



European IPR Helpdesk

Fact Sheet

Design searching

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Introduction

Design protection confers on the design holder an exclusive right to use a design - making, offering, putting on the market, importing, exporting or using the product in which the design is incorporated or to which it is applied - and to prevent third parties from using it commercially without its prior consent. In principle, design rights are acquired through registration within national or regional intellectual property offices. The European Union and some national legislations provide for unregistered design protection. Furthermore, in most European countries, original designs are subject to copyright protection, which arises automatically from the moment of the work's creation without registration.

For all the aforementioned forms of design protection the first-come, first-served principle applies¹. Risks of investing in non-original design or filing an application for identical or confusingly similar design can be avoided or at least limited by performing design searching.

¹ Unregistered design rights come into force when the design is made available to the public. Registered design protection begins when a filing date is granted.

This fact sheet focusses on the main characteristics of design searching as a best practice allowing companies and designers to keep up with the latest market trends and look at designs that may impede the possibility to acquire protection or infringe the rights on their design creations.

The rationale of searching design information and practical hints on how and where searching unregistered designs are outlined in the first part of the fact sheet.

This document also presents a short overview of the functionalities of some of the most commonly used design search databases, being the access point to registered design data.

1. Design searching

1.1. Why performing design searching

Design searching can be defined as a process of searching design databases or other sources of design information to determine the availability of a particular design in the context of registration procedures or in invalidity and/or enforcement proceedings, or to study designs' market development.

Indeed, in increasingly competitive markets, design searching is a way to carry out market monitoring on the last trend tendencies. Design innovative companies are often using design databases to look at the market perspectives in a specific commercial area.

More often, design searching is performed to discover whether a prior design forms an obstacle to the protection of a subsequent design. Furthermore, challenging the validity requires proof of the existence of an earlier identical or similar design that has been made available to the public as a result of publication following registration or otherwise (e.g. use in trade, exhibition). Therefore, design searching could be very useful in finding convincing evidences in case of litigation.

Design searching can be performed in order to *find out*:

- registered and unregistered designs²;
- registered trademarks or other distinctive signs that by law confer on the holder the right to prohibit their use without prior authorisation;
- works, protected under copyright law if intended to be used in subsequent designs;
- whether a design is new and original (possesses individual character);
- whether the term of protection of a design expired;
- design protection strategy;

² The owner of a registered or unregistered design can take legal action against anyone using an identical or similar design.

- existing competing design products.

It is important that the design searching is not limited to registered designs only. All previously disclosed designs, whether unregistered or registered, are considered prior art³ and thus could threaten the protection of identical or similar subsequent designs.

If as a result of comparison, every element of the appearance of a subsequent design can be found in an earlier design, the two designs will be considered identical and the subsequent will consequently lack novelty⁴.

If two designs are not identical but look very similar, the overall impression which the subsequent design produces to the informed user must be different from that produced by earlier designs taken individually. The comparison should focus on features which are distinctive, arbitrary and visible during normal use. As regards the notion "informed user", it refers to a person (imaginary user) with knowledge of designs in a particular field of activity, but not necessarily a designer, technical expert, manufacturer or seller.

The design searching should also cover trademarks or other distinctive signs, as well as copyrighted works, if they are to be used in subsequent designs. Indeed, a design can be contested and declared invalid if it is in conflict with prior design or if it makes unauthorised use of an earlier distinctive sign or a work protected by copyright.

Bear in mind that a prior art search can never be exhaustive.

The prior art is limited neither in time nor in geographical territory.

Do not limit your search to a particular territory: any design that has been made available to the public anywhere in the world and at any time must be taken into account if it is reasonable to believe that it has become known in the normal course of business to the circles specialised and operating in the specific sector concerned.

Some creations are not subject to registration or the registration is not made publicly available once protection is granted.

³ It is generally acknowledged that a design which has been made available to the public anywhere in the world become part of the state of the art. Publications in official registers and bulletins, websites, exhibitions, use in trade constitute public disclosure of a design.

⁴ Although, the definition of novelty vary in the different jurisdictions, a design will be considered new if no identical design has been made available to the public before the date of filing of the application for registration or the date of priority if claimed. This means that the new design needs to vary in more than just "immaterial details" from other existing designs.

2. Searching unregistered designs

Throughout the European Union a new design with an individual character is automatically protected as an unregistered Community design. This form of design protection also exists in some national jurisdictions – e.g. the United Kingdom.

Unregistered designs are not subject to official publication and thus cannot be found by searching design databases. However, information on unregistered designs can be obtained by consulting existing literature, design catalogues, websites, by visiting trade fairs and exhibitions or by conducting a search within the circles specialising in a specific business sector.

Furthermore, companies and designers are in principle aware about the current design trends and could use this knowledge to assess the novelty and originality of a particular design.

3. Design search databases

Designs can be registered with national, regional or international intellectual property offices and thus design registrations are published in different registers⁵. They are the primary official source of registered designs data when performing design searches. Businesses can consult IP information - designs and other related data, by accessing the registers of the relevant offices. However, searching registers individually could be a complicated and time consuming exercise since the data are accessed separately, in different languages, under different layout etc.

For this reason design databases present a helpful searching tool offering the possibility to search simultaneously in large collections of design data.

The following paragraphs outline the characteristics of the European Union Intellectual Property Office (EUIPO) and the World Intellectual Property Organization (WIPO) design search databases⁶.

⁵ New international registrations, renewals, and modifications affecting existing international registrations are published in the [International Designs Bulletin](#), which is the official publication of the records of the International Register of the Hague System.

The [Community designs Bulletin](#) contains data regarding registrations, amendments, renewals, transfers, licences of Community designs.

National registrations are published in the official registers of the relevant national offices. Their characteristics are not subject of this fact sheet. Information can be found on the website of each office, on the [Innovaccess website](#) or by contacting the relevant IP office directly.

⁶ Given the variety of the multitude existing national design search databases, their functionalities cannot be examined in details within a fact sheet.

3.1. Designview (EUIPO)

[Designview](#) is a free of charge, multilingual database which gives access to design applications and registrations through a single online platform. The information is available in 32 languages, including all 23 official EU languages plus others like Arabic and Russian). Designview is a centralised database and search engine for both Registered Community Designs and national applications and registrations from 39 participating IP offices (including most EU member states, plus Korea, Japan, US, Tunisia, Turkey, Russia, Morocco, Mexico and Canada). The design information included is held and provided by participating national IP offices, EUIPO and WIPO⁷.

For searching through the design registries of ASEAN countries, there is also [ASEAN Designview](#), which hosts data from 10 participating countries based on the same interface structure in order to facilitate searching in the same way⁸.

The Designview interface offers two search options: basic search and advanced search.

3.1.1. Basic search

The basic search is based on single criterion that is *the identification of the product* in which the design is incorporated or to which it is applied. In Designview a product can be identified either by *keywords* or by their corresponding classes and subclasses in the [Locarno classification](#), which is the international classification system for industrial designs⁹.

EUIPO has developed a search tool called [EuroLocarno](#), which automatically classifies products into the correct classes and subclasses and searches for the indication of products and their corresponding classification in the EuroLocarno database. It is based on and has the same structure as the Locarno Classification and is available in all the official EU languages (no need to translate the terms searched).

⁷ Although the data is accessible via a centralised system each office remains the owner of the data and is responsible for its accuracy. Thus, Designview reflects with certainty the design registers of the participating offices or organisations at the moment of consultation.

⁸ Countries participating to ASEAN Designview are: Brunei Darussalam, Indonesia, Cambodia, Lao PDR, Myanmar, Malaysia, Philippines, Singapore, Thailand and Vietnam.

⁹ The [Locarno classification](#) is administered by the WIPO and it serves administrative purposes. Indeed, it allows both classifying products indicated in design applications and searching registered designs. Neither the indication of products nor the classification affects the scope of protection of a design as such.

The current (tenth) edition is in force since January 2014 and incorporates all the revisions made in and before October 2012. It contains 32 classes, 219 subclasses and an alphabetical list of more than 7,000 products. The alphabetical list is presented in two parts: the first part lists all the goods in a single alphabetical list, with indication of the class and subclass to which each good belongs; the second part lists the goods in alphabetical order within each subclass. The explanatory notes are incorporated in the list of classes and subclasses.

Once you digit a given term a results list appears; the gallery mode lets you visualise images in a gallery; you can also further define your search by selecting specific filters.

Enter the term you want to search for in the search field and click on the "Search" button. The search field has an auto-complete function when a key word is typed.



Find term

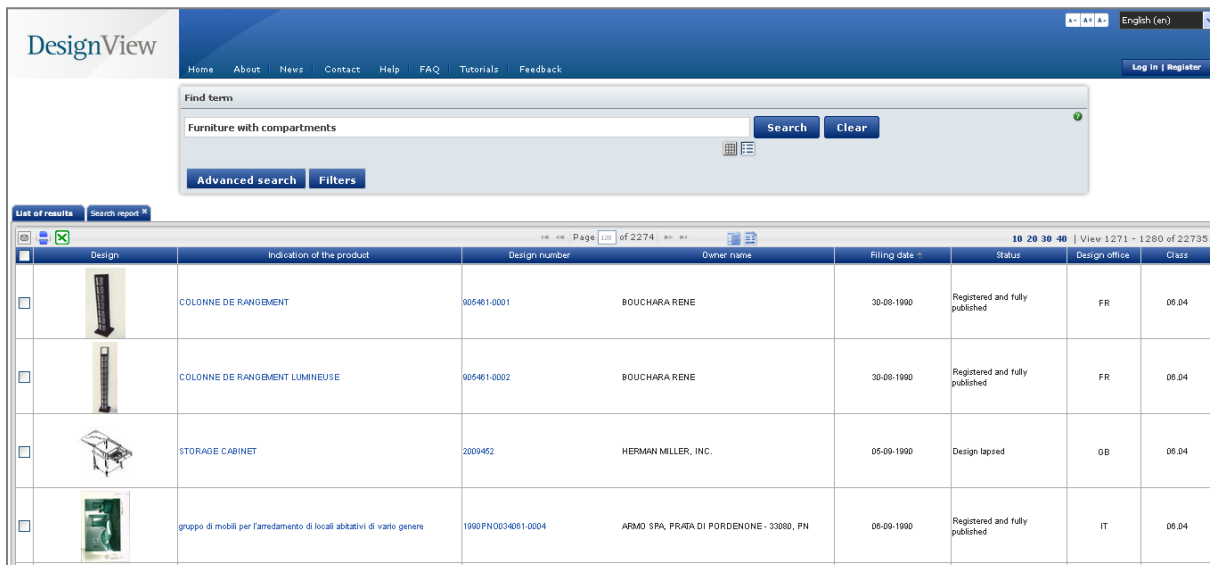
furniture

Suggestions

- Furniture dusters [broom type]
- Furniture with compartments
- Furniture with drawers

Search Clear

The list of research results is then displayed.



DesignView

Home About News Contact Help FAQ Tutorial Feedback





Find term

Furniture with compartments

Search Clear

Advanced search Filters

List of results Search report

Design	Indication of the product	Design number	Owner name	Filing date	Status	Design office	Class
	COLONNE DE RANGEMENT	005461-0001	BOUCHARA RENE	30-08-1990	Registered and fully published	FR	06.04
	COLONNE DE RANGEMENT LUMINEUSE	005461-0002	BOUCHARA RENE	30-08-1990	Registered and fully published	FR	06.04
	STORAGE CABINET	2009452	HERMAN MILLER, INC.	05-09-1990	Design lapzed	GB	06.04
	gruppo di mobili per l'arredamento di locali abitativi di vario genere	1990PN0034061-0004	ARMO SPA, PRAJA DI PORDENONE - 33080, PN	06-09-1990	Registered and fully published	IT	06.04

To refine your search, choose the class you want to search in via the drop-down menus above the search field: "Advanced search" and "Filters"; For example, select class 25.03 (Houses, garages and other buildings), and then click on "Filter":

Find term

Furniture with compartments Search Clear

Advanced search Close filter

Offices

Status

Dates

Locarno

Owner

Designer

06.04	22735	10.01	34	21.01	11	07.08	7
06.03	1887	32.00	21	23.01	11	07.99	7
06.01	1354	26.05	20	08.08	10	08.06	7
06.06	1123	11.02	18	14.99	10	08.09	7
06.07	914	09.03	17	20.03	10	14.02	7
06.05	617	06.00	12	25.03	10	19.07	7
06.02	301	06.99	12	25.07	9	12.02	8
06.08	129	06.09	11	13.0			
23.02	84	07.01	11	07.07	8	08.07	5
20.02	53	09.09	11	06.11	7	19.04	5

Houses, garages and other buildings

1

2

Clear

3.1.2.Advanced search

Advanced searches use multiple search criteria such as the product type, the Locarno class, the application number, the design status, the owner/designer name separately or in combination¹⁰.

¹⁰ The asterisk (*), question mark (?) and double quotation marks (" ") are special wild-card characters with specific functions that can be used in this mode. For further information, please consult the Help section of the [DesignView webpage](#).

The screenshot shows the search interface of the WIPO Global Design Database. At the top, there is a 'Find term' input field with the text 'Furniture with compartments'. Below this, there are two tabs: 'Basic search' and 'Filters'. The 'Filters' tab is selected, and a list of search criteria is displayed on the left. On the right, corresponding input fields are provided for each criterion. The 'Sort results by' dropdown menu is open, showing a list of criteria: 'Indication of the product', 'Design number', 'Owner name', 'Design status', 'Filing date', 'Offices', and 'Locarno'. The 'Indication of the product' option is highlighted in blue.

You can either:

- use directly the advanced search mode and add words in the "Indication of the product" (title) field to narrow down the hits, or;
- perform a search in the basic mode and then refine your search by using additional searching parameters.

In the advanced search mode, no automatic suggestions in the "Indication of the product" field are provided by the database.

If you chose the "Strict mode", the system will look for exactly the same words as entered into the field. If you choose the "Contains mode", your results list will be extended to all designs including the searched terms.

You can request the system to sort results by various criteria.

3.2. The Global Design Database (WIPO)

The [Global Design Database](#) is a world-wide data collection of industrial designs registered under the WIPO-administered Hague System and/or in participating national collections. This database enables free access to design data by multiple criterion searching. Users can choose searching designs by type of product, identification of the owner (creator) of the design, application and/or registration number and date, countries, where protection is sought/granted¹¹.

¹¹ Detailed explanation of the Global Design database searching criteria are available on the [WIPO website](#).

Global Design Database A world-wide collection of industrial designs data; including WIPO Hague registrations and information from participating national offices.

SEARCH BY Design Names Numbers Dates Country

Indication of Products =

Design class =

Description =

FILTER BY Source Designation Locarno Class Reg. Date

CA Designs	154,983	ES Designs	94,270	JP Designs	479,755
NZ Designs	44,641	US Designs	725,854	WO Designs	42,090

Display: Sort:

3.3. The Hague Express Database (WIPO)

The [Hague Express Database](#) includes bibliographical data and international design registrations (reproductions of industrial designs) that have been recorded in the International Register and published in the International Designs Bulletin¹².

The database is structured in searchable areas and fields¹³. The "Search by field" is divided into five separate tabs with specific search capabilities – i.e. Design, Names, Numbers, Dates and Country. Each field supports the same set of operators and wildcards, and provides automatic suggestions for terms.

In the Hague Express Database, search queries are performed by using terms and operators. Terms can either be single words (e.g. dress) or a multiple words surrounded by quotes (e.g. "camera carrier"). The database provides with suggestions as to potential matching terms. Terms can then be modified or combined together in a more complex query using different types of operators (e.g. simple logical operations to combine terms – "AND, OR, NOT <term>", "grouping operators - (<term> OR <term>) AND <term> etc.).

3.3.1. Search by design

The "search by design" tab allows searching for terms directly related to the design. Three fields are contained in this tab: indication of products, Locarno class and description that lets you search for any text related to the description of the products included in the design registration.

"Locarno Class" lets you search designs according to their Locarno classes.

"Description" lets you search for terms in the description provided in the registration.

For example, a search for "office furniture" in the Locarno 06-05 (composite furniture, dressing table, school desks with attached seats) provides the following results:

¹² Note that the only official publication remains the International Designs Bulletin.

¹³ A complete description of the functionalities of the Hague Express Database is available [here](#).

Hague Express The Hague Express Database, updated weekly, includes bibliographical data and, as far as international registrations governed exclusively or partly by the 1999 and/or by the 1960 Act(s) of the Hague Agreement are concerned, reproductions of industrial designs relating to international registrations that have been recorded in the International Register and published in the International Designs Bulletin as of issue No. 1/1999. International registrations that have lapsed are not removed from the database.

SEARCH BY Design Names Numbers Dates Country

Indication of Products =

Locarno Class =



Description =

Current search (PRO: (furniture AND office) * LC:06-05 *)

FILTER BY Designation Locarno Class Reg. Date * Contracting Party *

DE 2 CH 2 LU 1 IT 1 FR 1 EM 1 BX 1 SI 1
BE 1 NL 1 LU 1

Display: List Sort: Count - desc

Reg. No	Holder	Reg. Date	Locarno Cl.	Ind. Prod.	Designations	Designs	Image
DM050291	VAN PELT LUMMEN N.V.	2000-01-03	06-05	Office furniture	BX,CH,DE	2	
DM075743	LISTA OFFICE HOLDING AG	2011-03-31	06-05	1-12. Office furniture	CH,EM,LU	12	

Please note that the current search is reminded just before the results listing. To remove a search criterion just delete it from your "Current search" and reintroduce new ones.

Four additional search options are available:

- Names search (Holder, Creator or Representative);
- Numbers search (Publication Number, Application Number);
Note that for collections that don't have separate application and publication numbers (Hague, for example), searching in either field will produce the same results.
- Dates search (filing, registration, publication, priority);
- Country Search.

SEARCH BY Design Names Numbers Dates Country

Designation =

Entitlement =

Applicant's Contracting Party =

search

The search results can be filtered and the search narrowed to only particular categories without entering additional search terms. Different types of filters are divided into separate tabs and specific information and hints are available for

each individual tab: Designation, Locarno Class Registration Date or Applicant's Contracting Party.

FILTER BY															
Designation				Locarno Class				Reg. Date *				Contracting Party *			
CH	31,561	FR	20,338	DE	20,129	BX	19,682	BE	19,682	NL	19,682	LU	19,682	IT	19,320
ES	14,741	EG	14,718	TN	14,209	EM	12,989	MC	10,037	GR	9,969	MA	9,768	LI	9,608
ID	9,486	TR	8,519	VA	8,293	ME	7,187	RS	6,960	MK	6,910	HU	6,863	UA	6,759
SI	6,656	AN	6,201	RO	5,372	SG	5,256	MD	5,219	KP	4,543	HR	4,506	CW	4,439
BQ	4,437	SX	4,434	BG	4,295	MN	3,833	NO	3,460	GE	3,083	KG	2,495	BZ	2,069
CI	1,931	SN	1,861	SR	1,812	AL	1,789	BJ	1,704	BA	1,606	AM	1,581	OM	1,428
AZ	1,026	YU	825	KR	659	IS	652	OA	577	EE	575	LV	567	TJ	473

Display: List Sort: Count - desc filter

4. Analyses of the design searching results

The results of design searching can show that there is no risk of applying for registration or start using a particular design in business.

On the contrary, if a design produces the same overall impression as registered or unregistered one, the following options exists:

- negotiating with the owner of the earlier design an agreement regulating the coexistence of the designs;
- filing an application and risking an invalidity action. Indeed, the existence of an earlier design does not prevent from applying, but it does include the risk of invalidity or infringing actions;
- challenging the validity of the earlier design on account of its lack of novelty or individual character;
- no further actions when the risk of conflict is significant.

However, assessing which option will be suitable depends very much on the particular search results. Therefore, when interpreting the research results and deciding on the actions to be taken, it is recommended to seek a professional advice.

Useful documents

Designview tutorial

<https://www.tmdn.org/network/>

The Locarno classification

<http://www.wipo.int/classifications/nivilo/locarno10/index.htm?lang=EN>

Global Design Database

<http://www.wipo.int/designdb/en/designdb-help.jsp>

The Hague Express

<http://www.wipo.int/designdb/hague/en/designdb-help.jsp>

List of databases for design search

http://www.ip-centre.org/industrial_design_search_databases.html

GET IN TOUCH

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The European IPR Helpdesk aims at raising awareness of Intellectual Property (IP) and Intellectual Property Rights (IPR) by providing information, direct advice and training on IP and IPR matters to current and potential participants of EU funded projects. In addition, the European IPR Helpdesk provides IP support to EU SMEs negotiating or concluding transnational partnership agreements, especially through the Enterprise Europe Network. All services provided are free of charge.

Helpline: The Helpline service answers your IP queries within three working days. Please contact us via registration on our website – www.iprhelppdesk.eu – phone or fax.

Website: On our website you can find extensive information and helpful documents on different aspects of IPR and IP management, especially with regard to specific IP questions in the context of EU funded programmes.

Newsletter and Bulletin: Keep track of the latest news on IP and read expert articles and case studies by subscribing to our email newsletter and Bulletin.

Training: We have designed a training catalogue consisting of nine different modules. If you are interested in planning a session with us, simply send us an email at training@iprhelppdesk.eu.

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