



# *Protecting forms & new models in the market*

## **INDUSTRIAL DESIGNS**

(Updated 2006)

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**World Intellectual Property Organization**



*create a design*



# INDUSTRIAL DESIGNS ARE IMPORTANT BRANDING TOOLS



**JUST AS TRADEMARK SHAPES AND  
DISTINGUISH A COMPANY'S CORPORATE IMAGE,  
GOODS AND SERVICES;**

**AN INDUSTRIAL DESIGN SHAPES THE FORM OF  
NEW PRODUCTS TO DIFFERENTIATE IT FROM  
CURRENT PRODUCTS.**

**COMPANIES REGULARLY LAUNCH NEW  
DESIGNS / NEW MODELS**

**INDUSTRIAL DESIGNS AND TRADEMARKS ARE  
INTELLECTUAL PROPERTY (IP) TOOLS THAT  
CONTRIBUTE TO A BRANDING STRATEGY**





# **“AN INDUSTRIAL DESIGN IS THE FORM OF A PRODUCT”**

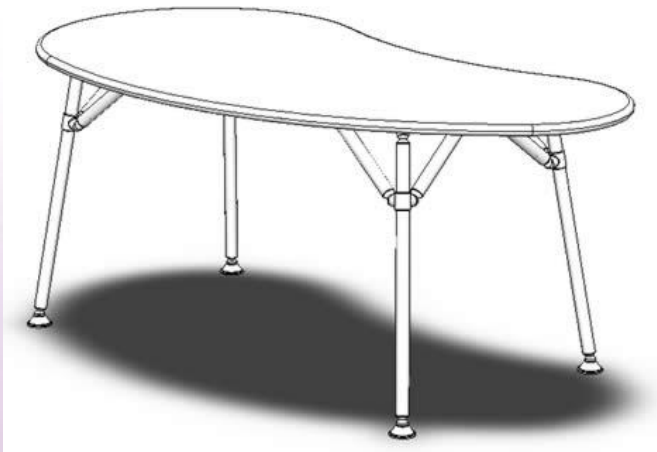
**Only the aesthetic/visual form of a product  
can be filed and protected as an  
INDUSTRIAL DESIGN**

**not the Technical (Patents) nor Distinguishing  
Features (Trademarks)**



# INDUSTRIAL DESIGN

(2D - Two dimension)



# INDUSTRIAL DESIGNS CAN DESIGNATE NATIONAL CULTURE & FOLKLORE



2D GRAPHIC Designs



# 3D COMPUTER GRAPHIC DESIGN



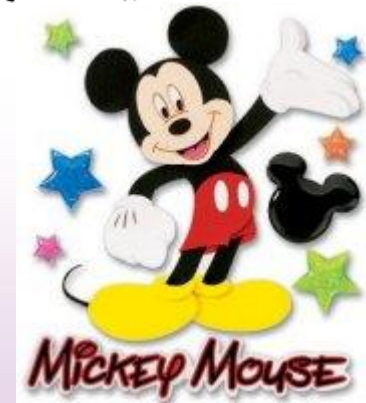
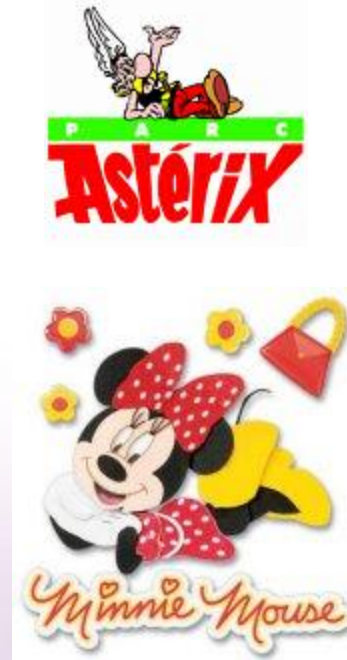
APPLYING FOR A PROTECTION OF NEW AND ORIGINAL  
DESIGNS ENABLE OWNERS TO PROPOSE A LICENSE TO  
CREATE NEW INCOMES AND/OR RECEIVE ROYALTIES

**THIS IS POSSIBLE ONLY ONCE THE FORMAL PROTECTION IS  
LEGALLY AGREED. A DESIGN IS ALSO AUTOMATICALLY  
PROTECTED BY THE COPYRIGHT SYSTEM**



# • INDUSTRIAL DESIGN

## COMIC CHARACTER - GRAPHIC DESIGN



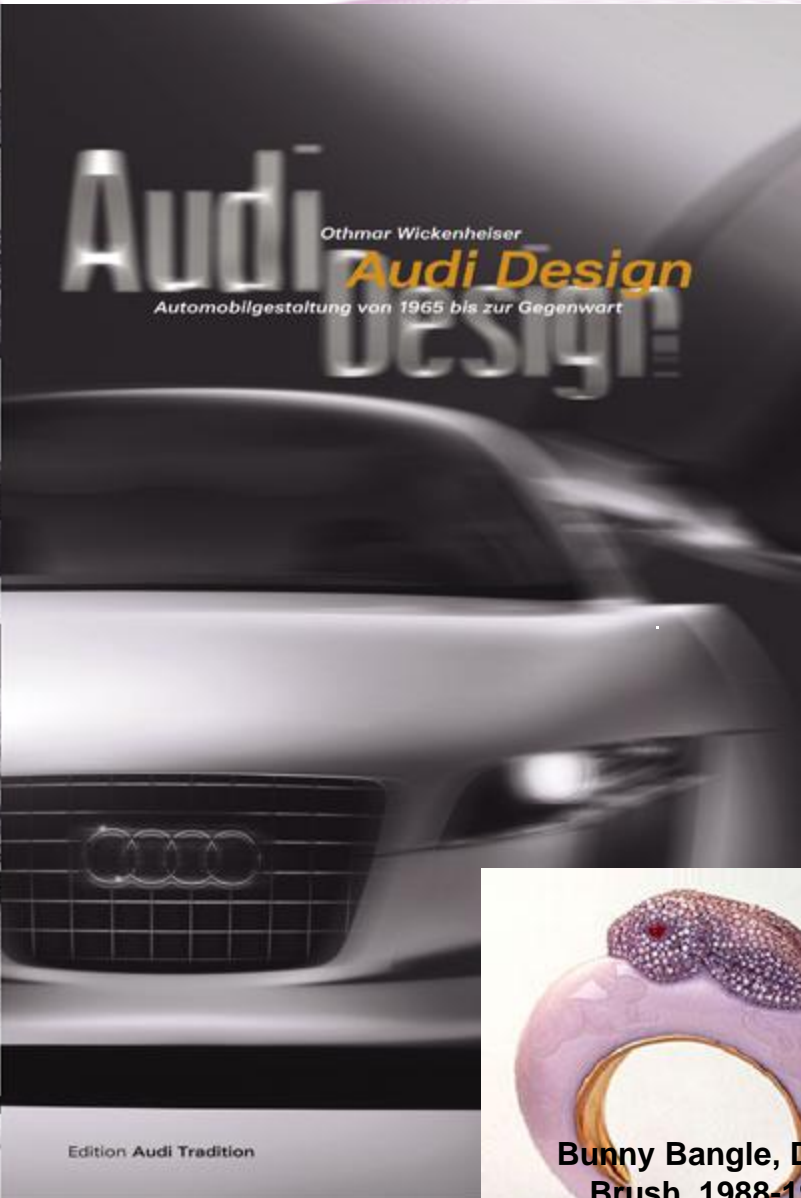


# • DISNEY DIGITAL 3D DESIGN”

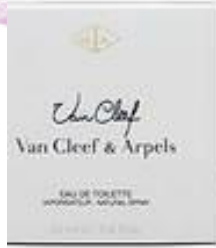


THE NEW CHICKEN STAR  
CHARACTER





Edition Audi Tradition



Orchid Brooch, Tiffany & Co, New York, 1889,



Bunny Bangle, Daniel Brush, 1988-1992



FRANCK MULLER

# The Value of a Creative Design



- Makes a product attractive and appealing
- Target specific market segments
- Create a new market niche
- Strengthen brands
- Launch a new style of products and increase consumer's demand



# Industrial Design protection > registration =



- Exclusive right to prevent unauthorized copying or imitation by others
- Return on investment
- Business asset increasing commercial value of a company and its products
- Registered design may be licensed (or sold)
- Encourages fair competition and honest trade practices





## Reasons for protecting designs in EU

- 70% prevent copying
- 23.4% company policy
- 20.3% get ahead competition
- 10.1% prestige
- 6.5% prevent people think “I copy”
- 5.8% other

## Practical Aspects



- Protecting Industrial Designs
- Protecting Designs Abroad
- Enforcing Industrial Designs
- Other Legal Instruments for protecting
- Protecting designer's rights

## What to remember when seeking protection



- The design must be **NEW**
- The design must be **ORIGINAL**
- The design must have **INDIVIDUAL CHARACTER**
- The design can also be protected as copyright (not only as a Design)

## Remember what cannot be protected



- Designs that fail to meet requirements of novelty, originality and/or individual character
- Designs dictated by technical function
- Designs with official symbols or emblems
- Designs contrary to public order or morality



## Scope of Rights



- The right to prevent unauthorized copying or imitation by third parties.
- Legally exclude all others making, offering, importing, exporting or selling product with a specific design.
- However an infringement can be legally combated only if the owner has record his design(s) and received a formal certificate of protection.



## Keep in Mind



- The time it takes to register a design
- The cost of registration
- Keeping design secret prior registration
- Grace period
- Who may apply for ID protection
- Who owns the right over ID

# Protection at home and abroad



- The national route
  - each country where you seek protection but a long and expensive process
- The regional route (for some countries only)
  - countries members of a regional agreement: African Regional Industrial Property Office; Benelux Design Office; Office for Harmonization of the Internal Market of the EU; Organisation Africaine de la Propriété Intellectuelle
- The international route
  - Hague agreement - Administered by WIPO (42 countries)



*create a design*



Each country has an IP Office to enable any owner/enterprise to apply for protection of Industrial Designs.

WIPO ADMINISTERS A TREATY NAMED  
« **THE HAGUE AGREEMENT** »  
WHICH OFFERS **AT LOW PRICE COMPARED  
TO THE PRIVATE FILING SYSTEM**, SERVICES  
OF SEARCH & PROTECTION IN 42  
COUNTRIES.

THIS TREATY OFFERS TO THE OWNERS, A  
POSSIBILITY TO FILE THEIR DESIGN(S)  
DIRECTLY AT WIPO.



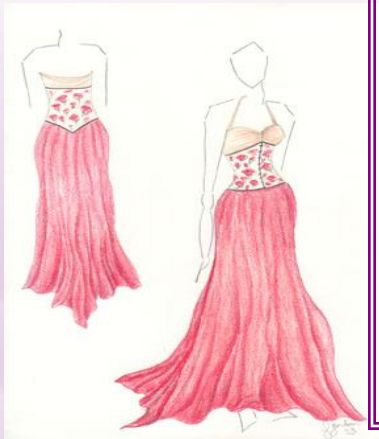
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## The Hague Agreement Concerning the International Registration of Industrial Designs

The Hague Agreement entered into force in  
1925

It was revised at London in 1934 and at the Hague  
in 1960 (supplemented by the Additional Act of  
Monaco in 1961, the Complementary Act was  
adopted at Stockholm in 1967 and the Protocol of  
Geneva was adopted in 1975 and amended in 1979  
and at Geneva in 1999 by the member states of the  
“HAGUE UNION”



# Protecting ID through Registration



- **The applicant has the choice: to file at WIPO via his IP Office or directly. WIPO offers free information & guidelines on-line:**
- <http://www.wipo.int/treaties/en/ip/paris/index.html> - The Hague Agreement based on the Paris Convention
- <http://www.wipo.int/treaties/en/registration/hague/index.html> - The hague agreement registration portal
- **The IP Office receiving the request will proceed to the :**
  - formal examination (only by national IP office)
  - substantive examination
  - design register/design gazette
  - design registration certificate valid at least 10 years





## Using ID as a business asset

- **Licensing**

- additional source of revenue
- exploiting a company's exclusivity over design
- licensing contracts

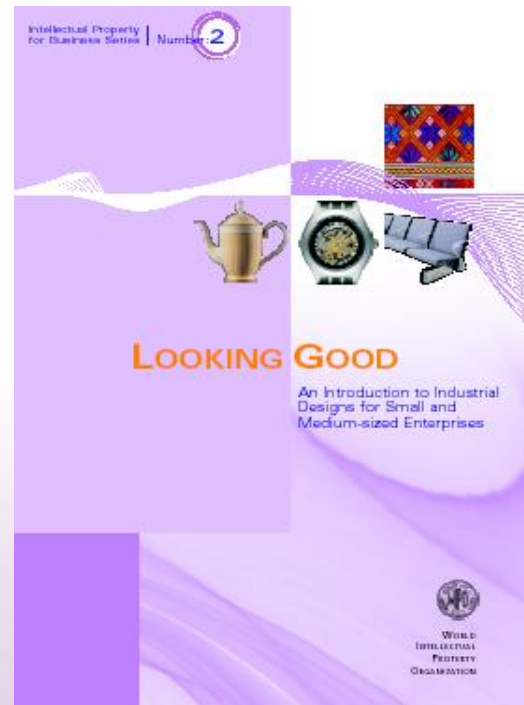
# Enforcing Industrial Designs



- Responsibility on owner of the ID to monitor, identify imitators/counterfeiters and decide on action
- Advice of IP lawyer
- “ Cease and desist” letter to infringer
- Search and seize order
- cooperation with customs authorities to prevent importation of infringing goods.



# IP for Business Series





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