

# DESIGN ENTITLEMENT PROCEEDINGS

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Are you *initiating a claim of ownership* over a  
**Registered Community Design (RCD)**?

Is someone *claiming to be entitled to your*  
**RCD**?



## PROGRAMME

30'  
Presentation

- What is **entitlement** for RCDs?
- **Who decides** on entitlement proceedings and the entries in the Register?
- **Entries** in the Register and their **legal effect**
- **Differences** between entitlement and transfer; and entitlement and invalidity




10'  
Questions and answers

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# WHAT IS ENTITLEMENT? WHICH IS THE COMPETENT FORUM?

## Entitlement for RCDs

### What is Entitlement?

-  the right to **claim ownership** and to be **recognised** as the legitimate holder of an RCD
-  the right to be **registered as the holder** of that RCD
-  **exercising the rights** granted to that holder under the Community Design Regulation (CDR).




The **registered holder** of the RCD is **considered to be entitled:**

-  in **any proceedings before the EUIPO**
-  in any **other proceedings**



## Entitlement claim – Article 15 CDR

### Entitlement claim

-  a claim of a person who is **not registered as a holder** in the Register, but
-  **states to be the legitimate holder** of an RCD and
-  files a claim before a **competent forum**.



## Entitlement claim – main questions



**Who** can file a claim for entitlement?



**Which** is the **competent forum** for the entitlement claim?



Under **what conditions** could the claim be filed?



## Who can submit an entitlement claim?

The person/entity entitled to the RCD under **Article 14 CDR** can file an entitlement claim:

-  **legitimate designer** or their **successor in title**
-  **joint designers**
-  **employer**





## POLL

Which is the **competent forum** for the entitlement claim?

- A** National court/authority
- B** The EUIPO



## Forum for the entitlement claim



Competent **court** of a Member State, such as **specialised courts**, where the matter of entitlement was raised, for example, in **cases of employment or family matters**.



Competent **authority** of a Member State, such as **administrative offices or specialised bodies**.

The forum depends on the national law of the relevant Member State



## Timeframe

### Timeframe

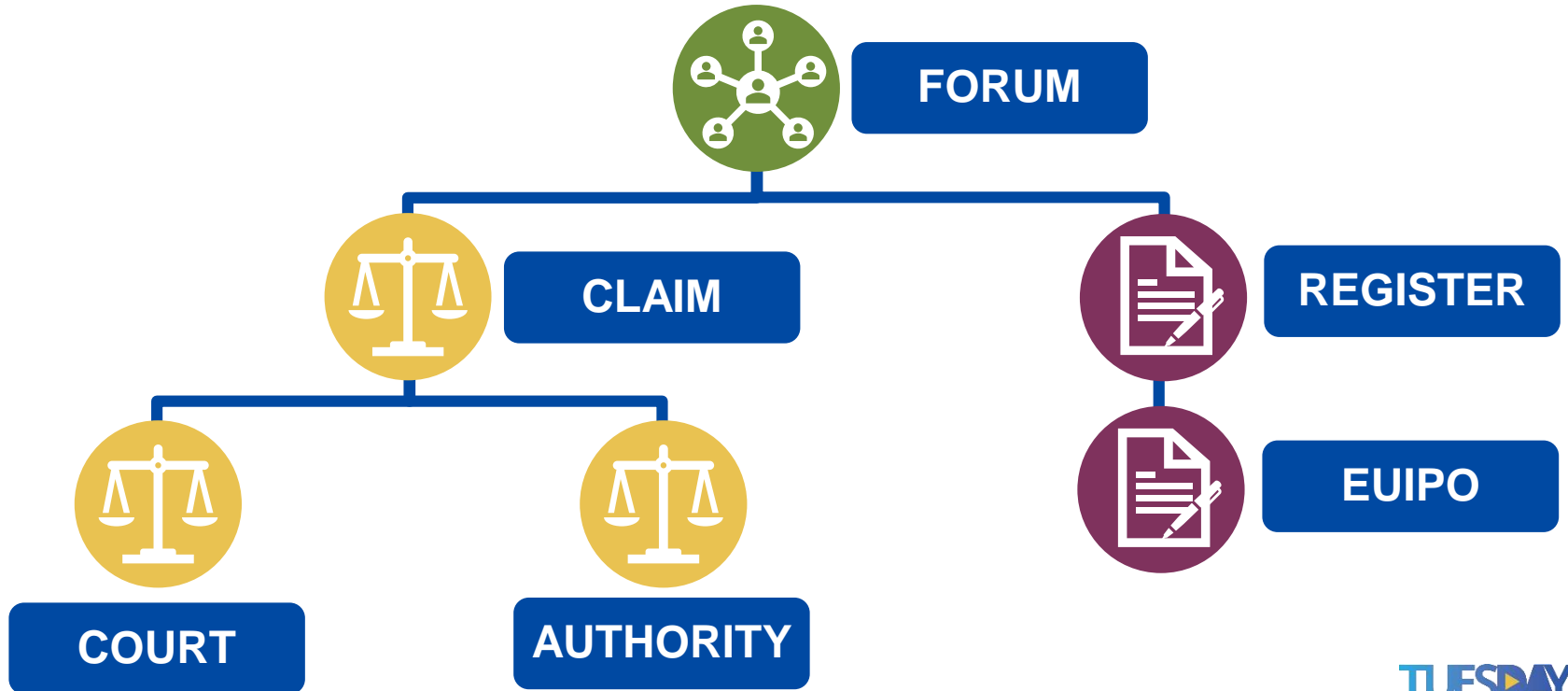
The claim should be filed **before the end** of the **third year from** the date of publication of the RCD.

### Exception to the timeframe

Where the registered holder was **acting in bad faith** when applying for the design.



## Forums for the entitlement claim. Forum for the entries in the Register.






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## ENTRIES IN THE REGISTER

## Who can request an entry in the Register?

The entry in the Register could be requested by:

-  the **RCD holder(s)**
-  person(s) **claiming** to be the **legitimate holder**
-  the competent **national court** or **authority**



## What entries are made in the Register?

The EUIPO registers **three types** of entries on the entitlement claims:

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### Initiation of proceedings

The legal proceedings for entitlement have been **initiated** before the **competent court or authority** of a Member State;



## What entries are made in the Register?

The EUIPO registers **three types** of entries on the entitlement claims:

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### Final decision

The **date and particulars** of the **final decision** (or any other termination of the proceedings) of the competent court or authority;





## What entries are made in the Register?

The EUIPO registers **three types** of entries on the entitlement claims:

3




### Change of ownership

Of the RCD resulting from the **final decision** of the **competent court or authority**.



## Request and evidence for entries in the Register

The request must be accompanied by **evidence**:

-  for **initiation of proceedings**, evidence that shows the court or authority before which entitlement proceedings were initiated;
-  for **entry of the final decision**, the final decision on the entitlement of the competent court or authority;
-  for **the change of ownership**, the final decision on the entitlement of the competent court or authority

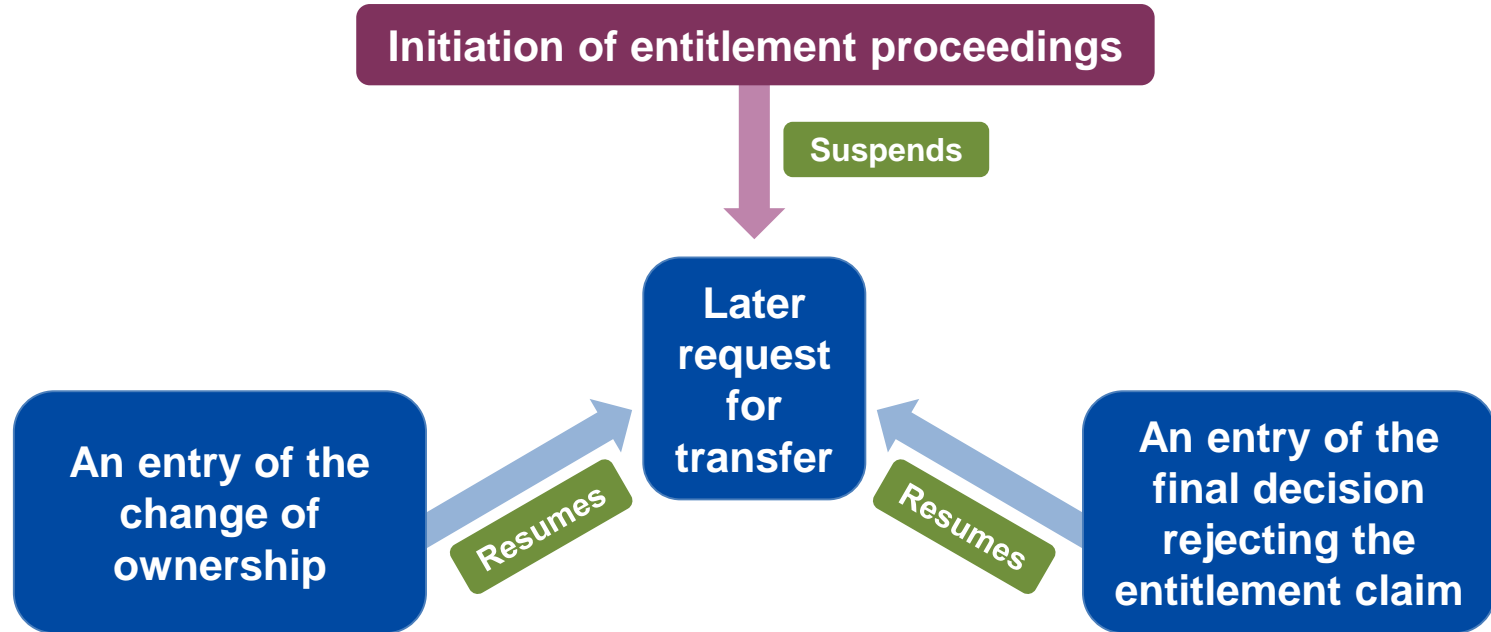


**No fees are required! But hurry up to ask for your entry and safeguard your rights!**

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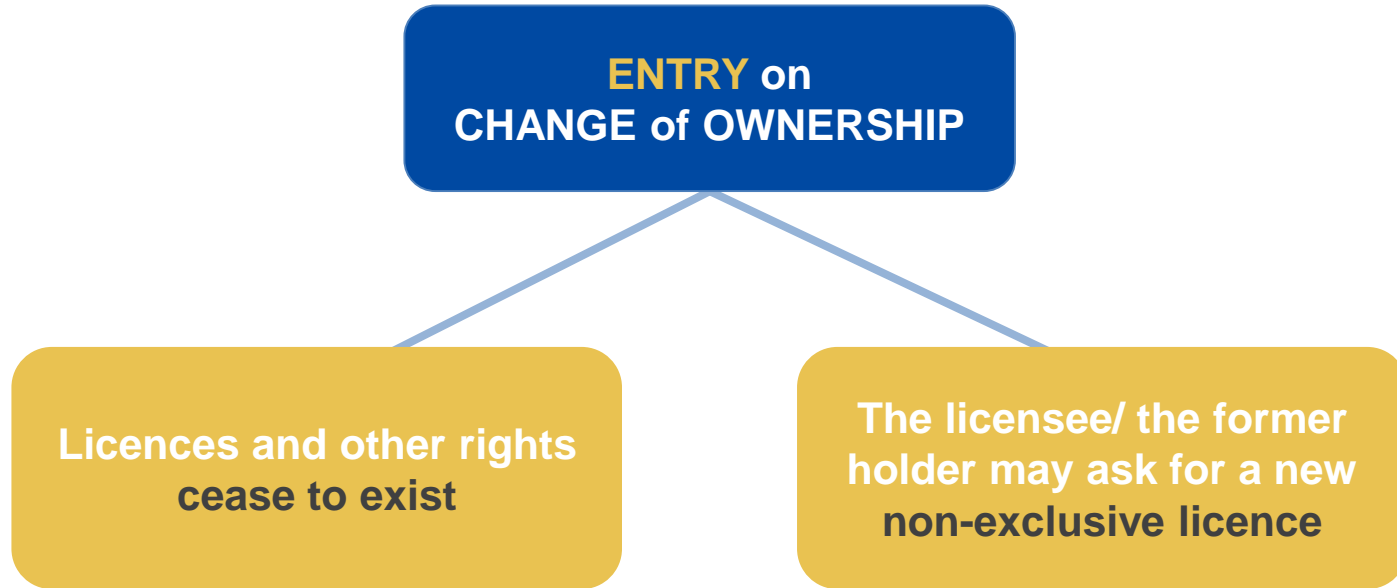
# LEGAL EFFECTS OF THE ENTRIES IN THE REGISTER

## Entry on initiation of entitlements proceedings – effect on other requests



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## Entry on the change of ownership – effect on licences and other rights



## POLL

If I am a **former licensee**, who should I ask for a **new licence**?

- A** The former RCD holder
- B** The new legitimate holder
- C** The EUIPO

The licence agreement is settled  
between the parties under the law of  
the Member State



## Requesting a new licence – Article 16(2) CDR and Article 24(5) CDIR

### WHO can request a new licence?

- the former RCD holder(s)
- a licensee

### WHEN?

- Within 3 months of the date of entering in the Register of the new holder

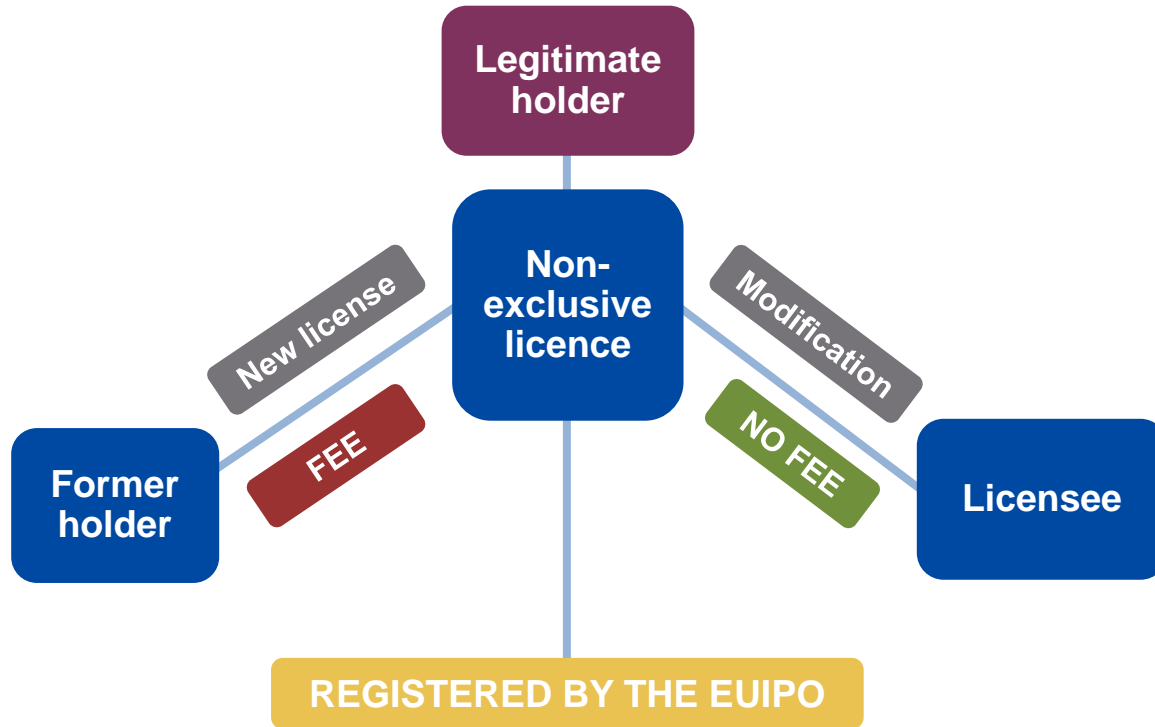
### Under WHAT conditions?

#### The requestor:

- exploited the design within the EU
- was not acting in bad faith



## Entry of the licence in the Register





## Entry of the licence in the Register




When could I ask for the **entry of the licence** in the Register?

-  Anytime, but...
-  Hurry up to **register your licence before** other rights!
-  As **other entries may prevent** you from exercising your rights as a licensee



## Entry of the licence in the Register

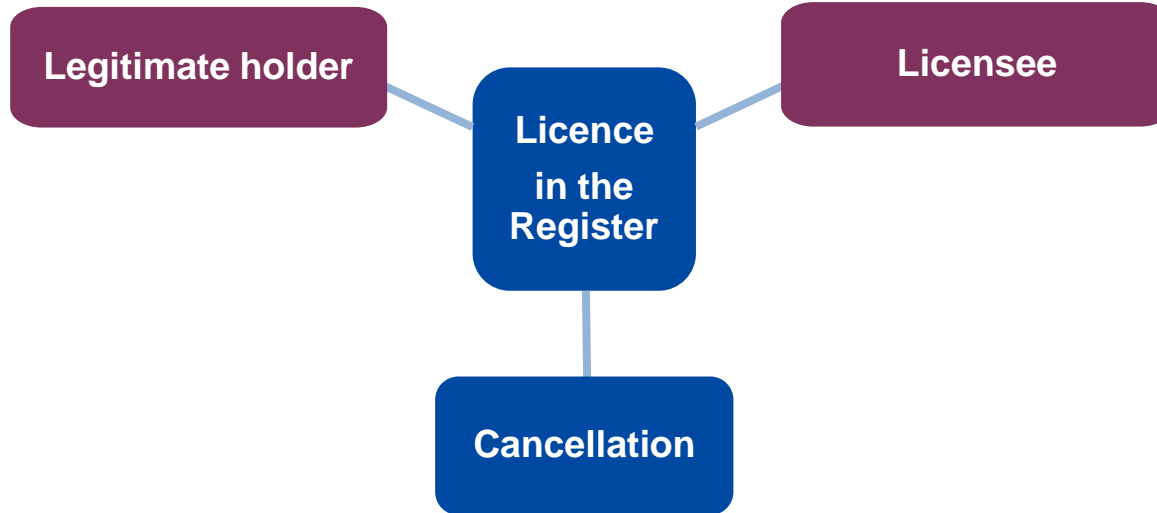
### What do I send to the EUIPO?

-  **Former holder:** ask to register a licence and submit **the licence contract**
-  **Licensee:** ask for a modification of a licence and submit the **new licence contract**
-  **Legitimate holder:** in general, **no proof is needed**, but some exceptions exist *(for more information see the Guidelines [here](#) and [here](#))*



**REGISTERED BY THE EUIPO**

## Cancellation of the licence in the Register



REGISTERED BY THE EUIPO

## Cancellation of the licence in the Register

### **WHO** can request a cancellation?

- The **legitimate RCD holder(s)**
- The **licensee**

### **WHY?**

- **No *ex officio* cancellations**, but only upon request

### **WHEN?**

- Any time **after the entry** in the Register of the **new holder**
- For more information, see the Office's [Guidelines](#)



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**ENTITLEMENT OR TRANSFER ?**

**ENTITLEMENT OR INVALIDITY ?**

## Entitlement v Transfer

ENTITLEMENT	TRANSFER
Change of ownership	Change of ownership
No fee	Fee → No fee (with the Legal Reform)
Article 15 CDR	Article 28 CDR
'Correspondence back-up' in User Area	E-action in Records in User Area
Proof of initiated proceedings	Proof of transfer, such as a contract
Three entries / the first entry freezes the RCD	Only one entry that triggers the effect
New holder as of the day of last entry	New holder as of the day of registering the transfer
Licences cease to exist	Licences not affected

## Communication back-up

 **User Area**  
*EUIPO's Management tool*

- Options
- Dashboard
- Online services
- Communications**
- Goods & Services

### Communications

Welcome to the Communications area. There are no official communications with the EUIPO to be displayed. [Click here](#) to view the help page

**New** Pending Sent Archive

Actions **Move to** **Send to** **Download** **Communication back-up**

Filter All files

<input type="checkbox"/>	Procedure	Number	Subject	Date	Reference	Reply	Actions
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## Entitlement v Invalidity for lack of entitlement

ENTITLEMENT	INVALIDITY FOR LACK OF ENTITLEMENT
Requestor - recognised as entitled by a decision of a competent forum	Requestor - recognised as entitled by a decision of a competent forum
Proof of a decision of the respective court or authority	Proof of a decision of the respective court (or authority with the Legal Reform)
Article 15 CDR	Article 25(1)(c) CDR
No fee	Fee
The aimed result is a change in ownership	The aimed result is the design to be invalidated



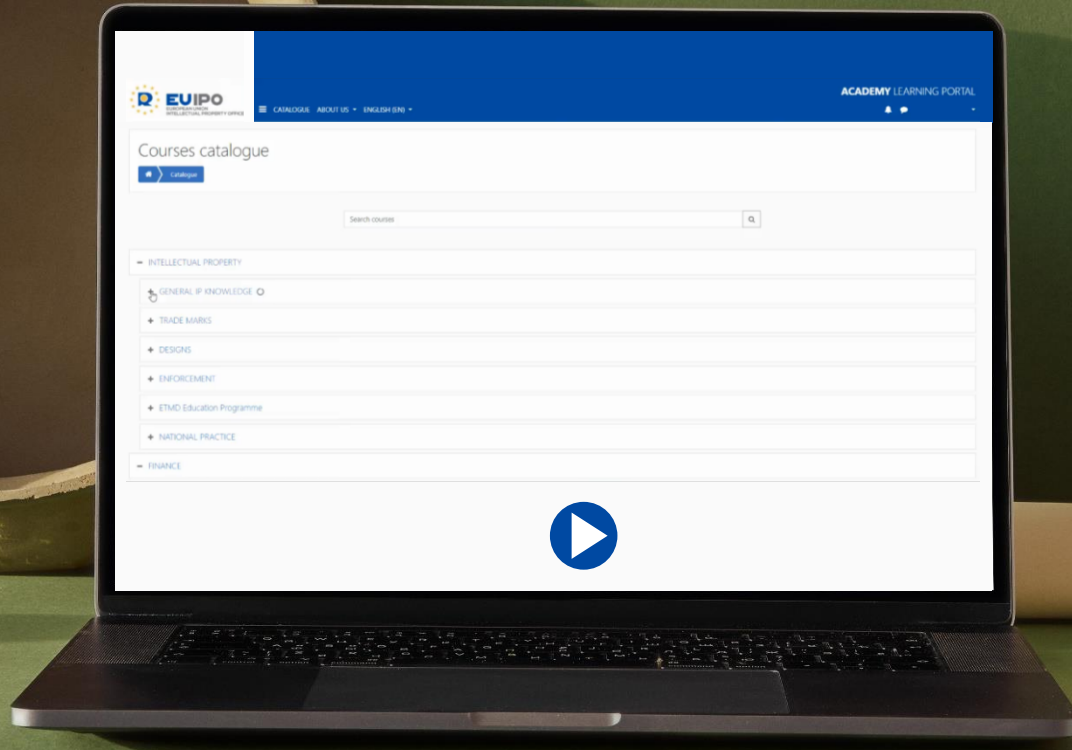
## To Sum Up...

-  File the entitlement claim **before a national court or authority**
-  Ask for **entries** of that claim in the **EUIPO Register**
-  The **former holder/licensee** may ask the legitimate holder for a **licence**
-  Ask for a **modification of a licence** if you **had a licence** before
-  Ask for a **cancellation of a licence** if you are **the new holder** and **do not want** to grant a new licence
-  Consider the **differences** between **entitlement** and **transfer**, and **entitlement** and **invalidity action**





## Keep in touch with the EUIPO Academy





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**THANK YOU**



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