

Navigating EU Design Reform and the Synergy of Intellectual Property Protection

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INTRO

Worldwide Famous Industrial Designs



Birkenstock
sandal



Adidas World Cup
ball



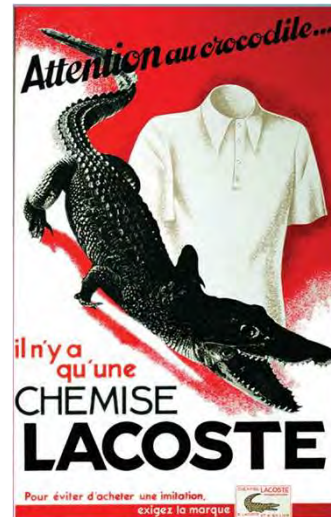
Tesla vehicle



Playmobil figure



Full-face snorkelling mask



Lacoste Polo T-Shirt



La Vache Qui Rit



Bialetti Brikka /
Moka coffee maker



FIFA World Cup Trophy



Victorinox Swiss
Army Knife



Apple iMac G3

Sony PlayStation

1

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Why Design Rights Matter

EUIPO Press Release (June 10, 2026): Product Design and Counterfeit Trends

- **Consumer Preferences:** Nearly 3 out of 4 EU consumers (72%) consider product design important when making purchases, and 73% are willing to pay more for items with better design.
- **Impact on Youth:** Design heavily influences younger consumers, with 80% of individuals aged 18 to 24 stating it impacts their purchasing decisions. Additionally, 26% of youth aged 15-24 admit to knowingly buying counterfeit goods.
- **Economic Value:** Design-based industries account for roughly 28 million jobs (13% of EU employment) and generate over 16% of the EU's GDP.
- **Benefits of Registration:** Small businesses (SMEs) that register their designs earn nearly 30% more revenue per employee and pay about 25% higher wages than those without registered IP rights. However, only about 1% of EU SMEs hold registered design rights.

Common Misconceptions

- **“Design protection is only for physical goods”:** Many creators believe design rights only apply to hardware, but software layouts, icons, and digital user experiences can be protected as well.
- **Relying solely on copyright:** While copyright is automatic, registered design rights offer a much faster, more predictable enforcement tool across EU borders without needing to prove original artistic creation in court.
- **Ignoring export risks:** Founders often build for global markets via the internet but fail to secure EU-wide registered design protection, making it easy for foreign competitors to mimic their digital interfaces or product layouts.

BASICS

EU Industrial Design

What

- Administered by EUIPO
- Protection across all EU Member States
- Initial protection for 5 years - Renewable up to 25 years
- Deferred publication option
- EU-wide legal enforcement against infringement

Why

- Legal protection against unauthorised use
- Increased commercial value, through licensing and partnerships
- Exclusive rights to use, reproduce and distribute the design.

Designs

Not everything creative qualifies for intellectual property protection simply by being called a "design." It might fall under copyright, patent or trademark law instead.

Design Rights?

A design constitutes the appearance of a product, or part of it.

- lines,
- contours,
- colours,
- shape,

texture or materials of the product itself or its decoration, including **movement, transition or animation of those features**.

For a design to become registered (EU Industrial Design), it must satisfy these criteria:

1. **Be “Novel”**: Must be a new aesthetic approach (no identical design has been made available to the public*)
2. **Have “Individual Character”**: Must create a distinct impression(the overall visual impression on an "informed user" must differ from any prior design).

Sidenote:

The EU provides a **12-month grace period** for **disclosure**.

A **disclosure** means making your design available to the public in a way that "interested circles specialized in the sector" operating within the EU could reasonably be aware of it.

Understanding the 12-Month Grace Period for filing EU Designs (EUD)

- **Purpose:** It allows creators to test the market, put products on shelves, showcase them at trade shows, or feature them online to gauge public interest before spending money on formal registration.
- **Caution:** You have exactly **12 months** from your very first public disclosure to file. If you wait even one day past this mark, your own previous disclosure will count as "prior art" and can be used to invalidate your registration for lack of novelty.

Disclosure

- Posting pictures on social media (Instagram, TikTok, crowdfunding sites).
- Selling or showing off a physical prototype in public.
- Revealing it at a trade show, magazine, or catalog.

Not Disclosure

- ✓ Showing it to a manufacturer, business partner, or investor under a **Non-Disclosure Agreement (NDA)** or strict confidence.

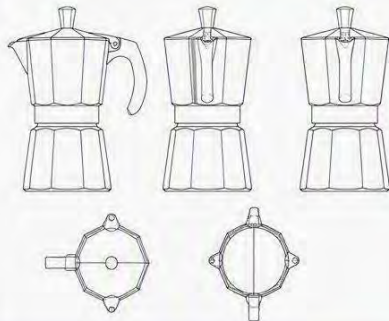
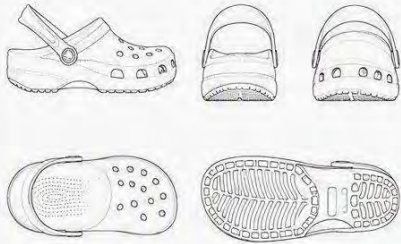
General

Design rights focus strictly on aesthetics (how it looks), not how it works. If a feature is purely functional and cannot exist in any other shape, it usually cannot be protected as an industrial design (that's what patents are for)

So

Every industrial design is a design,
but not every design is an industrial
design.

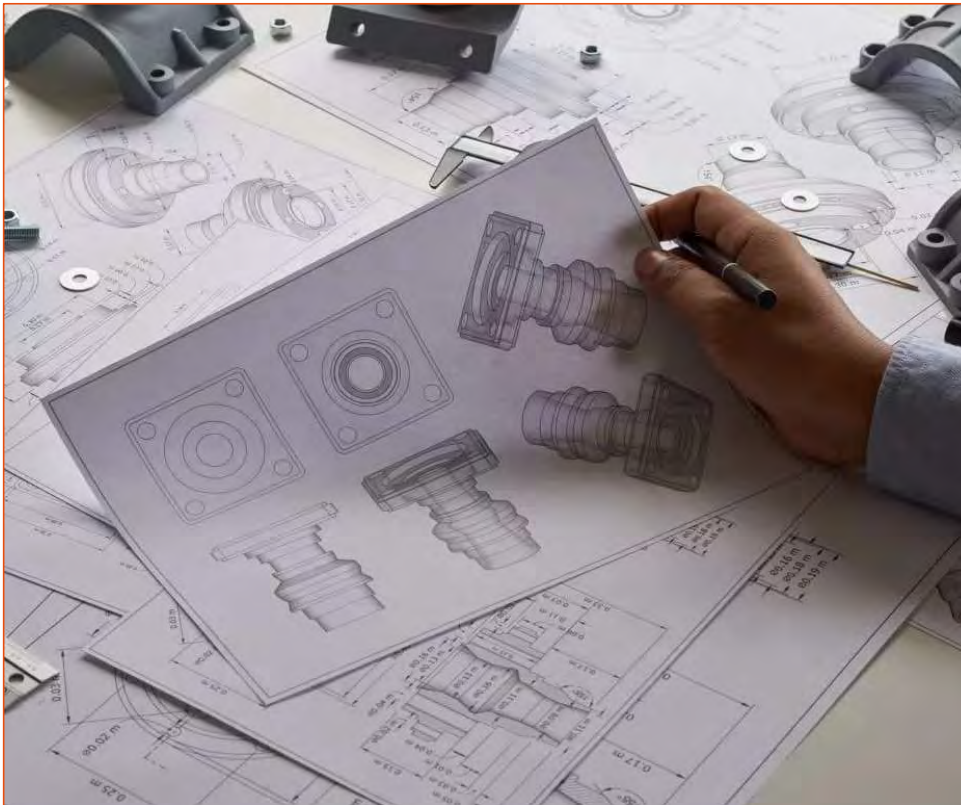
2 FAMOUS DESIGNS (LAST 20 YEARS) – REGISTERED AS EU DESIGNS

DESIGN & OWNER	EU DESIGN (EUD) REGISTRATION (Registered EU Design)	EU DESIGN DRAWINGS (from DesignView)	REAL PRODUCT IMAGE
1. BIALETTI MOKA EXPRESS Owner: Bialetti Industrie S.p.A. 	EUD 000142899-0001 Filing date: 18/07/2005 Registration date: 06/09/2005 Design class: 07-02 Locarno class: 07-02		
2. CROCS CLASSIC CLOG Owner: Crocs, Inc. 	EUD 000257001-0001 Filing date: 22/11/2004 Registration date: 22/11/2004 Design class: 02-04 Locarno class: 02-04		

Source: EUIPO DesignView (<https://www.tmdn.org/tmdsview-web/#/>). Registration numbers, dates and design drawings are from the official EUIPO database.

DIGITAL (RE)VOLUTION

Historical impediments



Historically, these new types of designs were largely excluded or difficult to protect prior to the reform because of **legal definitions, filing formats, and physical criteria**.

- ❖ **The Physical "Product" Requirement:** Traditional EU design law was built around tangible, physical manufactured objects. Legal definitions assumed a product was a physical item occupying space, leaving software, virtual environments, and metaverse assets in a legal gray area without a clear category for registration.
- ❖ **Static Representation Limits:** IP offices historically required applicants to submit fixed, static images (such as a restricted number of black-and-white or colour JPEGs). Capturing fluid motion, software transitions, loading effects, or micro-interactions through a handful of static snapshots was nearly impossible.
- ❖ **The Exclusion of Time-Based Visuals:** The statutory definition of a "design" focused strictly on static attributes like shape, lines, contours, and colours. Features that unfold over time, such as movement, animation, and UI transitions, did not fit the legal criteria.
- ❖ **Evidentiary and Enforcement Gaps:** Without native digital file formats (like MP4 video submissions or 3D digital object files) allowed by the modern framework, rights holders had no standardized legal baseline to accurately record, prove, or enforce rights against digital copycats and app-store clones.

Understanding the Modernized EU Design Framework

- ❖ The modernization of EU design rules addresses a fundamental limitation of the older 2002 regulations:

they were built for physical items like furniture, appliances, and textiles.

- ❖ Today, a great portion of product value comes from software interfaces, virtual environments, and motion graphics. The updated framework closes this gap by legally recognizing non-physical and dynamic creations.

EU Design Reform

Before

- ❖ The previous EU design framework was created in the early 2000s, when most commercial products were physical objects.
- ❖ A design was generally understood as the appearance of a product, such as its shape, lines, colours, texture or ornamentation.
- ❖ While some digital creations could sometimes be protected in practice, the legislation did not clearly address modern digital assets, virtual products, graphical user interfaces (GUIs), animations, or designs that existed only in digital form.

Old regime:

- Physical products
- Static images and representations
- Traditional industrial and consumer goods
- Limited legal certainty for digital and virtual creations

After

- ❖ The reform modernises EU design law for the digital economy.
- ❖ The definitions of both "**design**" and "**product**" have been expanded to expressly include digital and non-physical creations.

New regime:

- Graphical User Interfaces (GUIs)*
- App layouts and icons
- Animations and transitions
- Virtual products and digital assets
- Metaverse and virtual environments
- Interior and exterior spatial arrangements

***GUIs** were already registrable, but the reform removes uncertainty by expressly recognising digital and animated subject matter within the legislation itself

The Shift in EU Design Rules for Non-Physical Products

- **Inclusion of Digital Assets:** The modernized EU design framework explicitly expands the definition of a "product" beyond physical objects to include non-physical, digital items. This means virtual goods, metaverse assets, software interfaces, and digital environments can be officially registered and protected.
- **Dynamic and Animated Elements:** Protection now covers movement, transitions, and animated graphical user interfaces (GUIs), which are vital for modern software and app developers.
- **Advanced File Representation:** Creators can utilize modern formats (such as 3D files and videos) rather than being limited to traditional static images, ensuring complex digital innovations are captured accurately.
- **Combating Digital Piracy:** The rules strengthen enforcement against unauthorized 3D printing files, digital manufacturing, and online file-sharing platforms that distribute CAD or print files without permission.

The EU Design Reform in a nutshell

Modernizing IP for a Digital-First Economy

Terminology & Definitions

- **Name Changes:** "Community Design" is now officially renamed **European Union Design (EUDR)**.
- **Animations Included:** The definition of a "design" now explicitly includes **animations** (movement or progressive changes of features).
- **Digital & Non-Physical Products:** The definition of a "product" now includes **non-physical items** (such as graphical user interfaces, digital assets, and spatial arrangements), excluding only computer programs.

Filing & Application Updates

- **No More National Office Filings:** You can no longer file EU design applications through national intellectual property offices; they must be filed **directly with the EUIPO**.
- **Filing Date Requirement:** Application fees are now mandatory for securing a filing date (though payment can be made within one month of filing).
- **Removal of Unity of Class:** Multiple applications no longer need to be in the same Locarno class, and you can now include up to **50 designs** in a single multiple application.
- **Specimens Abolished:** Physical specimens are no longer accepted.

Rights, Infringement & Limitations

- **3D Printing Protection:** Rights holders can now block the creation, downloading, copying, or sharing of digital files (like 3D printing files) intended to manufacture infringing products.
- **New Legal Limitations:** You can legally use a protected design for **interoperability** (referencing another product) and for **comment, critique, or parody**.
- **Permanent Repair Clause:** A permanent, EU-wide repair clause ensures that spare parts used strictly for **repair purposes** (such as car bumpers) do not infringe design rights, supporting the circular economy.
- **Official Design Notice:** Holders can now display a **D** symbol on their registered products.

REGULATION (EU) 2026/715 - Article 4

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;**

(2)'product' means any industrial or handicraft item, other than a computer program, **regardless of whether it is embodied in a physical object or materialises in a non-physical form,** including:

(a)packaging, sets of articles, spatial arrangements of items intended to form an interior or exterior environment, and parts intended to be assembled into a complex product;

(b)graphic works or symbols, logos, surface patterns, typographic typefaces, and graphical user interfaces;

The “How to” of the new regime

Graphical User Interfaces (GUIs)

If you design or have app layouts, icon sets, or software menus, you no longer need to rely mostly on copyright for protection. You can register the static visual architecture of your interface directly as an official design with redefined clarity.

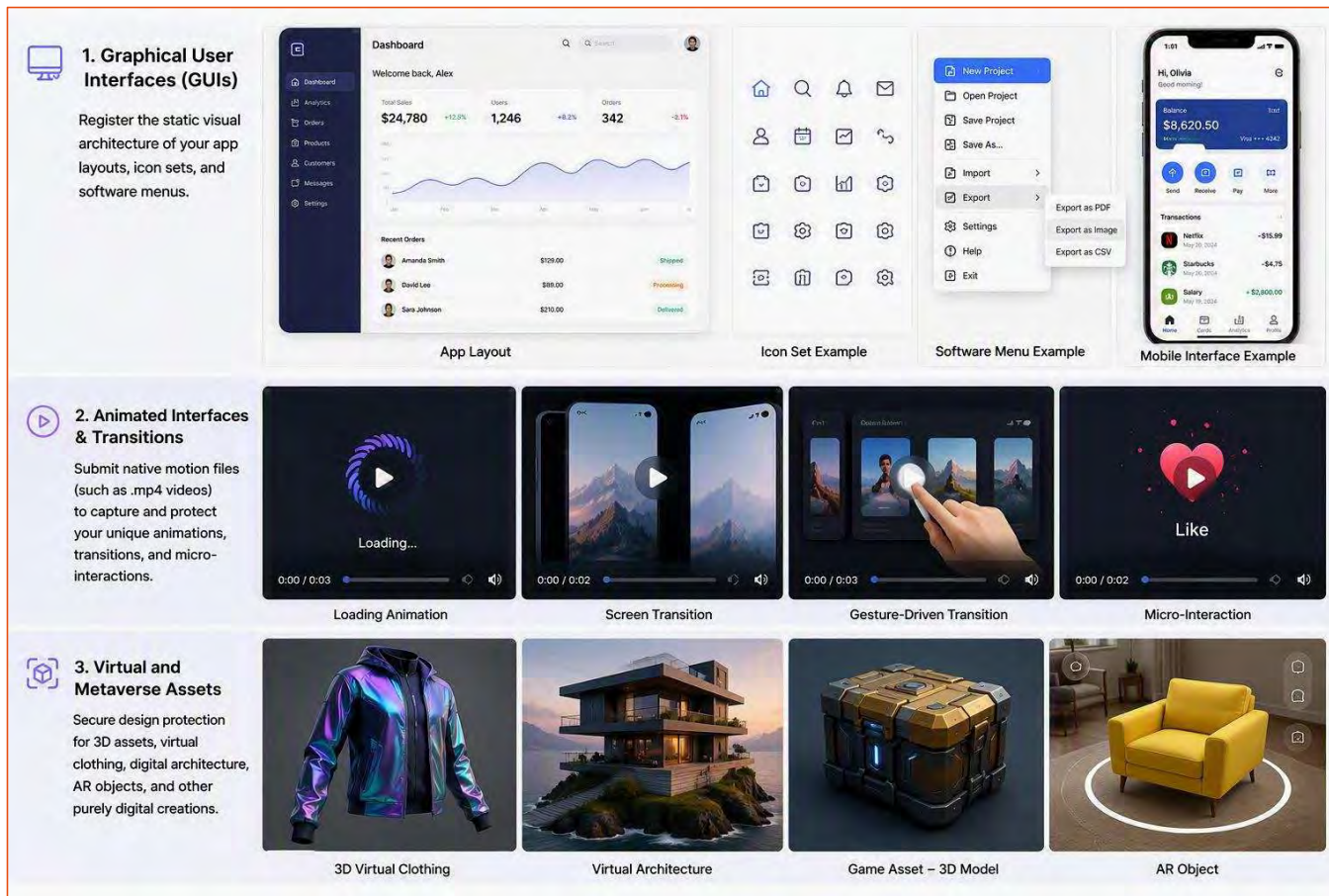
Animated Interfaces & Transitions

If a core part of your user experience involves a unique loading sequence, a smooth gesture-driven screen transition, or a moving micro-interaction, you can now submit native motion files (such as .mp4 videos) to capture and protect that exact movement.

Virtual and Metaverse Assets

Creators building 3D assets, virtual clothing, digital architecture, or augmented reality (AR) objects for video games and virtual marketplaces can secure formal design protection for purely digital creations that have no physical counterpart.

Types of digital designs that can now be protected as registered designs, including static GUI layouts, motion-based interface elements submitted as video files, and purely digital 3D creations that do not exist in physical form.



On Protection

IP Right	Protection offered
Copyright	Original artistic or literary expression
Designs	Visual appearance (and now in digital form)
Trademarks	Brand indicators
Patents	Technical inventions

Remember:

A single product may simultaneously benefit from multiple intellectual property rights where different aspects of the product satisfy different legal criteria. Examples include:

SYNERGIES

Cumulative Protection

Combining IP rights provides the strongest protection strategy

Patents

A unique method and/or a unique apparatus. Protects the function, operation or construction of any invention that:

1) is new 2) Involves an inventive step 3) Can be applied in industry

Limited to 20 years

*****Patents don't cover the appearance of a product, unless appearance constitutes a technical function.*****

Trademarks

Protects logos, names and slogans used to identify goods or services. Brand identity.

10 - year periods indefinitely

*****A product's packaging may qualify as both a design right and a trademark. Using both types of protection can be advantageous.*****

Copyright

Protects original works such as literary, artistic and musical works, or even computer programs. An original piece of code. It does not need to be completely new or innovative, only original. *Does not require registration

Lasts for the life of the author plus 70 years

***** A software application's artistic expression may be protected by copyright. However, the GUI, buttons, animations, transitions, shapes and patterns may also benefit from design protection.*****

The Path Forward

- ☐ **Audit:** Identify your unique visual assets, both physical and digital.
- ☐ **Integrate:** Align your Trademark and Domain strategy with Design filings.
- ☐ **Leverage:** Use EU Reform to protect GUIs and animations before competitors.
- ☐ **Capitalize:** Turn aesthetic investments into enforceable property.

"Good design makes your
company stand out.
An Industrial Design makes it
an asset."

Thank you