

EU design legislative reform

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PROGRAMME

50'
Presentation

- Why was the reform needed?
- When will the new law enter into force?
- What are the main changes?
- What's next?

10'
Questions and answers

1

Why was the reform needed?

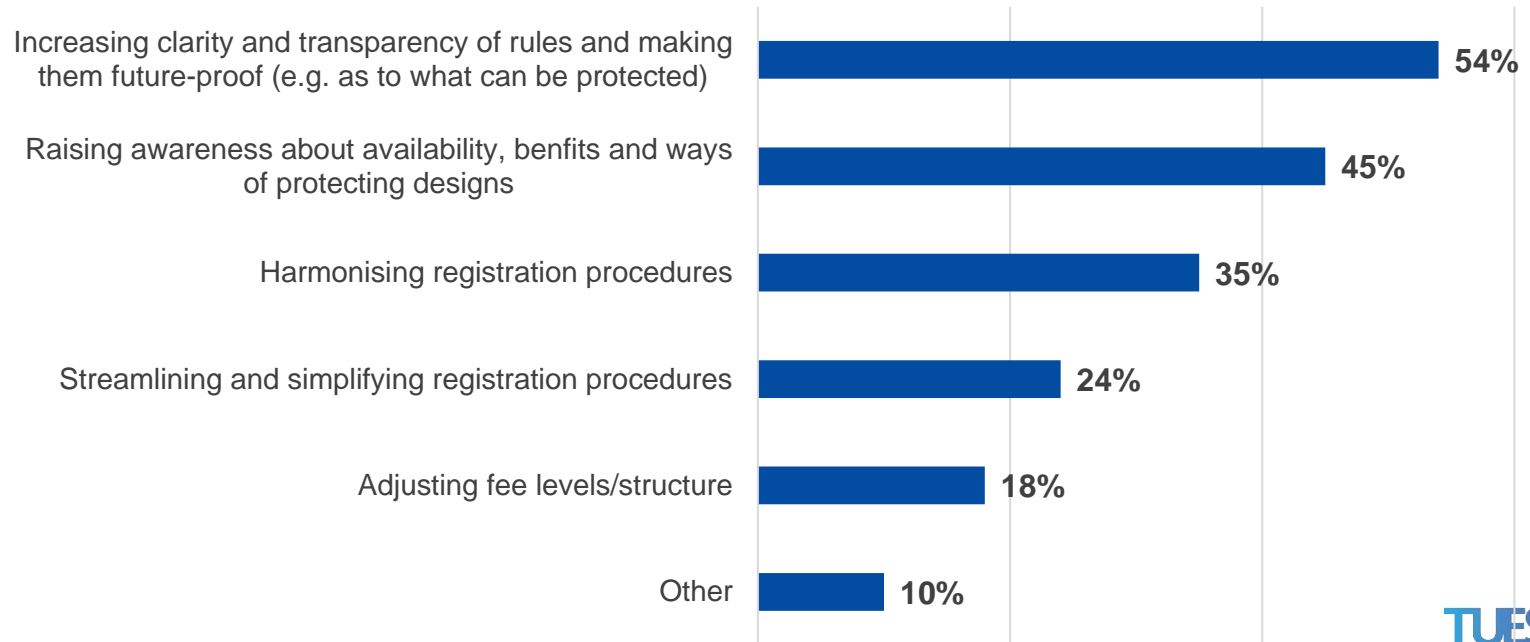
Why was the reform needed?

What do you think
would **help you**
most to use design
protection?



The aims of the reform

What would help most to rise the usage of design protection? (multiple answers possible, 80 replies)



The aims of the reform



- To **modernize**
- To ensure **legal certainty**
- To **simplify**
- To make designs **affordable**
- **harmonise** and **align**



2

When will the new law enter into force?

Phases of the reform – Amending Regulation (AR) and secondary legislation

I

Enters into force on the 20th day following publication in the OJEU but the amendments actually apply from the first day of the month following **4 months after the date of entry into force**

II

AR articles that need to be developed by secondary legislation + secondary legislation (Implementing and Delegated Regulations) apply from the first day of the month following **18 months after the date of entry into force of the AR**

Phases of the reform – Designs Directive

Enters into force on the **twentieth day following publication** in the OJEU

Member States are required to transpose the Designs Directive into their national laws within **36 months** after the date of its entry into force

3

**What are the main
changes?**

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New terminology



Terminology changes

Community - European Union (the Union)

Community Design Regulation - European Union Design Regulation (EUDR)

RCD - REUD

UCD - UEUD

CDR - EUDR (+EUDDR)

CDIR - EUDIR

CD court - EUD court

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New design and product definitions

New design and product definitions

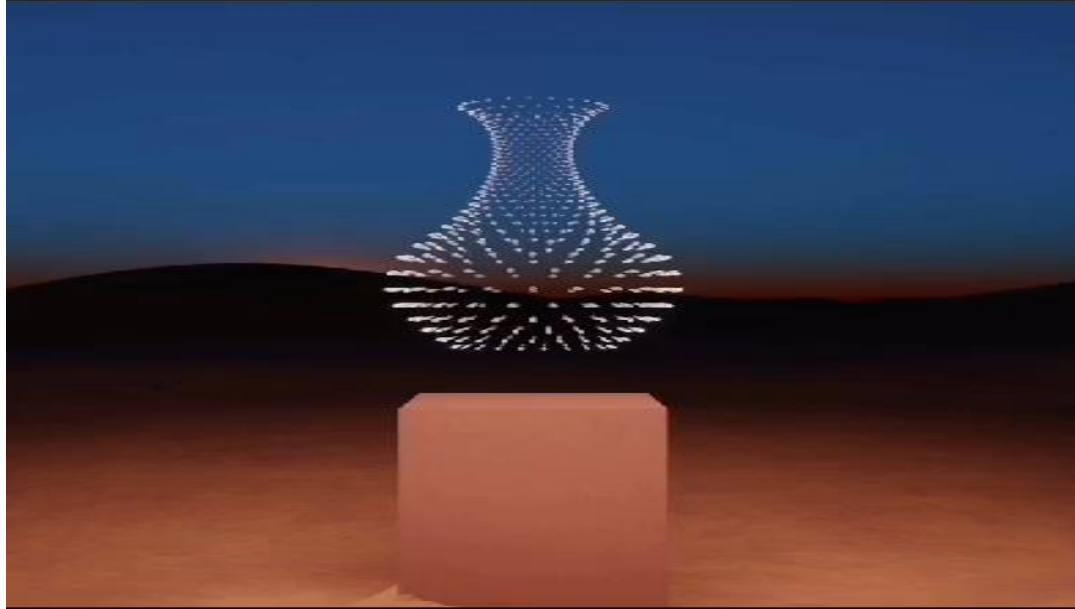
Do you think this is
protectable as a
design under the
current rules?





EUIPO
EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE

**Living Vase by Hunn Wai
and Francesca
Lanzavecchia** as
presented for Vogue
Singapore



New design and product definitions

Do you think
animation is
protectable as a
design or its
feature(s) under the
current rules?





Bayonetta (video game, animated movie) by Fuminori Kizaki

Question for the audience

Is a **physical product** necessary for design protection?

What happens if my design is **neither physical nor digital**?





RCD 2376806-0003 Class 32.00 Patterns for surfaces

Question for the audience

What happens if my design **disappears** when the device is switched off?

Must I also protect the **device**?





Question for the audience

Can I protect **virtual designs**?

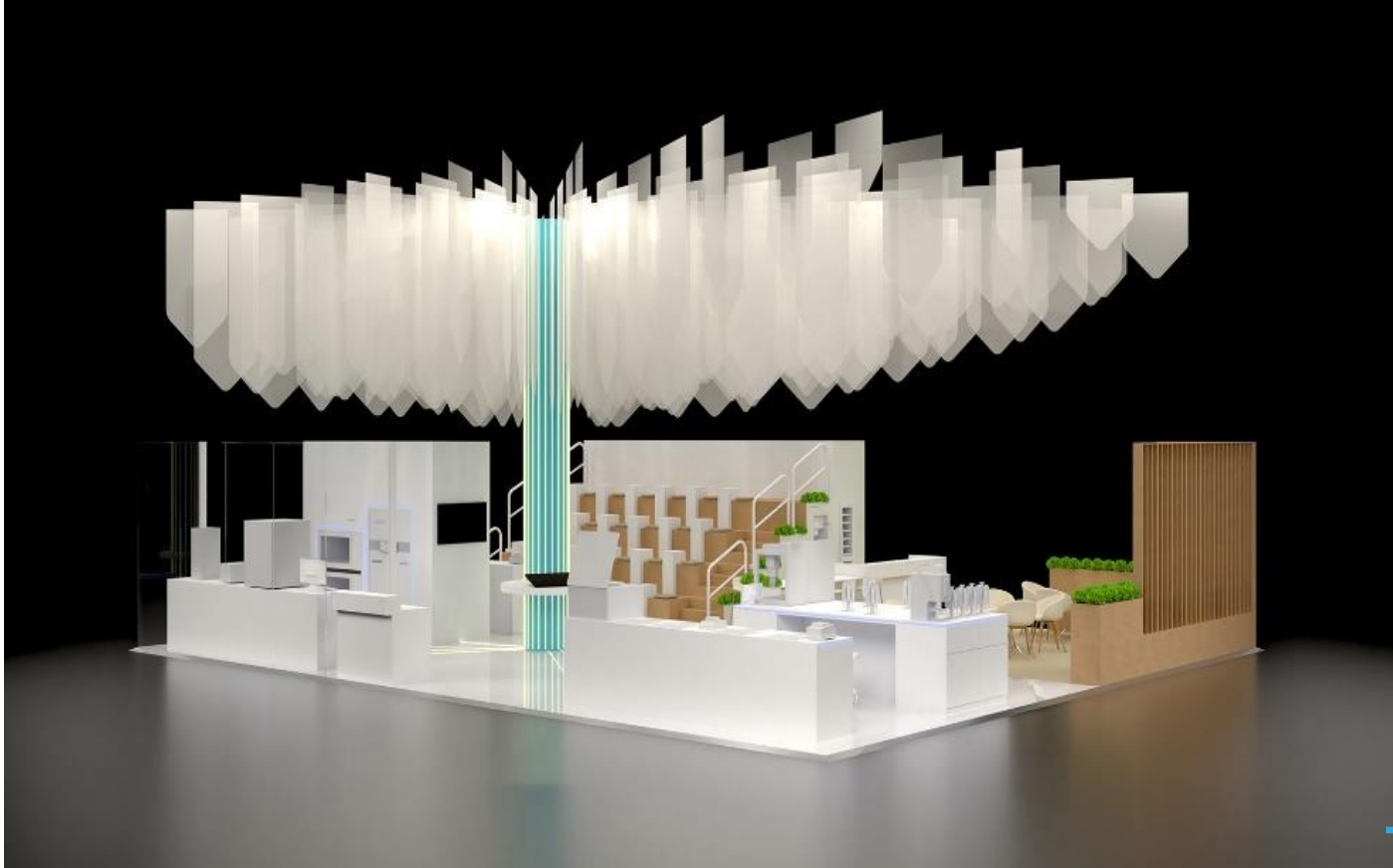




Question for the audience

Can I protect **virtual spaces**?





New definitions

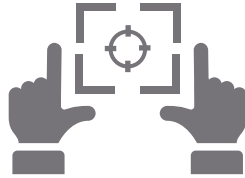
'Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (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, materials of the product itself and/or 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 computer programs, regardless of whether it is embodied in **a physical object** or materialises **in a non-physical** form, including:
 - (a) packaging, **sets of articles**, **spatial arrangement 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**;

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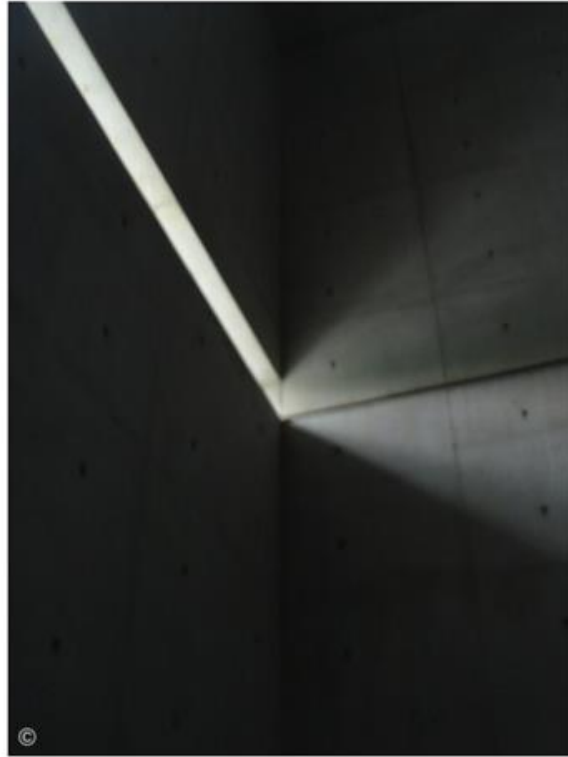
Clarified **object** and **scope** of a design right

Clarified object and scope of a design right

Article 18a

Object of protection

Protection shall be conferred for those features of the appearance of a registered EU design which are shown visibly in the application for registration.’;



[Church of the Light by Tadao Ando Architect & Associates](#)

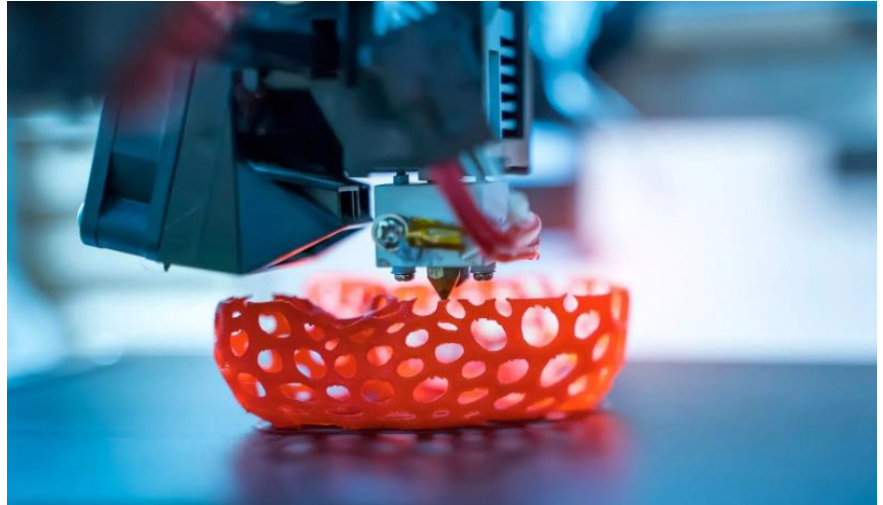
Clarified object and scope of a design right

Scope of the exclusive right extended to cover

- Acts enabling copies to be made using 3D Printing technologies
- Seizure of counterfeit goods in transit

Limitations of the effects of a design include

- Referential use
- Acts for purpose of comment, critique or parody



[Is 3D printing the key to a sustainable fashion industry?](#)

[Euronews](#)

Clarified object and scope of a design right

Spare parts protection regime

- **Repair clause added** to the Designs Directive
- **Adjustments** made to the repair clause already contained in CDR



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New design representation regime

New design representation regime – filing date

Clarity is the only ‘filing date’ design representation requirement in Design Regulation and Designs Directive



Future challenge:
the definition of clarity

a *sufficiently clear* representation of the design **█**, permitting **█**
the subject matter for which protection is sought to be *determined*.



Question for the audience

Can I use a **video or 3D technologies** to represent my design under the **current regime?**

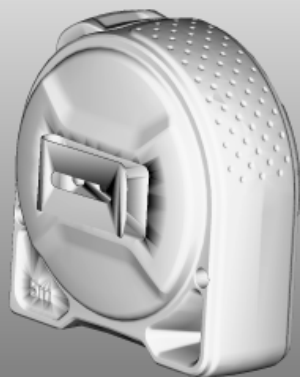


Question for the audience



Only one 3D model can be uploaded. If you want to add another please reset this one.

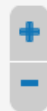
Please note that you **must create at least one view from the 3D dynamic view**



Move the 3D dynamic view with your mouse or keyboard to change the camera viewpoint, or use the controls below.



Move camera



Zoom

Basic keyboard controls:

- Perspective view
- Front view
- Back view
- Left view
- Right view
- Top view
- Bottom view

Create view from this viewpoint

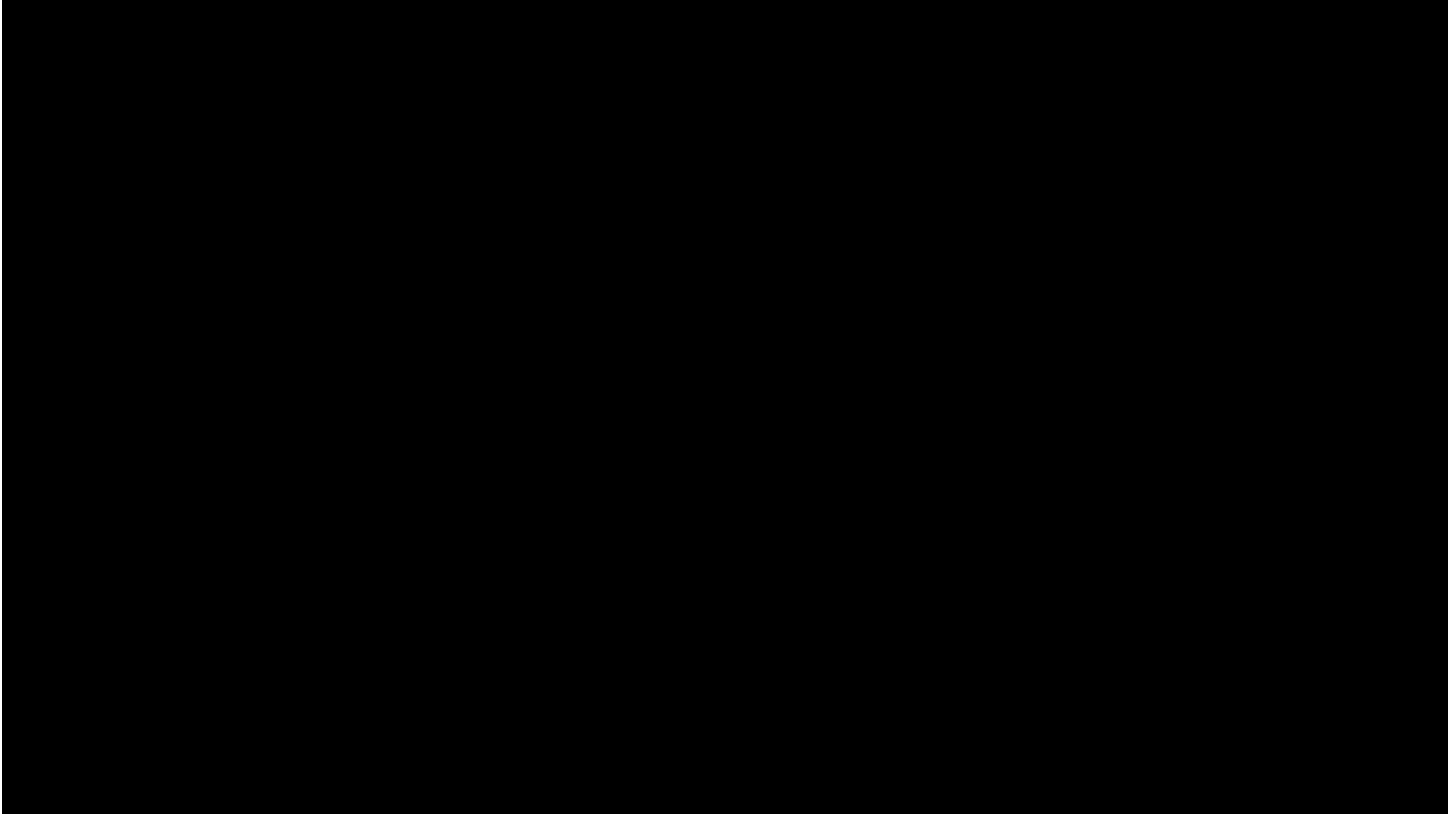
Move your model and take a screenshot of desired viewpoint.

or

Create predefined views (7)

Predefined views are: front, top, back, bottom, left, perspective and right.

[Metaverse fashion week](#)



New design representation regime - formalities

Design regulations

????

Designs directive

- Any form of visual reproduction
- Views can be static, dynamic or **animated**
- Any means, incl. **videos** and computer imaging
- One or more aspect or **other types of views**
- Views and disclaimers **consistent**, background **neutral**

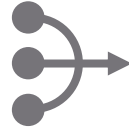
ED decision

- Manner of **numbering of views**
- The **formats and size** of the electronic file
- Any other **technical specification**
- Additional types of **visual disclaimers** and specific **types of views**

Convergence of practices

- Types and numbers of **views**
- **Format and size** of electronic files
- **Technical specifications** of means
- Types of **visual disclaimers**

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Simplification of **rules**

Simplification of rules

Easier filing

- EUD filing only at EUIPO
- Fee becomes a filing date requirement
- Single application fee
- Help with classification
- Unity of class requirement abolished
- New non-registrability ground
- Changes to deferment and renewal regimes
- Amendment and alteration regime



Simplification of rules

Easier communication



E-COM becomes the sole means of communication with the Office:

communication, notifications, registration certificates, extracts from the Register, inspection of files online

EUIPO will have to support users with:

technical guidance and assistance, both online and offline to facilitate the usage of electronic means

Question for the audience

What can I urgently do
if **my product is copied
and registered** under
the EU-wide design
protection scheme?



Simplification of rules

Simplified Invalidation Procedures to allow ‘fast-track invalidation’

‘Article 53a

Delegation of powers regarding the declaration of invalidity

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the details of the procedure for the declaration of invalidity of an EU design as referred to in Articles 52 and 53, including the possibility to examine an application for a declaration of invalidity as a matter of priority where the holder of the registered EU design does not contest the grounds of invalidity or the relief sought.’;

fast track

Simplification of rules

Other novelties in the field of design invalidation

- Partial invalidity abolished
- Res judicata regime tailored
- Invalidity ground under Art. 25(1)(d) EUDR clarified
- Proof of use request possibility introduced

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New EUD fees regime

Question for the audience

How could the **new EUD fees** scheme be **beneficial** for me?



New EUD fees scheme

Single application fee

Fee payment to obtain a filing date

Multiple registrations:

- Unity of class requirement abolished
- fee brackets abolished
- cap of 50 designs added

Fees reduced:

- Invalidity to 320 EUR
- Appeal to 720 EUR

Fees deleted:

- transfer
- inspection fee

IR renewal increased to 62 EUR

New fees:

- continuation of proceedings
- alteration

	Current fees	New fees
Application fee (incl. publication)	350	350
Fee for each design from the 2 nd to the 10 th	175	125
Fee for each design from the 11 th design onwards	80	125
Renewals		
1 st	90	150
2 nd	120	250
3 rd	150	400
4 th	180	700

4

What's next?



European harmonization of laws and practice

- **Transposition of the Designs Directive**
- **Harmonization of design representation regime:** filing date and formalities
- **Alignment of practices** e.g. regarding the key design invalidation aspects



International harmonization of laws and practice

- **Design law treaty** and its challenges
- **Discussions among some of the largest IP offices** – global trends, challenges and efforts driving change



Question for the audience

Can I show that
my design is
protected?

How could I
indicate it?

Where?



Design awareness raising

Article 26a

Registration symbol

The holder of a registered EU design may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter D enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the Register.;



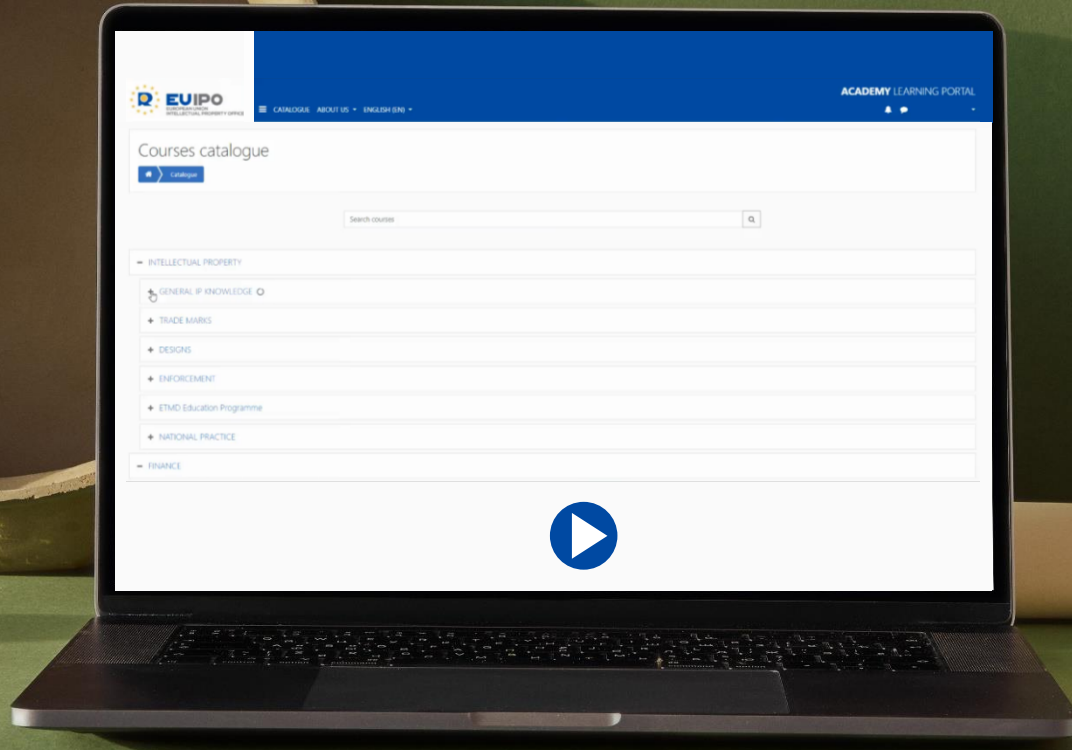
Embracing new technologies

Adidas - MetaVerse Fashion Week 2023 Full Show in Decentraland





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