

Case Study Tripp Trapp

Julien Cabay



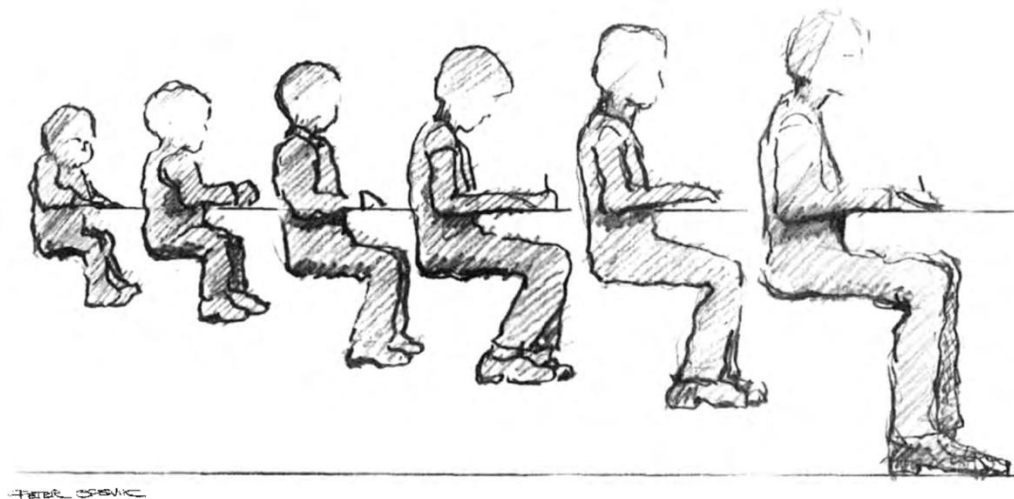
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The Tripp Trapp Chair







The iconic Tripp Trapp® was the first chair of its kind when designed by Peter Opsvik in 1972. Its intelligent design grows with your child, providing a comfortable, ergonomic seat at any age. It's been made to fit right up to your dining table to bring your baby into the heart of your family, allowing your little boy or girl to eat, learn, play and develop alongside you.

What makes Peter Opsvik's Tripp Trapp® design so pioneering is the thought behind it. Inspired by his Scandinavian way of life and understanding of ergonomics, his philosophy encompasses two main themes, comfort and most importantly, freedom of movement.

The Tripp Trapp® chair encourages children, who are by nature active, to move and change posture. This allows them to find the most comfortable position, which is always the next one. A child in motion is free to learn, explore and gain confidence.



Meet the author: Peter Opsvik

	Peter Opsvik
Born	Peter Opsvik 25 March 1939 Stranda, Norway
Died	30 September 2024 (aged 85)
Nationality	Norwegian
Years active	1965–2024
Known for	Tripp Trapp , Nomi high chair, Capisco the saddle chair, Credo, H05, different Balans chairs
Website	Opsvik.no

« The Tripp Trapp designer's inspiration came from watching his young son Tor - having grown out of his traditional high chair, but still far too small for an adult's chair. The Tripp Trapp chair revolutionized the children's chair category back in 1972 when it was first

launched. It's designed to fit right up to your dinner table, bringing your child into the heart of your family's social life for meals and more. With unique height and depth adjustability, the chair would fit any age and size and still be comfortable with superior ergonomic support. »



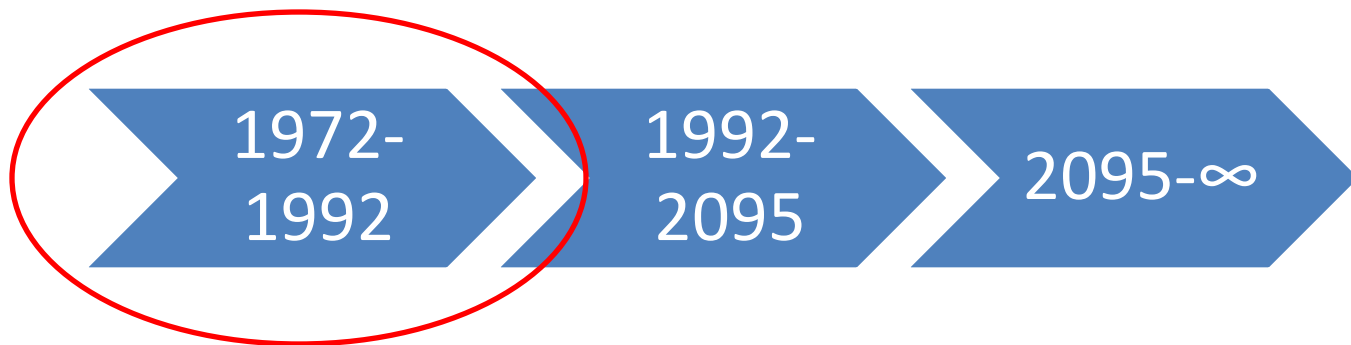


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Meet the author: Peter Opsvik

<https://www.youtube.com/watch?v=6g3lIP7wLR4>





	Function/ Subject matter	Requirements for protection	Registration	Duration	Prohibited uses	Territoriality
Patent	Invention	Novelty, Inventive , Industrial application	Yes	20 years	Exploitation even if no copy	Nat'l (Nat'l, European) ; most EU MS (EU unitary patent)
Design	Appearance of a product	Novelty, Individual character	Yes, except for unregistered Community designs	5 years renewable, max 25 years (registered); 3 years (non registered)	Exploitation if copy (not registered) and even if no copy (registered)	Nat'l/Benelux (registered) ; EU (registered or not)





Patent

- **Invention** : no definition, but
 - [Art. 52 EPC](#) and [Art. 53 EPC](#): non-exhaustive list of **excluded** subject-matter and activities
 - An invention must have a **technical** character of an invention ([case law of the BoA](#))
- **Novelty** ([Art. 54 EPC](#) ; [case law of the BoA](#)): not part of the state of the art (including patent applications published after)
- **Inventive step** ([Art. 56 EPC](#); [case law of the BoA](#)): not obvious to a person skilled in the art (based on the state the art, excluding patent publications published after)
- **Industrial application** ([Art. 57 EPC](#); [case law of the BoA](#)): can be made or used in any kind of industry



[54] ADJUSTABLE CHAIR 2,466,350 4/1949 Anderson 297/338 X
2,538,231 1/1951 Booth 297/338
[75] Inventor: Peter Opvik, Oslo, Norway 2,643,045 6/1953 Renfro 108/96 X
[73] Assignee: Stokke Fabrikk A/S, Spjelkavik, Norway 3,575,465 4/1971 Doty et al. 297/440 X

[21] Appl. No.: 567,999
[22] Filed: Apr. 14, 1975
FOREIGN PATENT DOCUMENTS
178,686 11/1905 Fed. Rep. of Germany 297/338
30,421 8/1933 Netherlands 297/338
71,817 6/1945 Norway 297/338
535,252 4/1941 United Kingdom 297/239

Related U.S. Application Data
[63] Continuation of Ser. No. 411,654, Nov. 1, 1973, abandoned.
[30] Foreign Application Priority Data
Nov. 1, 1972 [NO] Norway 3953/72

[51] Int. Cl. A47C 3/20; A47C 3/38
[52] U.S. Cl. 297/338; 108/96;
108/110; 297/130; 297/423
[58] Field of Search 297/130, 239, 338, 423,
297/429, 430, 440, 442; 108/96, 107-110,
182/33, 120, 132

[36] References Cited
U.S. PATENT DOCUMENTS
D. 180,364 5/1957 Hasdin 297/327 X
1,587,253 6/1926 Tarbox 297/338 X
1,786,663 12/1930 Leek 297/385 X
2,234,562 3/1941 Klopfer et al. 297/338 X



4 Claims, 5 Drawing Figures

I claim:

1. An individual chair adjustable to accommodate persons of any age and size, comprising: a pair of upwardly extending spaced uprights having ground supporting members at their lower ends; a chair back rest interconnecting said uprights at their upper ends; a seat bottom plate member; and a foot rest plate; said uprights having a plurality of horizontally extending guides provided along a portion of its length at the inner surfaces of said uprights facing each other, said seat bottom plate member and said foot rest plate each having opposite ends respectively disposed in opposite ones of said guides of said uprights at desirable locations between said ends of said uprights, said seat bottom plate member and said foot rest plate being interchangeable in dependence upon the size of the chair occupant so that when said seat bottom plate member constitutes a foot rest, said seat bottom plate member is capable of extending in a forward direction further than said foot rest plate.



Design

- **Appearance of a product** (Art. 3 [Reg. 6/2002](#); Art. 1 [Dir. 98/71](#))
 - Physical object
 - Non-physical ([revision of design law](#))
- **Novelty** (Art. 5 Reg. 6/2002; Art. 4 Dir. 98/71; [EUIPO Guidelines](#))
 - Not identical to designs made available to the public*
- **Individual character** (Art. 6 Reg. 6/2002; Art. 5 Dir. 98/71; EUIPO Guidelines)
 - Different overall impression on the informed user than designs made available to the public*

*No making available if the publication/exhibition/use « could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community (...) » (Art. 7 Reg. 6/2002; Art. 6 Dir. 98/71)



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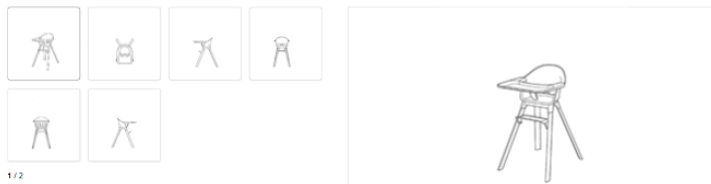
RCD file information

005643061-0001

Timeline



Graphic representation



1 / 2

Design information

Design number	005643061-0001	Filing language	ENGLISH
Name		Second language	GERMAN
Filing date	17/09/2018	Reference	D61803076EM00
Registration date	17/09/2018	Vienna Classification	
Expiry date	17/09/2023	Verbal element	
Design status	Registered and fully published (A.1.)		

Indication of the product, (ResellerClass)

Locarno	06.01
Values	Chairs (seats)

English

Owners

Stokke AS





- *Dellice Holding v Stokke*
 - OHIM Board of Appeal, 17 Oct. 2013 (R 951/2012-3)
(RCD invalidated, no individual character because same overall impression)
- *Dellice Holding v Stokke*
 - OHIM Board of Appeal, 17 Oct. 2013 (R 781/2012-3)
(RCD invalidated, no individual character because same overall impression)



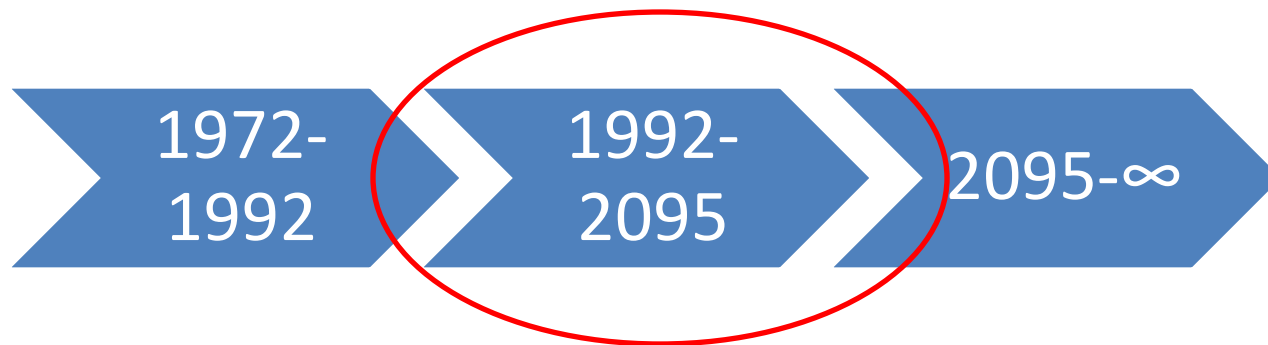


	Function/ Subject matter	Requirements for protection	Registration	Duration	Prohibited uses	Territoriality
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VS









	Function/ Subject matter	Requirements for protection	Registration	Duration	Territoriality
Patent	Invention	Novelty, Inventive , Industrial applicati	Yes		Nat'l (Nat'l, European) ; most EU MS (EU unitary patent)
Design	Appe produ		Registered Community designs	5 years renewable, max 25 years (registered); 3 years (non registered)	Nat'l/Benelux (registered) ; EU (registered or not)

PATENT/DESIGN EXPIRED



VS





	Function/ Subject matter	Requirements for protection	Registration	Duration	Prohibited uses	Territoriality
Copyright	Work (including software/database)	Originality, expression	No	Author's life+70 years	Exploitation if copy	Nat'l



VS





Copyright

- **Work**: every production in the literary, scientific and artistic domain ; including works of applied arts (Art. 2(1) [Berne Convention](#))
- **Originality** : author's own intellectual creation ; personality of its author ; free and creative choices ([CJEU, Brompton](#), point 23)
- **Expression** : identifiable with sufficient precision and objectivity (CJEU, *Brompton*, point 25)

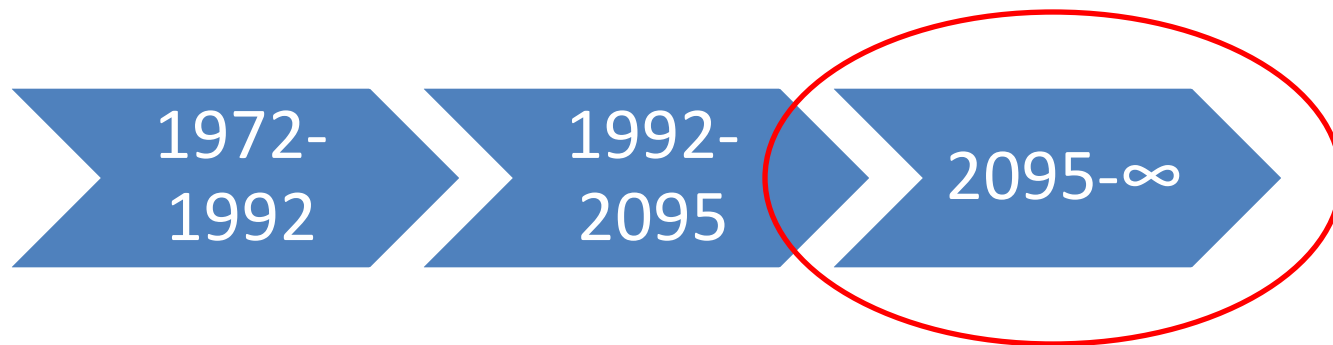






- *Stokke (Tripp Trapp) v Hauck (Alpha & Beta)*
 - Gent civil court, 21 Jan. 2002 : infringement (copyright), but ‘rechtsverwerking’ (≈ estoppel)
 - Gent court of appeal, 6 Oct. 2003 : infringement (copyright)
- *Stokke (Tripp Trapp) v H3 (Carlo)*
 - Brussels commercial court, 17 Sept. 2008 : no infringement (copyright)
 - Brussels court of appeal, 12 Apr. 2011 : infringement (copyright)







	Function/ Subject matter	Requirements for protection	Registration	Duration	Prohibited uses	Territoriality
Trademark	Sign indicating the commercial origin of a product/service	Distinctive character	Yes, except for well-known trademarks	10 years renewable indefinitely	Exploitation even if not copied (if impairment of function)	Nat'l/Benelux ; EU



VS





Trademark

- **Sign** (including the shape of goods) capable of distinguishing (Art. 4 [Reg. 2017/1001](#); Art. 3 [Dir. 2015/2436](#))
 - ‘the essential function of a trade mark is to guarantee the identity of origin of the marked goods or services to the consumer’ ([CJEU, Arsenal](#), point 48)
- **Distinctive character** (Art. 7(1)(b) Reg. 2017/1001; Art. 4(1)(b) Dir. 2015/2436; [EUIPO Guidelines](#))
 - by reference to the goods or services in respect of which registration is sought
 - by reference to the perception of the relevant public
 - ‘Average consumers are not in the habit of making assumptions about the origin of products on the basis of their shape or the shape of their packaging in the absence of any graphic or word element, and it could therefore prove more difficult to establish distinctive character in relation to such a three-dimensional mark than in relation to a word or figurative mark’ ([CJEU, Freixenet](#), point 46)
 - can be acquired through use (Art. 7(3) Reg. 2017/1001; Art. 4(4) Dir. 2015/2436; [EUIPO Guidelines](#))



Extrait du registre des marques Benelux

Information sur la marque

Numéro de dépôt	915680
Numéro d'enregistrement	639972
Base	Benelux
Date et heure du dépôt	08-05-1998, 23:59
Date d'échéance	08-05-2028
Date de publication de l'enregistrement	01-06-1999
Date de publication du renouvellement	08-11-2017
Statut	Marque enregistrée

Marque

Représentation de la marque



Classification des éléments figuratifs

Type de marque

Catégorie de marque

CFE 12.01.09

Marque de forme

Marque individuelle

#	Brand	Source	Status	Relevance	Origin	Holder	Holder country	Number	App. Date	Image class	Nice Cl.	Image
1	No Verbal Elements	VN TM	Active	1	VN	Stokke AS	NO	4200414568	2004-12-28		20	
2	No Verbal Elements	MY TM	Inactive	1	MY	STOKKE AS	NO	04020290	2004-12-23		20	
3	No Verbal Elements	IL TM	Inactive	1	IL	STOKKE AS		170443	2004-02-22		20	
4	No Verbal	DK TM	Active	1	DK	Stokke AS	NO	VA200400563	2004-02-12		20	



- *Stokke v OHIM*

- OHIM Examiner, 30 Sep. 2005 (applications 3508264 & 3514171) (shape of Tripp Trapp chair devoid of any distinctive character *per se*, no evidence of acquired distinctive character)
- OHIM Board of appeal, 13 June 2008 (no object since application withdrew)



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EUTM file information

(Trade mark without text)

003508264

Timeline



Trade mark information

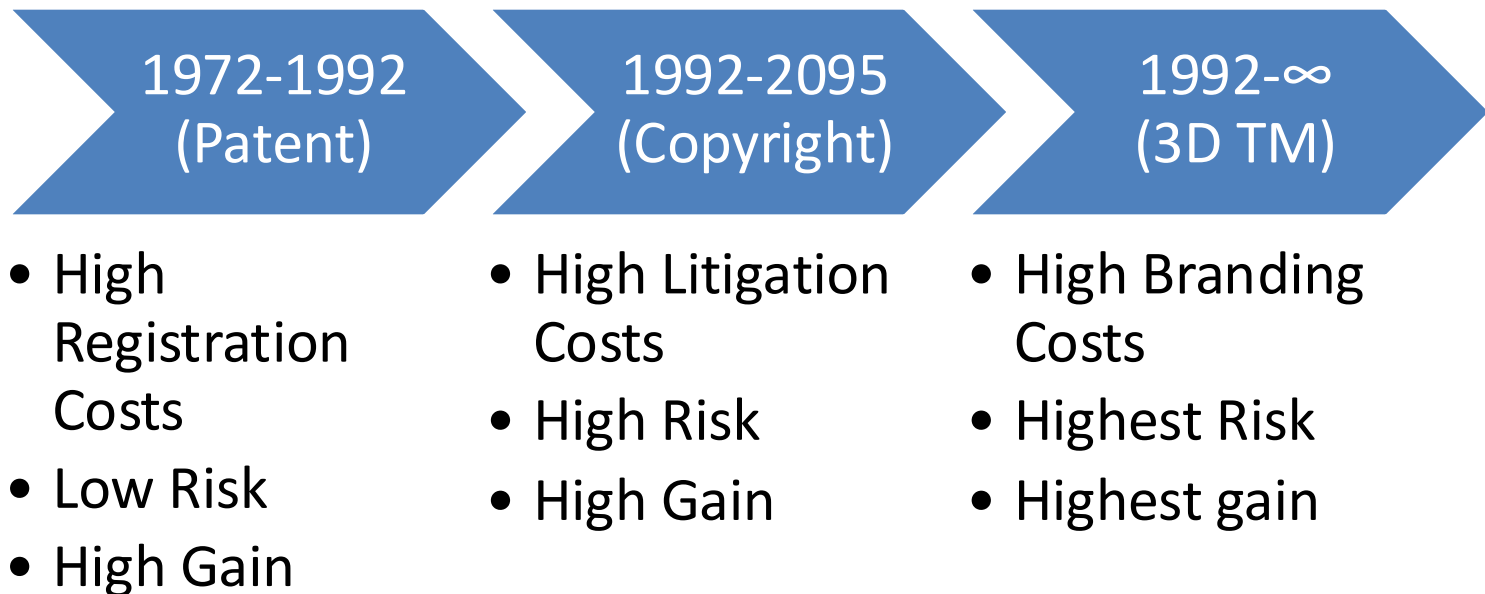
Name	(Trade mark without text)	Filing date	31/10/2003
Filing number	003508264	Registration date	
Date	EUTM	Designation date	
Date of receipt	31/10/2003	Designation date	
Type	3D shape	Filing language	English
Nature	Individual	Design language	German
Nice classes	28 (Nice Classification)	Application reference	21/000031STOKKE
Vienna Classification	12.01.05, 36.04 (Vienna Classification)	Trade mark status	Application withdrawn
		Assigned distinguishable	No

Graphic representation





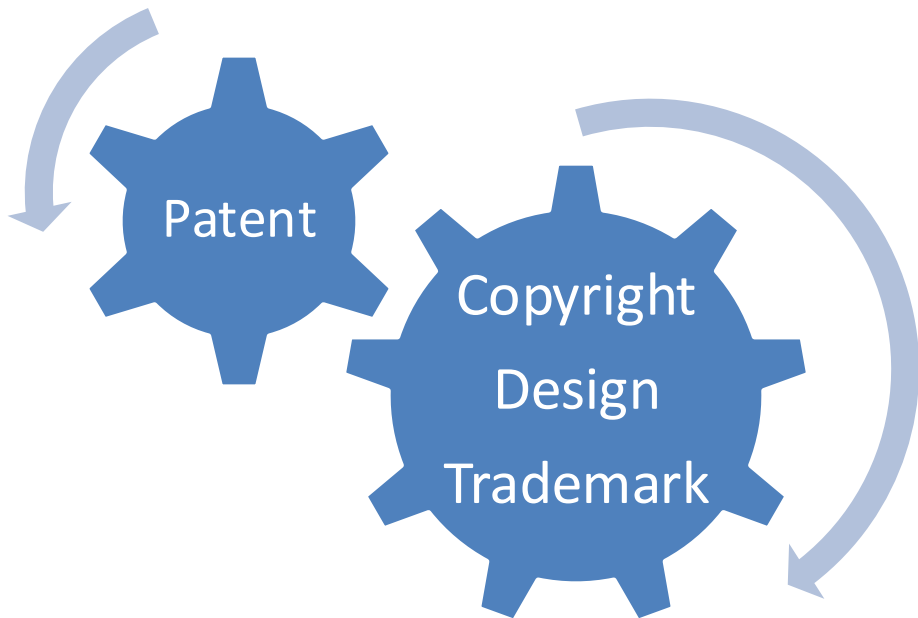
IP Strategy (Stokke)





IP Strategy (Hauck)







Trademark

- Protection stage (absolute grounds for refusal) (opposition: Art. 7(1)(e) [Reg. 2017/1001](#); Art. 4(1)(e) [Dir. 2015/2436](#) ; [EUIPO Guidelines](#) ; [case law of the GC/CJ](#), p. 194) (invalidity : Art. 59(1)(a) Reg.; Art. 45(3)(a) Dir.; [EUIPO Guidelines](#))
 - ‘1. The following **shall not be registered**: (...)
 - (e) signs which consist exclusively of:
 - (i) the shape, or another characteristic, which results from the **nature** of the goods;
 - (ii) the shape, or another characteristic, which is necessary to obtain a **technical result**;
 - (iii) the shape, or another characteristic, which gives **substantial value** to the goods;
- Sign which is refused registration under this provision can **never acquire a distinctive character**
 - Art. 7(3) Reg.; Art. 4(4) Dir.; [CJEU, Philips, C-299/99 \(2002\), point 75](#)



Design

- Protection stage (Art. 6(2) [Reg. 6/2002](#)*; Art. 5(2) [Dir. 98/71](#)**;
[EUIPO Guidelines](#); [case law of the GC/CJ](#), p. 450)
 - ‘In assessing individual character, the **degree of freedom of the designer** in developing the design shall be taken into consideration.’
- Infringement stage (Art. 10(2) CDR (infringement stage))
 - ‘In assessing the scope of protection, the **degree of freedom of the designer** in developing his design shall be taken into consideration.’

* Amended by [Reg. 2024/2822](#); ** Replaced by [Dir. 2024/2823](#)



Design

- Protection stage (ground for invalidity) (Art. 8 *juncto* Art. 25(1)(b) [Reg. 6/2002](#)*; Art. 5(2) *juncto* Art. 11(1)(b) [Dir. 98/71](#)**; EUIPO Guidelines on [technical function](#) & [interconnection](#); [case law of the GC/CJ](#), p. 439)
 - ‘1. A Community design shall not subsist in features of appearance of a product **which are solely dictated by its technical function.**
 - 2. A Community design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.
 - 3. Notwithstanding paragraph 2, a Community design shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.



Copyright

- Protection stage (originality criteria)

- [CJEU, *Brompton*, C-833/18 \(2020\)](#)

‘23. As regards the first of those conditions, it follows from the Court’s settled case-law that, if a subject matter is to be capable of being regarded as original, it is both necessary and sufficient that the subject matter reflects the personality of its author, as an expression of his **free and creative choices**.

24. In that regard, it must be borne in mind that, according to settled case-law, **where the realisation of a subject matter has been dictated by technical considerations, rules or other constraints which have left no room for creative freedom**, that subject matter **cannot** be regarded as possessing the **originality** required for it to constitute a work and, consequently, to be eligible for the protection conferred by copyright.’



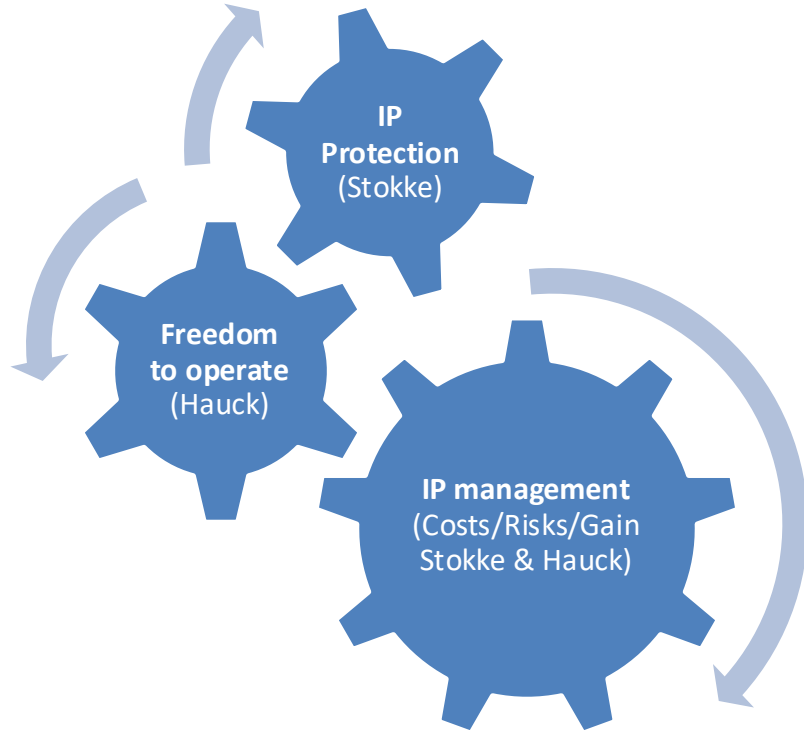
Relation to patent

- Common rationale on exclusion of IP other than patent for technical function
 - [CJEU, Lego, C-48/09 P \(2010\)](#) (TM)

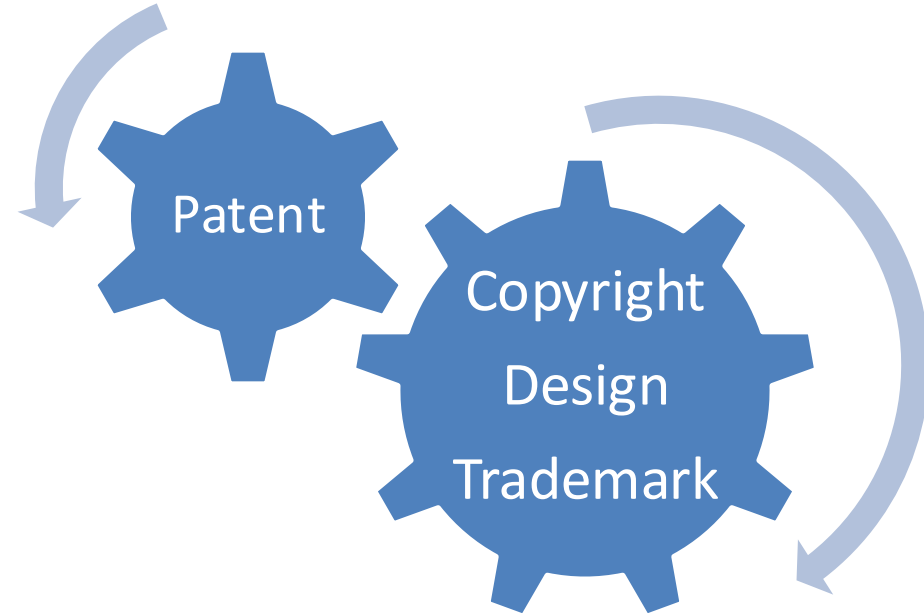
‘46. When the shape of a product merely incorporates the technical solution developed by the manufacturer of that product and patented by it, **protection of that shape as a trade mark once the patent has expired would considerably and permanently reduce the opportunity for other undertakings to use that technical solution.** In the system of intellectual property rights developed in the European Union, **technical solutions are capable of protection only for a limited period**, so that subsequently they may be freely used by all economic operators. As OHIM pointed out in its argument summarised in paragraph 37 above, that consideration underlies not only Directive 89/104 and Regulation No 40/94, with regard to trade mark law, but also Regulation No 6/2002, in relation to designs.’



Interconnected aspects



Business Analysis



Legal (and Technical) Analysis