



NOVELTY OF DESIGNS

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| Manila | 2nd October 2025

www.ipkey.eu

- 1. Introduction – EU Design Regulation** (Regulation amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002)
- 2. Invalidity of designs: lack of novelty**
- 3. Disclosure**



Novelty of designs

INTRODUCTION – EU DESIGN REGULATION

Novelty of designs

Art. 3 EUDR - DEFINITIONS

1. “**design**” means the appearance of the whole or a part of a product resulting from the features, in particular the lines, contours, colours, shape, texture and/or materials, of the product itself and/or of its decoration, including the movement, transition or any other sort of animation of those features;

Art. 4 EUDR - REQUIREMENTS FOR PROTECTION

1. A design shall be protected by an EU design, if it is **new** and has **individual character**



Novelty of designs

Art. 5 EUDR - NOVELTY

1. A design shall be considered to **be new** if **no identical design** has been made available to the public:
[...] (b) in the case of a **registered Community design**, before the **date of filing of the application** for registration of the design for which protection is claimed, or, if **priority** is claimed, the date of priority.
2. Designs shall be deemed to be identical **if their features differ only in immaterial details.**



Novelty of designs

Art. 25 EUDR - GROUNDS FOR INVALIDITY

1. An EU design may be declared invalid only in the following situations:

- (a) The EU design does not correspond to the definition under Art. 3, point (1);
- (b) The EU design does not fulfil the requirements laid down in Articles 4 to 9; [...]



Art. 5 EUDR - NOVELTY



Novelty of designs

INVALIDITY OF DESIGNS – LACK OF NOVELTY



Novelty of designs







Identical?

LACK OF NOVELTY

There is identity between the EU design and an earlier design where the **latter discloses each and every element constituting the former**. An EU design cannot be new if it is included in a more complex earlier design (25/10/2011, R 978/2010-3, PART OF SANITARY NAPKIN, § 20-21).

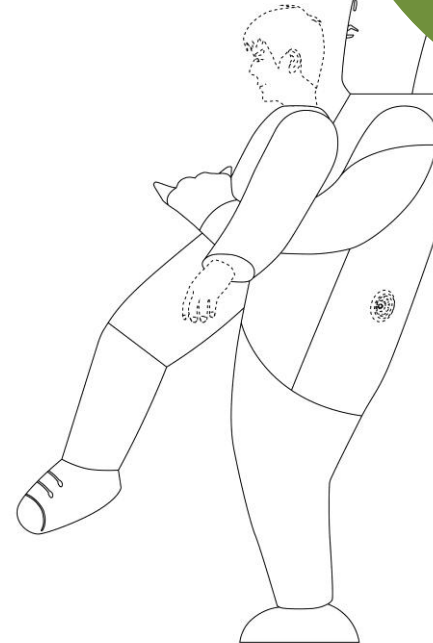
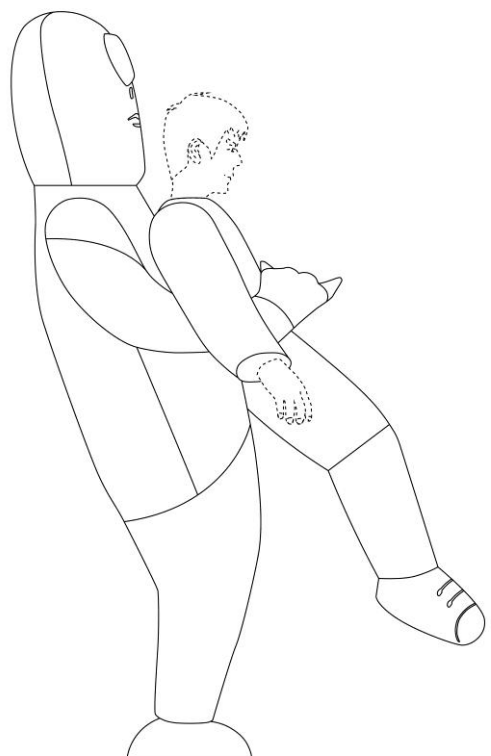
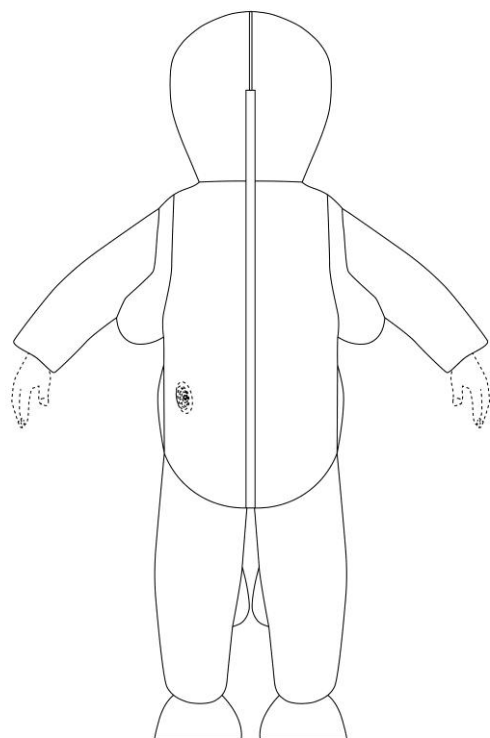
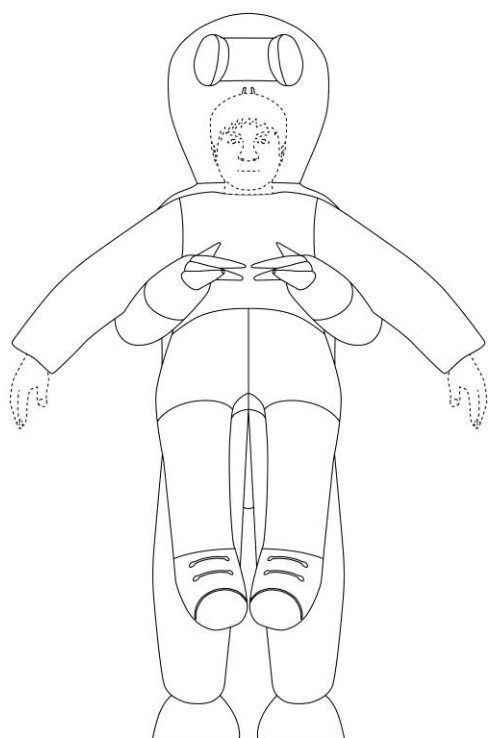
However, the **additional or differentiating features** of the EU design may be relevant for deciding whether it is new, unless such elements are **so insignificant that they may pass unnoticed**.

Contested RCD No 5 269-0001 (view No 2)	Earlier design (invented example)
	

LACK OF NOVELTY – PRACTICAL CASES

ICD No. 117 027 - Inflatable toys

Contested design



Prior design



LACK OF NOVELTY – PRACTICAL CASES

ICD No. 121 140 – Backpacks (part of)

Contested design



Prior design



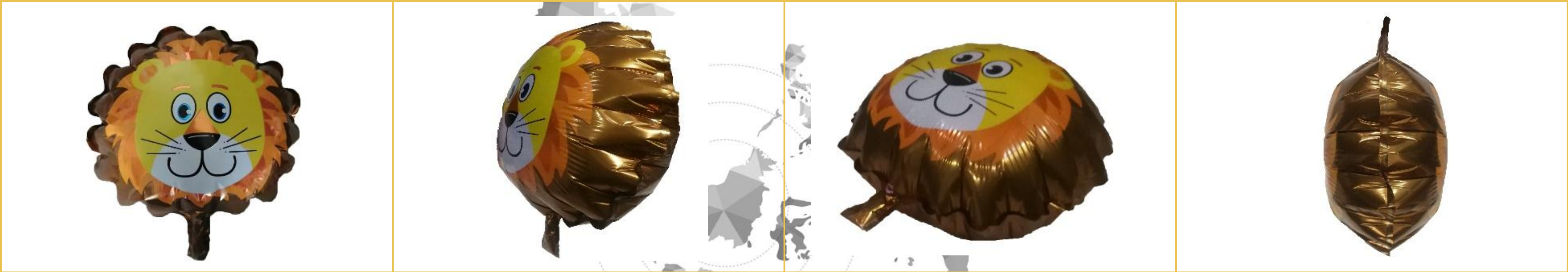
Funded by the European Union



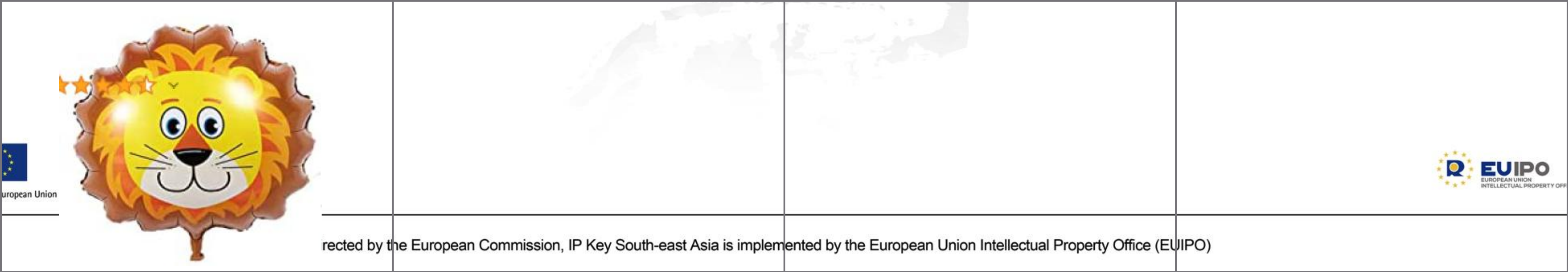
LACK OF NOVELTY – PRACTICAL CASES

ICD No. 114 883 - Balloons for children

Contested design



Prior design



LACK OF NOVELTY – PRACTICAL CASES - QUIZ

Are the designs identical? **YES** or **NO**



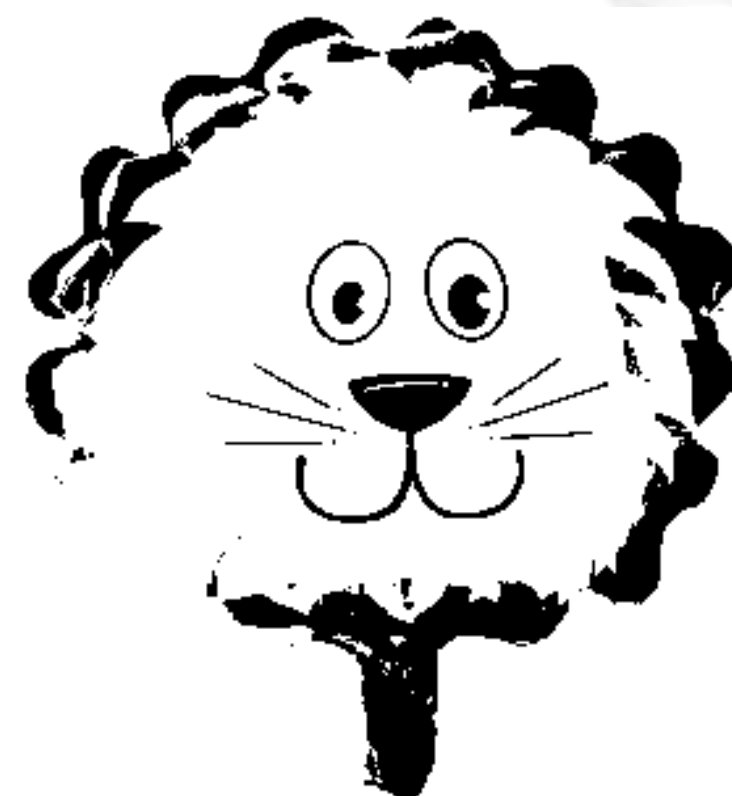
LACK OF NOVELTY – PRACTICAL CASES

ICD No. 114 883 - Balloons for children

Contested design



Prior design



LACK OF NOVELTY – PRACTICAL CASES

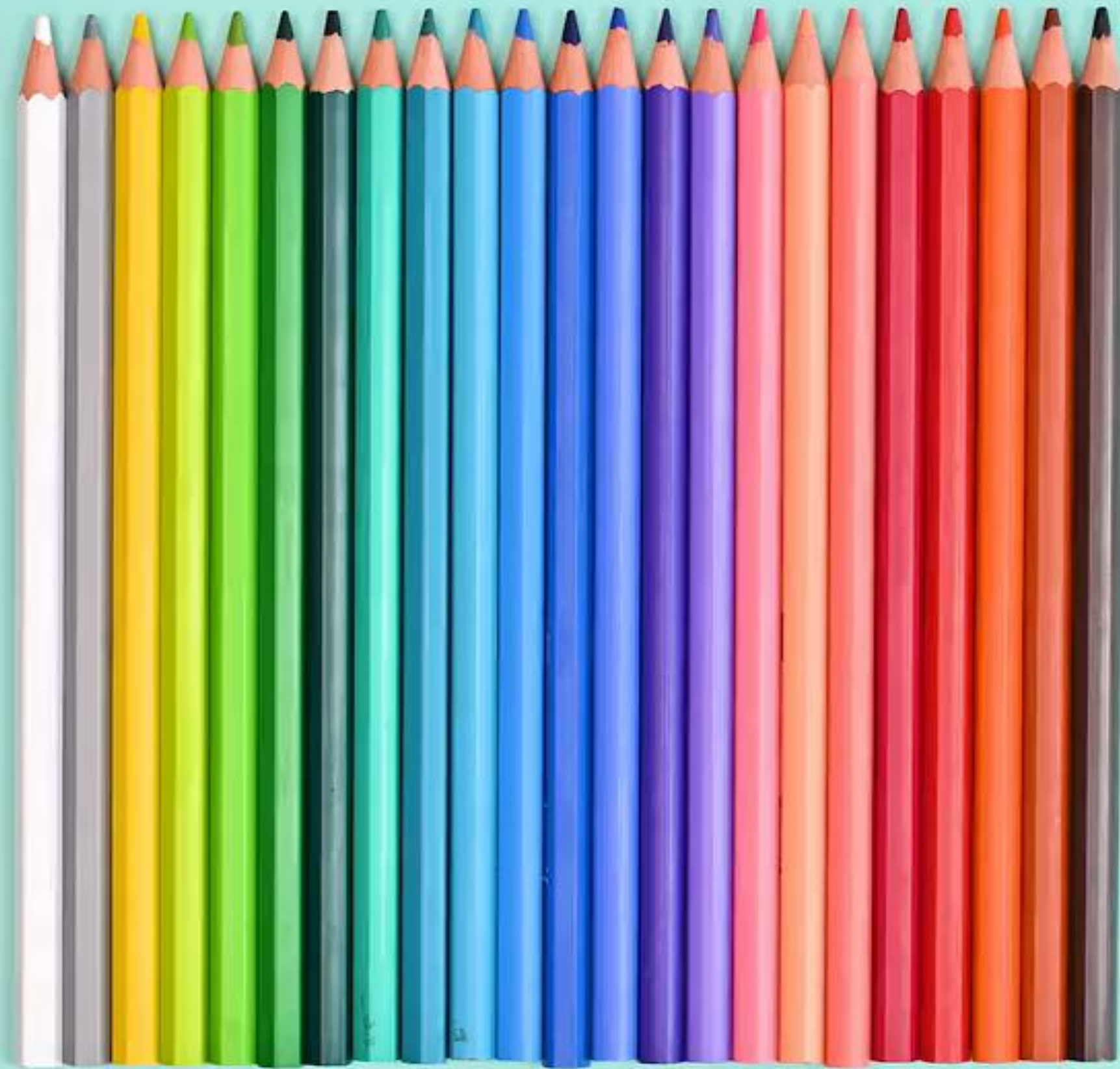
Contested design



Prior design



Lack of individual character



QUICK RECAP – GENERAL PRINCIPLES



1. SECTOR CONCERNED

2. INFORMED USER

3. DESIGNER'S FREEDOM



QUICK RECAP – GENERAL PRINCIPLES



1. SECTOR CONCERNED



QUICK RECAP – GENERAL PRINCIPLES



2. INFORMED USER



QUICK RECAP – GENERAL PRINCIPLES







3. DESIGNER'S FREEDOM



LACK OF INDIVIDUAL CHARACTER – PRACTICAL CASES

12/03/2019, T-352/19; Packaging for foodstuffs, EU:T:2020:94, § 28, 31, 33, 40

Contested design		
		
Prior design		
		

Commission, IP Key South-east Asia is implemented by the European Union Intellectual Property Office (EUIPO)

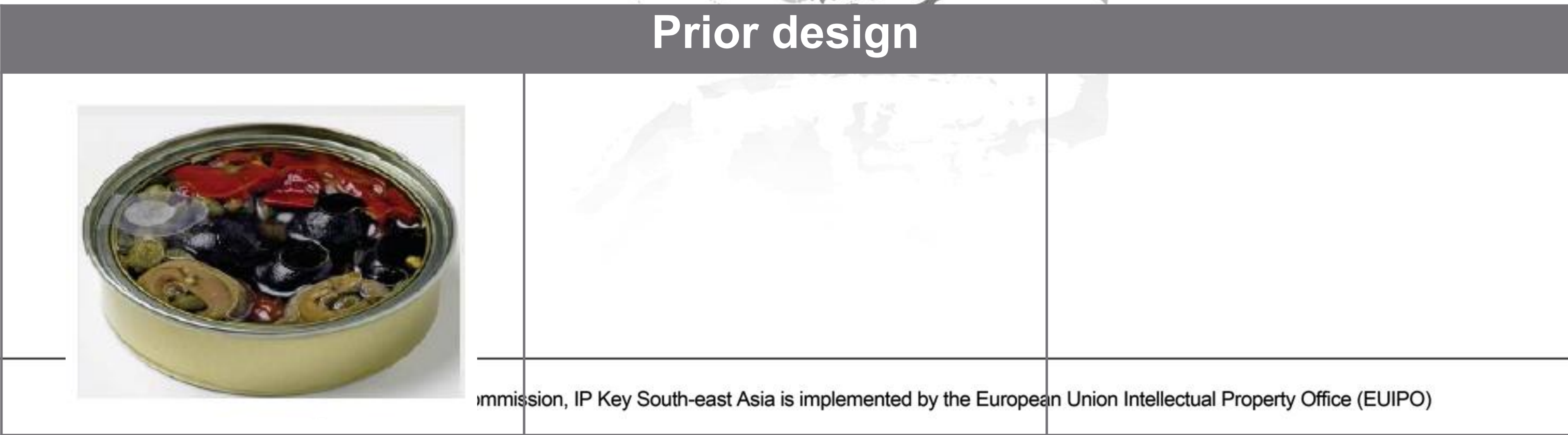
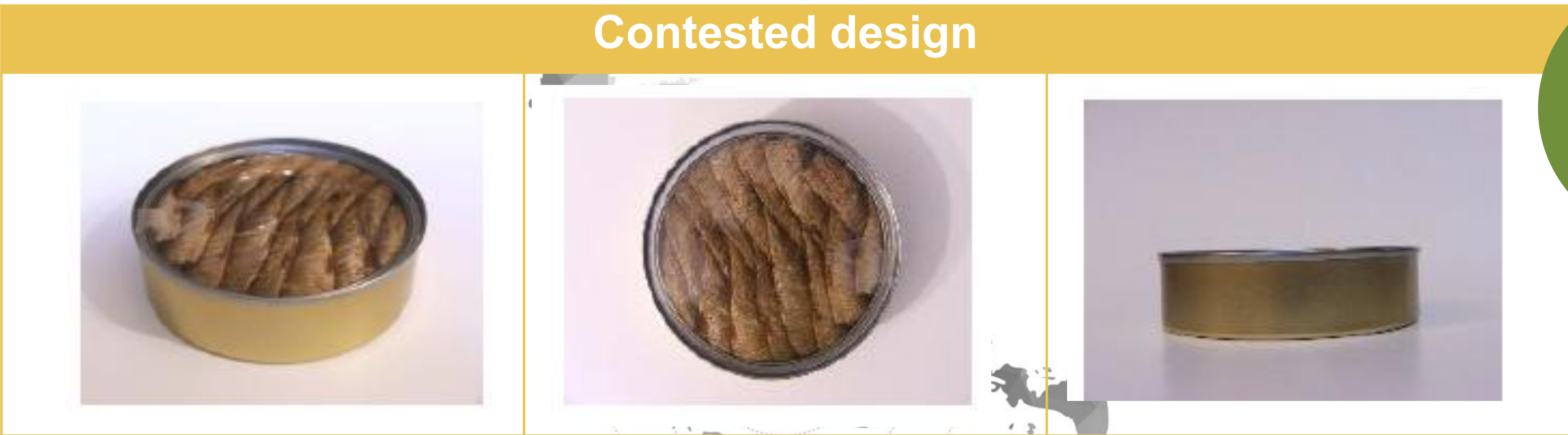
LACK OF INDIVIDUAL CHARACTER – PRACTICAL CASES - QUIZ

Do they create the same overall impression?
YES or **NO**







LACK OF INDIVIDUAL CHARACTER – PRACTICAL CASES

12/03/2019, T-352/19; Packaging for foodstuffs, EU:T:2020:94, § 28, 31, 33, 40



LACK OF INDIVIDUAL CHARACTER – PRACTICAL CASES

12/03/2019, T-352/19; Packaging for foodstuffs, EU:T:2020:94, § 28, 31, 33, 40

Contested design		
		
Prior designs		
		



Novelty of designs

DISCLOSURE



ESTABLISHING THE EVENT OF DISCLOSURE

ART. 7 EUDR - DISCLOSURE

For the purpose of applying Articles 5 and 6, a design shall be deemed **to have been made available to the public if it has been:**

- ✓ **published following registration;**
- ✓ **exhibited;**
- ✓ **used in trade;**
- ✓ **or otherwise disclosed**

before the date referred to in Articles 5(1)(a) and 6(1)(a) or in Articles 5(1)(b) and 6(1)(b), as the case may be, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community.



QUICK RECAP – GENERAL PRINCIPLES

OFFICE'S ASSESSMENT:



1. WHAT?

2. WHEN?

3. HOW?



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ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Social media

Instagram?



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ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Social media

Instagram?

(06/03/2024, T-647/22, Shoes, EU:T:2024:147)

53. in December 2014, Rihanna was a world-famous pop star, it should be observed that both her fans and the circles specialised in the fashion sector had, at that time, developed a particular interest in the shoes that she wore on the day on which the contract under which the star became the applicant's creative director was signed. That being the case, it is perfectly reasonable to take the view that a **not insignificant proportion of the people who were interested in music or in Rihanna** herself, including her clothing, in December 2014 **viewed the photos in question** closely in order to discern from those photos the appearance of the shoes that the star wore, **thus recognising the features of the prior design.**

ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Google Listing

Google standing pencil cases

Large Pink Green Stationery Cylindrical Small Round Line Clear Leather Rectangle Hard Zip Big Jetpens

sanvicentebenavent... Upright Pencil Case...
Amazon.com Pencil Case Standing...
Amazon.com iSuperb Standing Pe...
Brimfield Awakening - ... Punilabo Stand Up Pe...
Allen Creations - In st... Stand Up Pencil Case...
Amazon.com ANGOOBABY Standi...
Amazon.com: Soo...
Everything Calligraphy... Lihit Lab Smart Fit Ac...
sanvicentebenavente.es Standing Pencil Pouc...
JetPens Sonic Sma Sta Standing Pen Cas...

Notebook Therapy Tsuki Pop-up Standing...
sanvicentebenavente.es Stand Up Pencil Pouc...
Amazon.com: Soo...
chl-store - In stock KOKUYO Pencil Case ...
Office Depot Five Star Stand N Stor...
eBay Large Capacity Standi...
Amazon.com Boba Cat Pop Up Pe...
YouTube DIY Standing Pencil Case, Pencil Pouc...
YouTube DIY Standing Pencil case | 세울 수 있...

Good Juju Ink - In stock Luxe Standing Pencil P...
JetPens Sonic Sma Sta Standing Pen Case -...
Kinokuniya USA Online S... Books Kinokuniya: Stan...
85 Rue Tranquille Sonic Sma Sta Standing...
Stickerrific - In stock Lihit Lab PuniLabo Stand Pen/Penci...

Related searches
large standing pencil case
high school pencil case
stand up pencil case

Allen Creations Stand Up Pencil Case - Allen ...
Shopee Singapore Japan KOKUYO Pencil ...

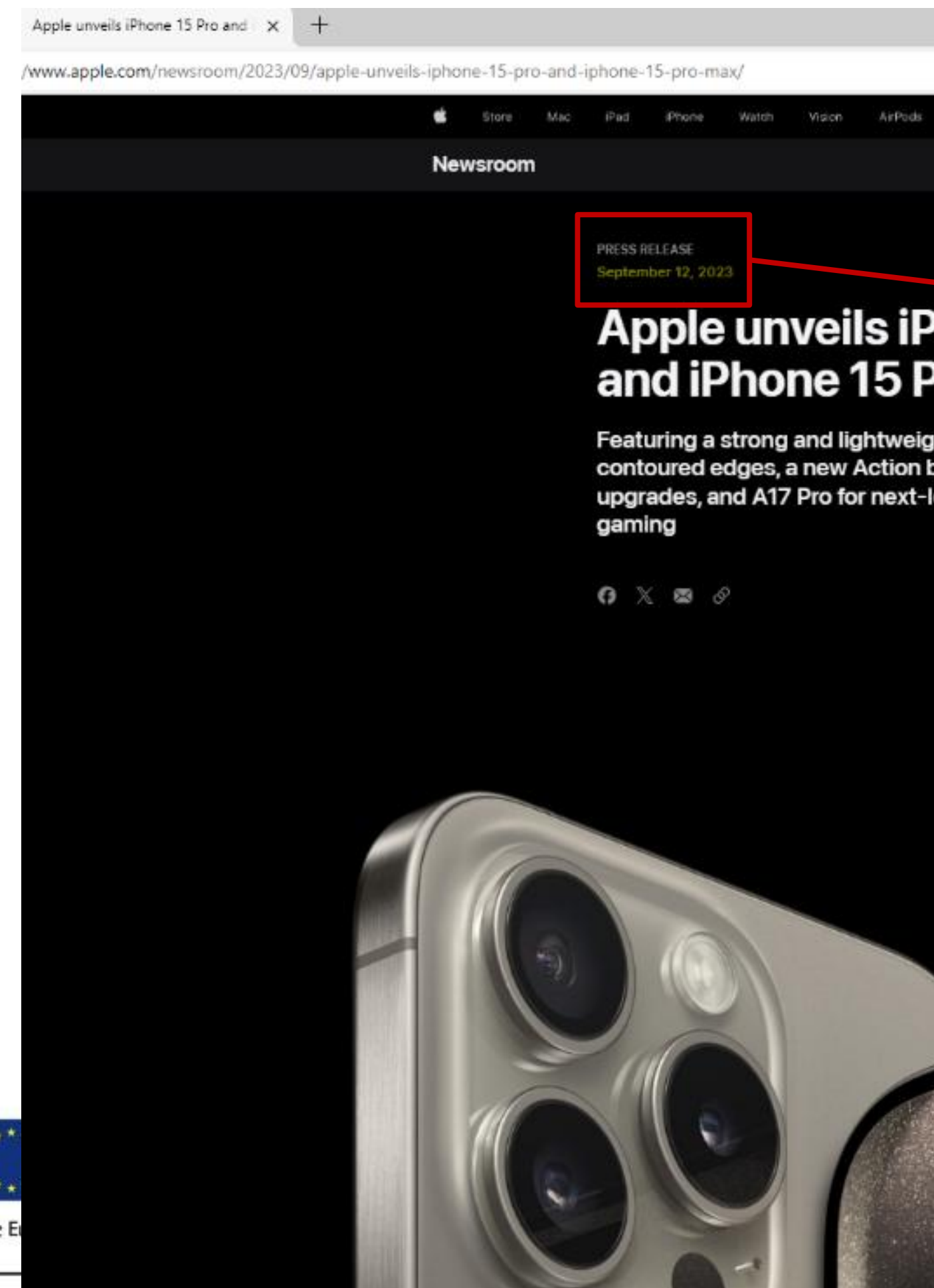
ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Google Listing

The screenshot shows a Google search interface. The search bar contains the text "iphone 15 pro max". Below the search bar, the "Product sites" filter is selected. Further down, the date range filter is set to "Sep 30, 2021 – Sep 2, 2022". A product listing from Idealo is visible, showing the title "Apple iPhone 15 Pro Max desde 1.138,00 € | Octubre 2024" and a price of "1.139,00 € envío incl." for the date "Aug 22, 2021". A product image of the iPhone 15 Pro Max is also shown.

ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Google Listing



iPhone 15 Pro and iPhone 15 Pro Max will be available in four stunning new finishes, including black titanium, white titanium, blue titanium, and natural titanium. **Pre-orders begin Friday, September 15, with availability beginning Friday, September 22.**

"This is the most pro lineup we have ever created, with a state-of-the-art titanium design, the best iPhone camera system yet that enables game-changing new workflows, and the A17 Pro chip, which ushers in a new chapter of performance and games never before seen on iPhone," said Greg Joswiak, Apple's senior vice president of Worldwide Marketing. "iPhone 15 Pro and iPhone 15 Pro Max represent the best of Apple design and industry-first innovations to help enrich the everyday experiences of our users, while enabling them to unleash their creativity."

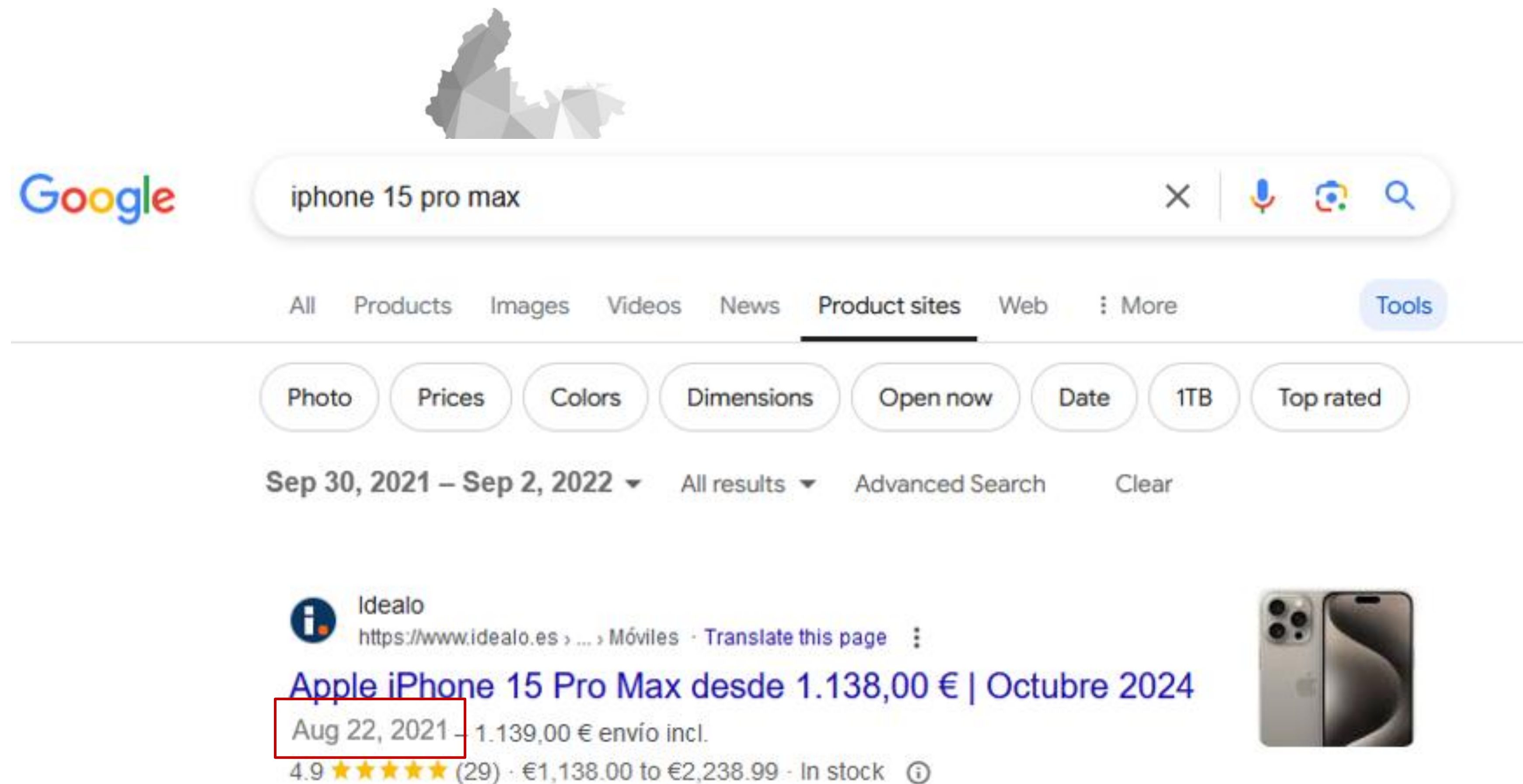
PRESS RELEASE
September 12, 2023



iPhone 15 Pro and iPhone 15 Pro Max will be available in four stunning new finishes, including black titanium, white titanium, blue titanium, and natural titanium. **Pre-orders begin Friday, September 15, with availability beginning Friday, September 22.**

ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Google Listing



The screenshot shows a Google search interface with the query "iphone 15 pro max". The search results are filtered by "Product sites". A listing from Idealo is displayed, showing the price "Apple iPhone 15 Pro Max desde 1.138,00 € | Octubre 2024". The date "Aug 22, 2021" is highlighted with a red box. The listing also includes a star rating of 4.9, the price range "€1,138.00 to €2,238.99", and the status "In stock".

Google

iphone 15 pro max

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Photo Prices Colors Dimensions Open now Date 1TB Top rated


Sep 30, 2021 – Sep 2, 2022 All results Advanced Search Clear

Idealo
https://www.idealos.es › ... › Móviles · Translate this page

Apple iPhone 15 Pro Max desde 1.138,00 € | Octubre 2024

Aug 22, 2021 – 1.139,00 € envío incl.

4.9 ★★★★★ (29) · €1,138.00 to €2,238.99 · In stock ⓘ



ESTABLISHING THE EVENT OF DISCLOSURE - INTERNET

Google Listing

Apple iPhone 15 Pro Max 256 GB x +

ps://www.idealos.es/precios/203247686/apple-iphone-15-pro-max-256-gb-titanio-natural.html

idealo Buscar ...

🏠 > Electrónica > Telecomunicaciones > Móviles > Apple iPhone 15 Pro Max > 2

📱 Apple iPhone 15 Pro Max 256 GB

5 opiniones: ⓘ ★

En resumen: 6,7 pulgadas / 17,018 cm
RAM 8 GB · 256 GB · iOS 17

Productos similares: 56 Phablet

Color: azul blanco

Memoria interna en GB: 256 GB X 512 GB

Ofertas:

Nuevo desde 1.138,00 € > Reacondicionado & Usado desde 969,00 € >

Ficha del producto



Tipos de producto	Móvil 5G, Smartphone 4G, Phablet
Información general	
Fecha de lanzamiento	2023
Serie	Apple iPhone
Gama	alta
Aspectos destacados	estándar de comunicación móvil 5G, Wi-Fi 6 (ax), Ultra Wideband (UWB), pantalla de 120Hz
Pantalla	
Pantalla	6,7 pulgadas / 17,018 cm
Resolución de pantalla	2.796 x 1.290 píxeles / Full HD
Tipo de pantalla	OLED
Frecuencia de refresco	120 Hz
Relación de aspecto de la pantalla	19,5:9
Características de la pantalla	Dolby Vision, True Tone, Haptic Touch, Super Retina XDR OLED, frecuencia de actualización adaptativa, ProMotion, LTPO-Panel, HDR 10, Always on Display, Dynamic Island
Material de la pantalla	Ceramic Shield Glass
Propiedades de la pantalla	resistente contra las rayaduras





THANK YOU

 @IPKey_EU

Presentation			
Status	DRAFT / APPROVED		
Approved by owner	-		
Authors	-		
	-		
	-		
Contributors	-		
	-		

Revision history			
Version	Date	Author	Description
0.1	DD/MM/YYYY		
0.1	DD/MM/YYYY		
0.1	DD/MM/YYYY		