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# Current Tendencies in Industrial Design Protection

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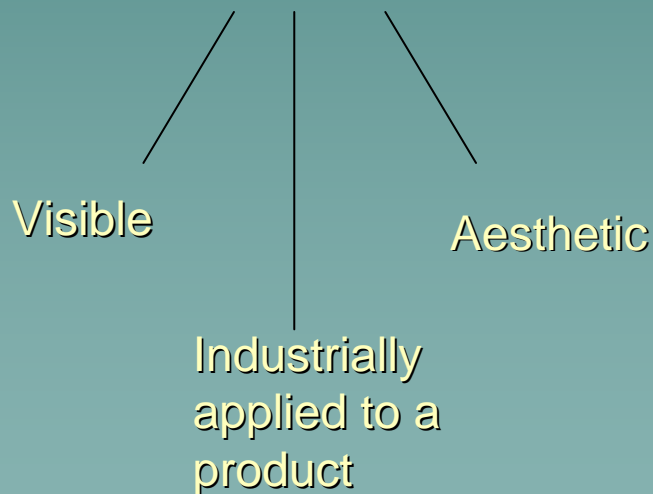
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# Introduction

- Why is ID a special kind of protection?
  - How is ID protection changing?
  - New technologies.
  - Problems in ID protection around the world.
  - Need for harmonization.
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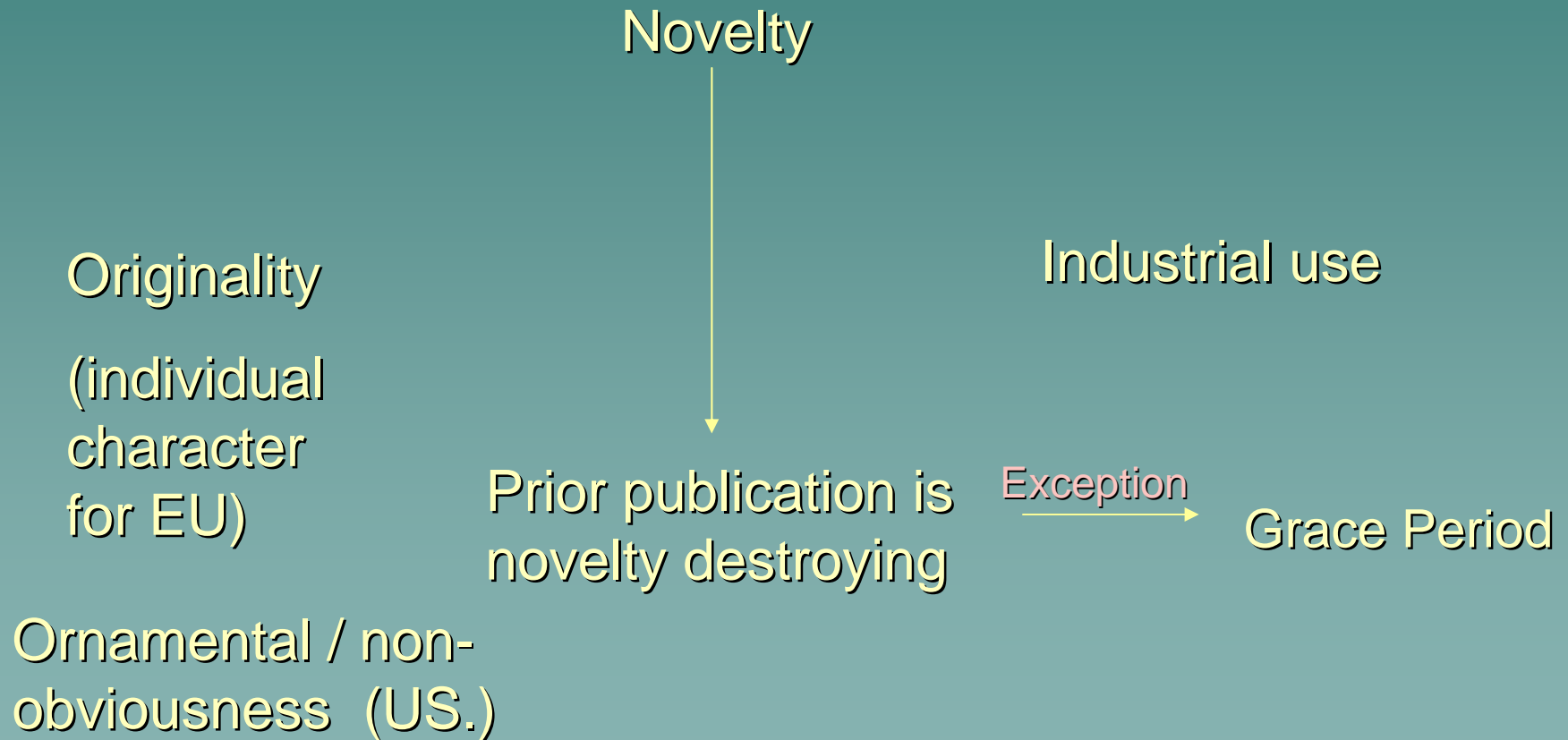
# ID Protection

- Classical definition:  
“ID protects only  
the appearance of  
a product”



<b>EU</b>	“the appearance of the whole or a part of a product resulting from the features of...the product itself and/or its ornamentation.
<b>UK</b>	features of shape, configuration, pattern or ornamentation applied to an article by any industrial process
<b>US</b>	“A design consists of the visual ornamental characteristics embodied in, or applied to, an article of manufacture”
<b>JP</b>	it is the shape, pattern or colors or any combination of these features in an article or part of an article, which have an aesthetic appearance

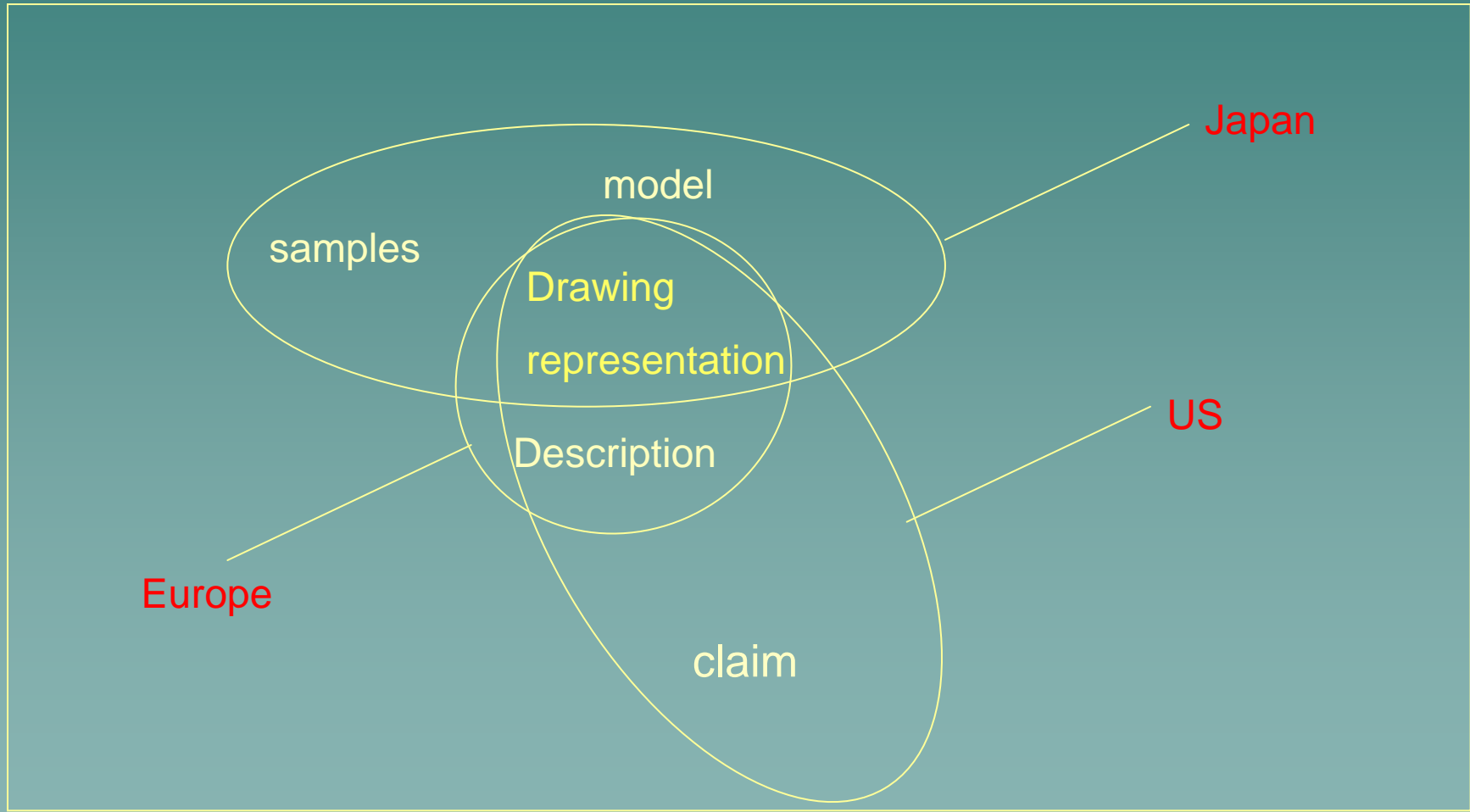
# TD Protection



# ID Protection

- Challenges:
  - Aesthetic features X Functional features
  - Handicraft
- Proposal and tendency:
  - New and original visible composition of lines, colors, shapes, etc

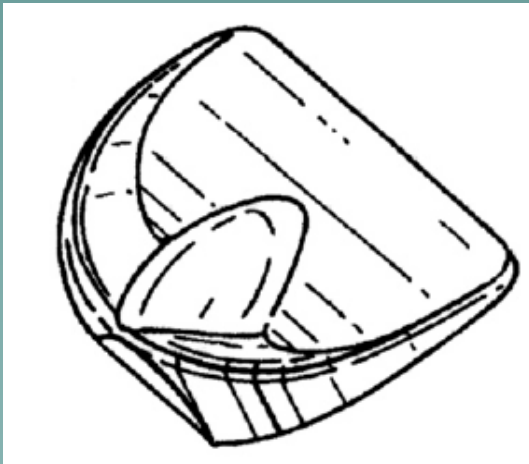
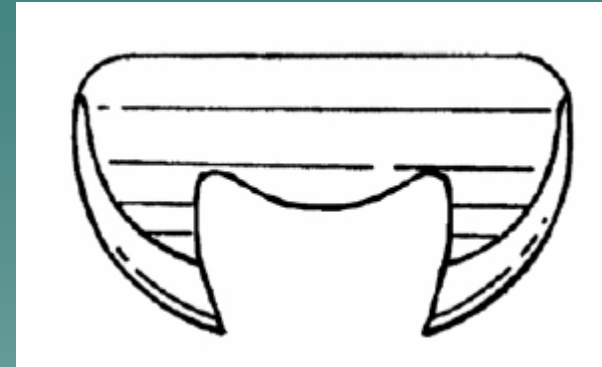
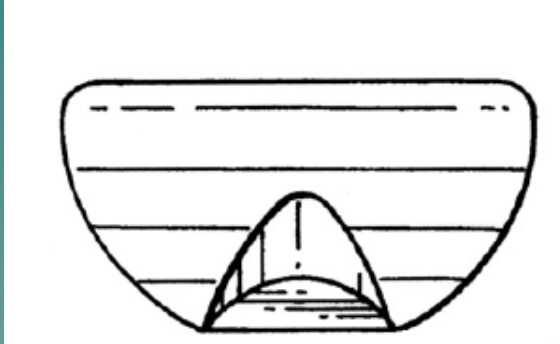
# Application Requirements



# Functional Features and Spare Parts

- ID protects only the appearance of a product, not its functional features.
    - Japan does not protect a design “composed only of shapes that are indispensable in securing the functions of an article.”
    - US does not protect the structural or utilitarian features.
    - Australia and South of Africa does not exclude designs with functional features.
    - EU does not protect the design dictated by functional features
  - Spare parts
    - Conditions for registration
-

# Spare Parts



Head of non-shaving device

Design protected by Reckitt Benckiser Inc.



# Functional Features and Spare Parts

- Harmonization and tendency
  - DI => appearance of the article



Appearance dictated by the technical function should not be considered a bar to registration

# Regime of Protection and Substantive Examination

## ■ Systems:

- Copyright;
- Registered *sui generis* design right;
- Unregistered *sui generis* design right;
- Patent.

SUBSTANTIVE EXAMINATION

YES

NO

HARMONIZATION

# Term

- From 10 to 25 years
  - Australia: 10 years
  - Japan: 15 years
  - USA: 14 years
  - EU: 25 years
- Harmonization: 25 years with a 5-year renewal.

# Cumulative Protection

- Tendency: copyright, *sui generis* protection/patent and trademark.
- No impact on harmonization: distinct and independent kinds of protection

# Scope of Protection

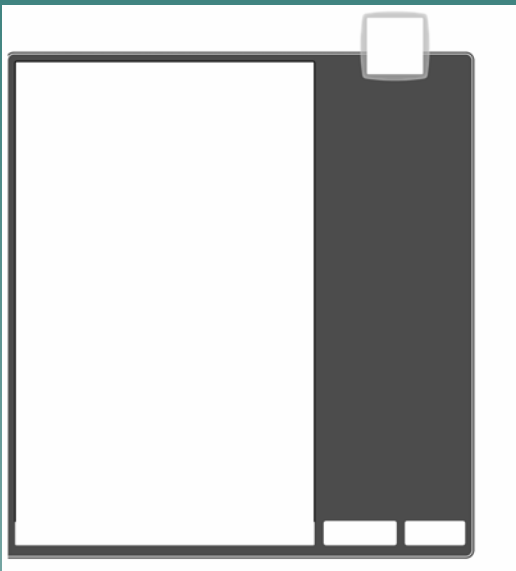
- Protection to “article” is too broad and uncertain
- Harmonization: protection would only refer to a design or an adaptation for a class of articles according to Locarno Classification.

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# New Technologies

- Computer Images
    - GUI
    - Type fonts
    - Icons
  
  - Harmonization: protection to new technologies.
-

# New Technologies - Examples



Icon

GUI



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  
1 2 3 4 5 6 7 8 9 0  
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Type fonts

Designs protected by Microsoft Inc.

# Conclusion

- Harmonization is desirable:
    - FICPI Rome Symposium and Round Table
    - FICPI Submission to WIPO
  
  - Definition
  - Requirements
  - Grace period
  - Term
  - Regime and examination
  - Scope of protection
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i Gracias!  
Thank you!

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