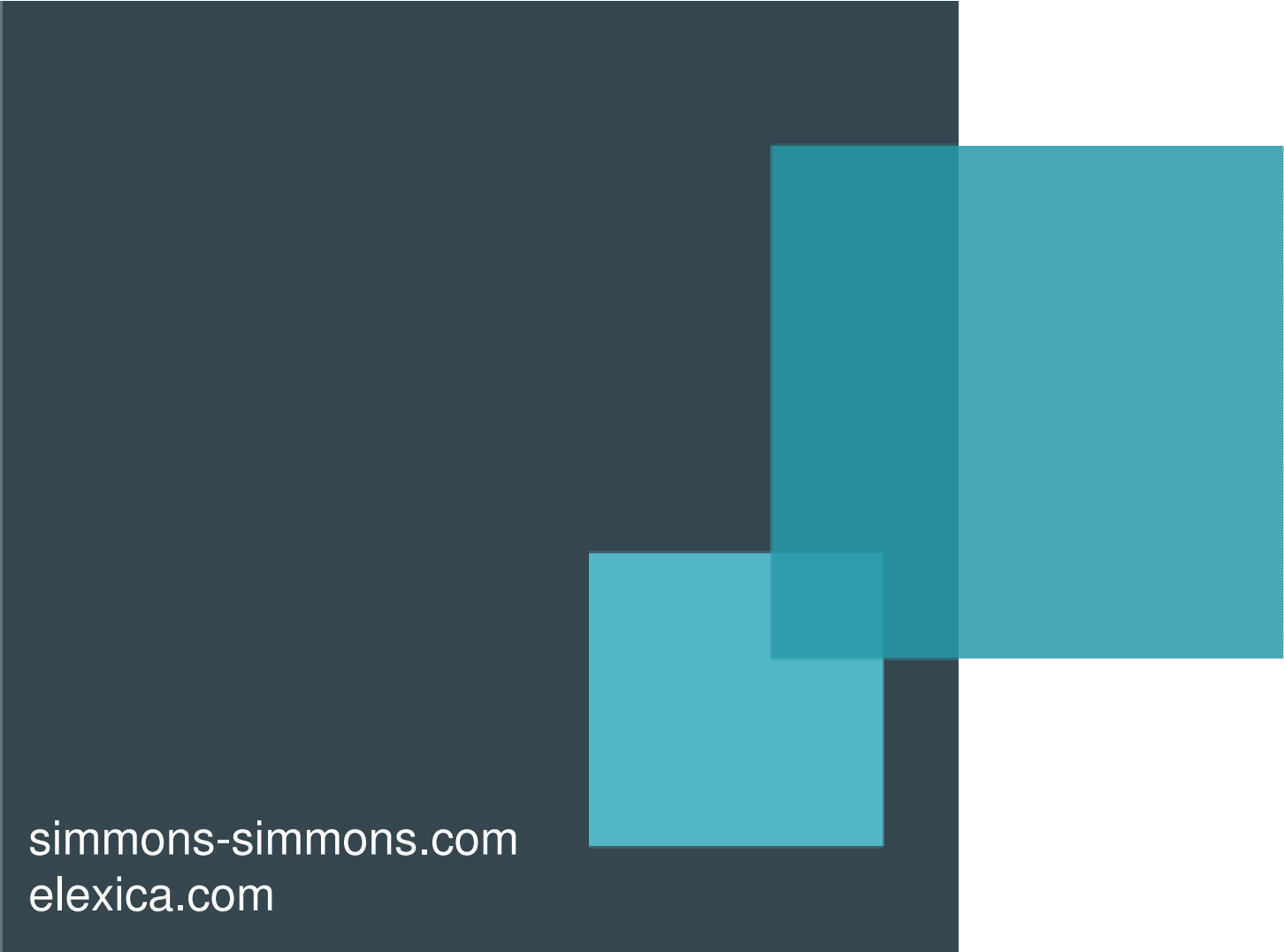


Worldwide Novelty

- “Made available to the public” – published exhibited, used in trade or otherwise disclosed except where those events could not reasonably become known in the normal course of business to those specialized in the sector, operating in the EEA

Apple v Samsung





simmons-simmons.com
elexica.com