

IP Key Designs Workshop Wuxi IP Key 无锡外观设计研讨会

The Registered Community Design (RCD) 注册共同体外观设计

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OVERVIEW 目录

1. Definition of a design 外观设计的定义
2. RCD vs UCD 注册外观设计与未注册外观设计
3. Advantages RCD 注册外观设计的优势
4. Filing an RCD application 提交注册外观设计申请
5. Examination 审查

DEFINITIONS 定义

Art. 3(a)CDR

《共同体外观设计条例》第3(a)条

Design: the appearance of the whole or a part of a product resulting from the features of, in particular, the ...

外观设计： 由....特点形成的产品的全部或部分外观，尤其是...

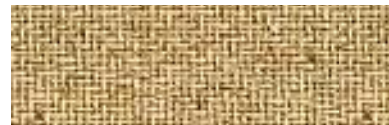
Lines 线条



Colours 颜色



Shape 形状



Texture 质地

Contours 轮廓



Materials 材料



Ornamentation 装饰

Art. 3(b)CDR
《共同体外观设计条例》第3(b)条

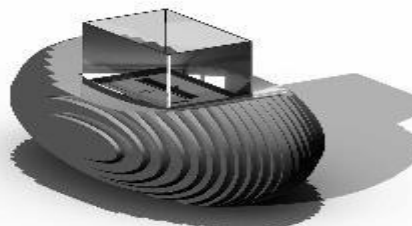
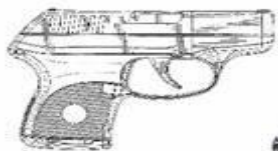
Product 产品:

any industrial or handicraft item, including inter alia: 指的是任何工业或手工制品，包括：

- Parts assembled into a complex product 将组合成复合产品的部件
- Packaging 包装
- Get-up 装订
- Graphic symbols 图表符号
- Typographic typefaces 印刷字体

Excluded: “Computer programmes” 不包括: “计算机程序”

WHAT CAN BE PROTECTED? 受保护范围

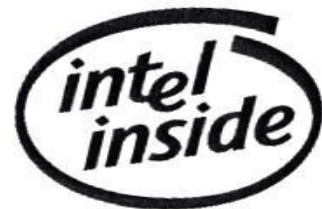


LOGOS 标志

ROHTO



City of
Manchester
Stadium



SOLÉ

Dove



Graphical user interfaces

(RCD 722442-0001)

图形用户界面

(注册共同体外观设计第722442-0001号)



Extracts from websites

(RCD 22389-0001)

网站截取

(注册共同体外观设计第22389-0001号)

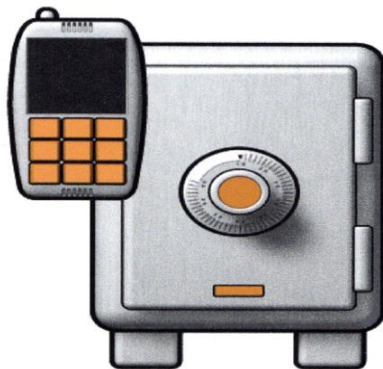


ICONS 图标



RCD 171582-0022

第171582-0022号注册共
同体外观设计



RCD 319264-0001

第319264-0001号注册
共同体外观设计



RCD 329552-0004

第 329552-0004
号注册共同体外观设计

WHAT CAN NOT BE PROTECTED? 无法被保护的内容

Not a design: 非外观设计:

✗ Living organisms / Natural products 活物/天然产品



REQUIREMENTS FOR PROTECTION 保护要求

Requirements for Protection 保护要求 (Art. 4, 5, 6, 8, 9 CDR) (《共同体外观设计条例》第4,5,6,8,9条)

Novelty – no identical design disclosed before

新颖性——在此之前未披露任何相同的外观设计

Individual character – overall impression differs from previous designs

个体特征——整体印象与之前的外观设计不同

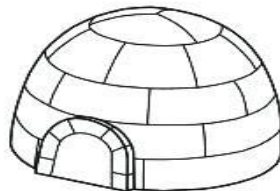
No protection for: 不保护如下内容:

- component parts of a complex product which are not visible during normal use
在正常使用过程中不可见的复合性产品的组件
- designs which are solely dictated by the technical function of the product
产品的外观设计仅取决于其技术功能
- designs of interconnections
相互关联的外观设计
- designs contrary to public policy and accepted principles of morality
违反公共政策和公认道德原则的外观设计

Novelty 新颖性

(Art. 5 CDR) (《共同体外观设计条例》第5条)

Novelty = no identical design has been disclosed to the public earlier
新颖性—在此之前未披露任何相同的外观设计



Disclosure 披露:

A design shall be deemed to have been made available to the public before a certain date if:

满足如下任一条件即视为一项外观设计在特定日期之前已经披露给公众:

- it has been published following registration 在注册之后被公开
- exhibited 被展出
- used in trade 在贸易中使用
- otherwise disclosed (internet, magazines...) 以其他方式被披露 (互联网、杂志...)

No need that such disclosure takes place in EU

该披露不一定要发生在欧盟内

FORMS OF PROTECTION 保护形式

Forms of Protection 保护形式

(Art. 1(2) CDR) (《共同体外观设计条例》第1(2)节)

A design can be protected in EU as: 在欧盟，一项外观设计受到保护的
形式包括：

1. UNREGISTERED Community Design (UCD) 未注册共同体外观设计

2. REGISTERED Community Design (RCD) 注册共同体外观设计

The UCD has been a reality since 6 March 2002. 自2002年3月6日开始，未注册共同体外观设计**在欧盟实施。**

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

在此日期之后首次披露的所有新设计在欧盟境内都受到防复制保护。

- max. life: 3 years 最长保护期：3年
- no registration procedure 无注册程序
- no cost 无成本
- no grace period 无宽限期
- invalidity only at Courts 只能由法院宣告无效



The RCD began on 1 April 2003. 注册共同体外观设计于2003年4月1日开始实施。

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.

注册共同体外观设计赋予其权利人排他性使用权，并且阻止任何第三方未经同意而使用。前述“使用”应特别包括制造、提供、投入市场、进口、出口或使用了包含或使用该外观设计的产品。



Administrative centre: European Union Intellectual Property Office (EUIPO), Alicante
行政中心：欧盟知识产权局（阿利坎特）

RCD v. UCD

注册与未注册共同体外观设计

❖ Duration of protection 保护期

RCD 注册共同体外观设计	UCD 未注册共同体外观设计
5 years from date of filing 自申请日期起5年 + renewal of 5 years 续展5年 (maximum 25 years) (最多25年)	3 years from disclosure 自披露日期起3年 no renewal 无续展

RCD v. UCD

注册与未注册共同体外观设计

❖ Scope of protection 保护范围

RCD 注册共同体外观设计	UCD 未注册共同体外观设计
Protection against similar designs, even when developed in good faith 防止任何相似的外观设计，即使 善意开发的外观设计也被认定侵 权	Protection only in case of intentional copy made in bad faith 仅当发生有意的恶意复制时， 才发挥保护作用

Advantages/Benefits RCD 注册共同体外观设计的优势/好处

- Protection in the whole European Union 在整个欧盟境内受保护
- Easy to file 申请程序简单
- Multiple designs in the same application 同一份申请中可包含多项外观设计
- File and communicate in any of 23 EU languages 可以采用23种欧盟语言中的任何一种进行申请与通信
- Affordable fees 费用可接受



Filing an RCD application 提交注册共同体外观设计申请

The European Union Intellectual Property Office registers
around 90.000 designs a year

欧盟知识产权局每年注册约90,000项外观设计



HOW TO APPLY 如何申请



Applications can be presented: 申请书提交方式:

- By E-filing 在线
- By post 邮寄
- By personal delivery 人员递送
- Or through any national IP office of the EU 通过欧盟任一成员国的知识产权局
- Fax (*) 传真 (*)



Fast-Track application possible – registration in 2 days or less
可采用快速申请通道——注册过程最多需要2天

Examination 审查

❖ Grounds for non-registrability: 不予注册的理由:

- Not a design 不属于外观设计
- Contrary to public policy 违反公共政策
- Contrary to morality 违反道德



Examination 审查

❖ Formalities 形式审查

- Payment 付款
- Indication of product 产品名称
- Representation of the design 外观设计的表述
 - Quality 质量
 - Consistency 一致性
 - Compliance 符合性
- Priority 优先权



Not examined 不审查

❖ Novelty 新颖性

A design is new if no identical design has been disclosed before it. If two designs differ only in immaterial details, they will still be considered identical.

如果在此之前未披露过相同的外观设计，则说明所申请的外观设计具备新颖性。
如果两项外观设计仅在无关紧要的细节上存在不同，则认为它们是相同的。

❖ Individual character 个体特征

A design possesses individual character if the overall impression conveyed to the informed user differs from that conveyed by any other previous designs.

如果一项外观设计传递给见多识广用户的整体印象不同于其他之前外观设计所传递的整体影响，则视为该外观设计具备个体特征。

Grounds for Invalidity after registration
注册后无效的理由

Filing Date 申请日期

- Formal request for registration 正式注册请求
- Identity applicant 申请人的身份信息
- Clear representation design 清晰的外观设计表述
 - Sufficient quality 充分的质量
 - Neutral background 中性的背景

Filing date granted! 确定申请日！



DEFERMENT OF PUBLICATION 延期公开

- **DEFERMENT:** publication may be deferred for 30 months from the date of filing or, if a priority is claimed, from the date of priority.
- **延期:** 可以从申请日开始30个月内延期公开, 如果主张优先权, 可以从优先权日开始30个月内延期公开。
- **Only when filing the application 只有在提交申请时才可以要求延期**
- **Subject to an additional fee 需要支付额外的费用**

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 LONG DOES IT TAKE? 注册周期

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

共同体外观设计的注册周期：自申请日
起2天



Claiming priority 主张优先权

- Within 6 months from first application
- 首次申请起6个月内
- Only design or utility model
- 仅限外观设计或实用新型
- Previous application must be first filing
- 之前的申请必须是首次提交
- Applicant must be the same
- 申请人必须相同
- Certified copy within 3 months
- 在3个月内提供经认证的复本
- Translation in one of the 5 office languages (English, German, Spanish, French, Italian)
- 翻译为5种官方语言之一（英语、德语、西班牙语、法语、意大利语）



Quality of the view 视图的质量



Bad quality
质量不佳



Good quality
质量佳



Consistency of views 视图的一致性

Do the views show the same designs?

下面的视图显示的是同一项外观设计吗？



View 1
视图1



View 2
视图2



View 3
视图3

Consistency of views 视图的一致性

Do the views show the same designs?
下面的视图显示的是同一项外观设计吗？



View 1
视图1



View 2
视图2



View 3
视图3

Consistency of views 视图的一致性

Global view necessary 全局视图很必要



Design 1 / View 1
外观设计1/视图1



Design 1 / View 2
外观设计2/视图2



Consistency of views 视图的一致性

Global view necessary 全局视图很必要



View 1
视图1



View 2
视图3

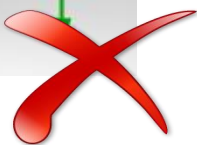


View 3
视图3



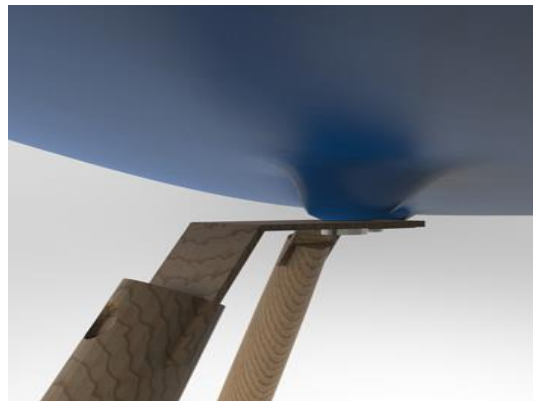
Compliance of views 视图的符合性

No extra elements; words, arrows, numbers
无多余要素；词语、箭头、编号



Compliance of views 视图的符合性

Magnified views must be separate
局部放大视图必须单独体现



Compliance of views 视图的合规性

Neutral background 中性背景

Indication of product: Sofas 产品名称：沙发



Compliance of views 视图的合规性

Views need to be separate 视图需要分开体现



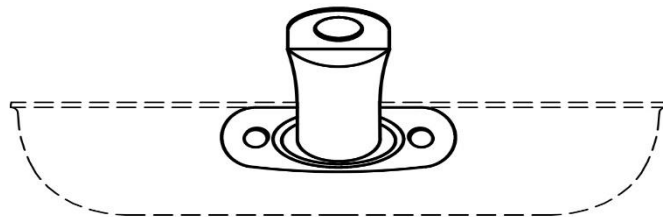
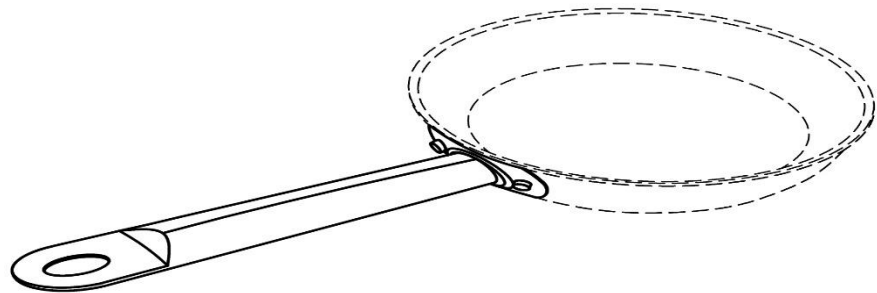
Compliance of views 视图的合规性

Assembled view is obligatory
必须提供组装后的成品视图



Visual Disclaimer 视觉性免责声明

Broken lines / Dotted lines
非连续线/点线



Visual Disclaimer 视觉性免责声明

Boundaries 边界



Visual Disclaimer 视觉性免责声明

Colouring, Shading, Blurring
颜色、阴影、虚化



Indication of product 产品名称

The indication of product has to correspond to the design
产品名称必须与外观设计相对应



Ornamentation

Eurolocarno class 32-00

装饰

Eurolocarno 第32-00类



Bowls

Eurolocarno class 07-01

碗

Eurolocarno 第07-01类



Multiple application 多项申请

❖ Features 特点

- No limit for number of designs 外观设计的个数不受限
- Cheaper for the applicant 申请人的成本更低
- Each design included in the multiple application will have its own independent life (deferred, rejected, declared invalid, surrendered, renewed...)
- 多项申请中包含的每个外观设计都将有自己独立的周期（延期、驳回、宣告无效、放弃、续展...）

ADVANTAGES 优势

- One application procedure 一次申请程序
- One language 一种语言
- One office (EUIPO) 一个机关 (欧盟知识产权局)
- One file 一次提交
- One fee in one currency (EUR) 一种货币 (欧元) 一次支付
- Possibility of filing multiple applications 可以提交多项申请
- Possibility to defer publication 可以延期公开





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Thank you