

[Community Design Regulation \(EC\) No 6/2002](#)

Article-by-Article Commentary

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Content

A. Designs dictated by their technical function.....	1
I. Importance and scope of the provision.....	1
1. Purpose of the provision	1
2. Historical background	4
3. Scope and effect of the provision	7
II. Commentary	16
1. Preliminary remarks	16
2. Identification of the product’s ‘technical function’ and the corresponding features.....	18
a) Notion of the technical function	19
b) Differentiation of function in the case of multiplicity.....	26
c) Identification of design features covered by the exclusion	28
d) Specific issue of the relevant product.....	31
3. Interpretation of the ‘solely dictated’ notion.....	34
a) The ‘multiplicity of forms’ criterion	35
aa) Notion and judicial application	35
bb) Pro and contra remarks.....	39
b) The ‘designer freedom’ criterion occasionally applied by EUIPO	41
aa) Notion and judicial application	41

bb) Critique	43
c) The ‘causative’ criterion.....	45
aa) Notion and judicial application prior to harmonization ...	45
bb) The EUIPO approach to causative test.....	47
cc) Towards a more consistent methodology of assessment in the light of the CJ practice.....	51
B. Designs of interconnections	57
I. Importance and scope of the provision	57
1. Purpose of the provision and historical background.....	57
2. Scope and effect of the provision.....	60
II. Commentary	61
1. Notion of the product.....	62
2. The nature of interconnection.....	63
3. Impact of the connection on the shape of the product	67
4. Relation between interconnection and functioning of each product.....	68
5. The autonomous character of Art. 8 (2) CDR with respect to Art. 8 (1) CDR	69
C. Designs of modular systems.....	70
I. General remarks	70
1. Purpose of the provision.....	70
2. Drafting history.....	71
3. Effect of the provision	72
II. Further commentaries	74
1. Notion of the modular system.....	74
2. The autonomous character of Art. 8 (3) CDR with respect to Art. 8 (1) CDR	75

A. Designs dictated by their technical function

I. Importance and scope of the provision

1. Purpose of the provision

- 1 Art. 8 (1) of CDR (see art. 7(1) DD) aims at delimitating design’s scope of protection from that of a patent. Similar provisions were present in the **national legislation** of several Member States¹ long before harmonization giving an important body of case-law and doctrinal concepts (see II below). In the international law a similar requirement was set in Art. 25 (1) of TRIPS, although its wording implies that it has no mandatory character.² Within the EU trade mark law, Art. 7 (1)(e)(ii) EU TMR (see Art. 4(1)(e) TMD) plays a similar but not identical role, which deals with the relation between trade marks and technical results.³
- 2 Common **axiological points** of the a/m provisions were highlighted in the renown CJ trade mark cases.⁴ Both provisions were intended to ensure the **protection of public**

¹ See: for the French law Art. 2 (2) of ‘Loi sur les dessins et modèles’ of 14 July 1909 incorporated subsequently as Art. L 511–3 (2) of ‘Code de la Propriété Intellectuelle’ of 1 July 1992 (hereafter as CPI); for the UK law s. 1(3) of ‘Registered Design Act’ of 16 December 1949 (hereafter as RDA); for the Benelux law art. 2 (1) of ‘Uniform Benelux Design Law’ of 25 October 1966.

² More Kur, TRIPS und der Designschutz, *GRUR Int* 1995, 189, 190.

³ See detailed discussion by Hasselblatt, in Hasselblatt (ed.), *European Union Trade Mark Regulation Commentary*, Art. 7.

⁴ See recent opinion in design law of Advocate General Saugmandsgaard of 19 October 2017, Case C-395/16 *Doceram v. CeramTec*, ECLI:EU:C:2017:779; in trademark law consult also opinion of Advocate

interest, here the **freedom of innovation and access for competitors to technically optimal solutions**, by reserving the possibility of granting legal exclusivity to the more restrictive conditions of patent law (and/or possibly utility models). It is for this reason that legal doctrine considers this regulation to be an example of a **policy of ‘negative convergence’**, which prohibits the cumulative protection with patents/utility models.⁵

The applicability of this principle to designs is problematic. Recital 10 cl. 1 CDR underlines the a/m idea. However, an open definition of ‘design’ set in Art. 3 CDR means that protection may be conferred on both so-called aesthetic and functional designs (confirmed by Recital 10 cl. 2 CDR).⁶ A truism of the today design reality is that **the prevailing number of products consists of combinations of successfully intertwined aesthetic and technical/utilitarian features and it is perhaps a futile try to separate a group of designs which are presumably not determined by any considerations related to their appearance.** From a strictly legal perspective, a **question arises which designs among – broadly understood – functional ones may fall within the scope of Art. 8 (1) CDR and become partially or totally excluded from protection.**

2. Historical background

The preliminary draft of a proposal for Regulation, submitted by the Commission together with the Green Paper, contained the provision concerning designs solely dictated by a technical function as a **negative part of the legal definition** of a design.⁷ It referred to the situation where the technical effect can be achieved only by a given form, and therefore it fully determines the choice of that form. As the Green Paper explained it: ‘Understood in this way the exclusion from protection corresponds exactly to the idea/expression dichotomy of copyright law. (...) If there is no choice when designing the product with a given effect, there is no personal creativity displayed, and consequently nothing to protect (...)’.⁸ A similar view on the topic was expressed in the draft elaborated by Max Planck Institute.⁹

During the legislative work the a/m provision gained the independent status of an exclusion of protection and was laid down in Art. 9 (1) of the final proposal of the Regulation. It had the following wording: ‘A community design right shall not subsist in a design to the extent that **the realisation of a technical function leaves no freedom** as regards arbitrary features of designs’.¹⁰ The Explanatory Memorandum interpreted it by

General Ruiz-Jarabo Colomer of 23 January, 2001, mn. 32–34 in the CJ case C-299/99 *Philips v Remington* ECLI:EU:C:2001:52 and the CJ judgment of 18 June 2002, ECLI:EU:C:2002:377, mn. 78 et seq.; see also CJ case C-48/09 P *Lego Juris v OHIM – Mega Brands* ECLI:EU:C:2010:516, mn. 37, 45–46.

⁵ E. Derclaye, M. Leistner, *Intellectual Property Overlaps. A European Perspective*, p. 76–83 with reference to further doctrine.

⁶ See detailed discussion above Hasselblatt, Art. 1 and Art. 3.

⁷ Cf. art. 3 a) *in fine* of the Preliminary Draft for a Proposal for a Regulation on the Community Design, Annex 1 to the *Green Paper on the Legal protection of Industrial Design*, Commission of the European Communities, Brussels June 1991, III/F/5131/91-EN cf. http://ec.europa.eu/internal_market/indprop/docs/design/green-paper-design_en.pdf (last visited 20 June 2018).

⁸ Cf. Green Paper, mn. 5.4.6.2. p. 60.

⁹ See Art. 4, 2 of the Proposal of the MPI for a European Design Law, version of 1 August 1990, *IIC* 1991, 523 et seq. For explanations on its German version, see Ritscher, *Auf dem Wege zu einem europäischen Musterrecht*, *GRUR Int* 1990, 561, 562.

¹⁰ See Proposal for a European Parliament and Council Regulation on the Community Design presented by the Commission in Brussels on 3 December 1993, COM (93) 342 final – COD 463 cf. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1993:0342:FIN:EN:PDF> (last visited 20 June 2018). That Art. 9 was entitled ‘Non-arbitrary technical designs and designs of interconnections’ and had a similar structure to the present Art. 8 CDR.

restricting it again to the cases of forms which follow the function **without any possibility of variation**, unable to reflect designer's creativity and equally devoid of an individual character.¹¹ Although it was maintained that this exclusion applies e.g. only to certain features and rarely catches the whole design, several issues remained quite unclear such as: the notion and extent of required variation, the notion of technical function, the impact of unprotected features on other parts of design or on the whole design, the relation with the individuality condition, which was not supposed to imply any aesthetic connotations.¹² Finally, the provision reached the present wording and nomenclature of Art. 8 (1) CDR.

- 6 The fact that the EU legislator abandoned his first idea of treating functionality as a negative definition of a design calls here for a comparative remark with the US design law. As emphasized by leading commentators, the US statutory conditions for design protection are defined in a **positive way** i. e. ornamentality and usefulness, and **without a separate negative requirement** for a design to be non-functional. This means that **'usefulness and ornamentality are not mutually exclusive characteristics'**, which fits the reality of modern designs combining form and function.¹³ The EU criterion of individual character read in the light of Recital 10(2) CDR seems also to accommodate this perspective, although the unclear scope of prohibition of Art. 8 (1) CDR still blurs the framework/setting.

3. Scope and effect of the provision

- 7 The wording of Art. 8 (1) CDR clearly indicates that it represents a legal exclusion which **selectively affects certain design 'features'**. The statement 'Community design shall not subsist' in such kind of features means that they are **excluded ex lege** from the design protection.
- 8 An important question concerns the status of features solely dictated by a technical function (but also must fit features) evaluated in relation to the remaining part of the design as well as in relation to the whole appearance of a design. The EUIPO and the GC practice to date, also shared by important voices of legal doctrine, have consequently **excluded these features from the assessment of novelty and individual character** – in other words from a comparison of two designs at issue in invalidity proceedings.¹⁴ This also finds a support in the wording of Recital 10 cl. 4 CDR which additionally seems to imply that the assessment for protection should be restricted to the remaining part of the design.¹⁵
- 9 As regards the **impact of functionally dictated features on a design's scope of protection**, it is clear that similarities pertaining to such features cannot alone be

¹¹ See official commentary to Art. 9 (1) inserted as an introductory part to the Proposal for a Regulation on the Community Design *ibidem*, p. 14–15.

¹² See Phillips in Franzosi (ed.), *European Design Protection*, p. 84–87; Kur, Die Auswirkungen des neuen Geschmacksmusterrechts auf die Praxis, *GRUR Int* 2002, 664; Otero Lastres, Gedanken zur Rechtslinie 98/71/EG über den Rechtsschutz von Mustern und Modellen, *GRUR Int* 2000, 415, 416.

¹³ Consult C. Carani, D. Barnes, United States in: Carani (ed.), *Design Rights. Functionality and Scope of Protection*, p. 14–15.

¹⁴ EUIPO *Guidelines for Examination of Design Applications* s. 5.5.2.1, p. 33. See e.g. GC of 21/05/2015 in joined cases T-22/13 and T-23/13, *Senz Technologies v. Impliva*, ECLI:EU:T:2015:310, par. 101; BoA dec. of 27/01/2016 Cases R 1517/2014-3 and R 2114/2014-3 – Hoses; BoA dec. of 14/04/2014 – R 1771/2012-3 – Game cartridges. Consult e.g. above Brückner-Hofmann, Art. 6; Stone, *European Union Design Law*, mn. 6.29; Ruhl, *Gemeinschaftsgeschmacksmuster*, Art. 8, mn. 7, 8; Laddie, *The Modern Law*, mn. 44.59, 44.66, 44.72.

¹⁵ 'Consequently, those features of a design which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether **other features** of the design fulfill the requirements for protection' – Rc 10 CDR in fine (underl. LB).

conclusive for a finding of infringement. A thorny question arises here whether such features are upfront disregarded from the comparison of the overall impressions of two designs at issue in infringing proceedings, or – on the contrary – they may enjoy *ad casum* some reduced weight in the assessment.

Having in mind the symmetry between the notion of individual character defined by Art. 6 CDR and the scope of protection set forth in Art. 10 CDR, a natural consequence would be to **disregard** the features in question also for the purpose of an **infringement test**.¹⁶ Historically, such an approach seems to be underlined by the Green Paper which disapproved the protection of an ‘overall concept’ of a design, understood as too broad protection, which ‘comprising **equally all** the functional elements would have repercussions on competition on the market place’ (underl. LB).¹⁷ In addition, considering the fact that EUIPO Guidelines allow for partial invalidity of a design, whereby validity is sustained under the condition that features caught by Art. 8 (1) and (2) CDR are disclaimed from the overall appearance of the whole design, it was also stated that such features were excluded from the extent of a design right too.¹⁸

The other approach considering the **impact of those features on design’s overall impression** finds support in certain judgements¹⁹ and voices of the EU legal doctrine.²⁰ It has been recently the subject of ample debates among design practitioners at AIPPI World Congress 2016²¹ which concluded with a Resolution containing several postulates *de lege ferenda*, including the following one:

‘In the assessment of the scope of protection of a Registered Design, no visual portion of the Appearance of the Product should be excluded from consideration, even if the appearance of any such portion is dictated solely by the functional characteristics or functional attributes of any such portion of the Product, but such portions may be given less weight in the assessment. While the functional characteristics or functional attributes of any such portion should not be protected, all visual aspects of such portion, including its size, position and spatial relationship relative to the Appearance of the Product, should be taken into account when assessing the scope of protection of the Registered Design.’

The bottom-line argument is that the **dissecting operation of excluding the contours (shape) of a particular element eliminates in fact** many other, perhaps, important aspects of configuration reflected by the **relationship** between the disregarded feature and the remaining elements of a design (for instance the position and proportion of features).²² In addition it eliminates the possibility of taking into account the ‘value’ of a

¹⁶ This was the opinion of the author expressed in the first edition of the Commentary see Brancusi, (ed. Hasselblatt) *Community Design Regulation Commentary* (2015) Art. 8, mn 6, p. 129. See recently J. Loje, European Union in: Carani (ed.), *Design Rights. Functionality and Scope of Protection*, p. 72; Musker in: Gielen, von Bomhard (ed.), *Concise European Trade Mark and Design Law*, mn 2 p. 651, noting that both comparisons are ‘identical’.

¹⁷ Cf. Green Paper, mn. 5.4.3.1, p. 58. Different policy considerations underlying the treatment of functional features were recently discussed in Brancusi, Poland (II. Scope of protection) in: Carani (ed.), *Design Rights. Functionality and Scope of Protection*, p. 460–462.

¹⁸ Brancusi, (ed. Hasselblatt) *Community Design Regulation ... ibidem*. Consult *EUIPO Guidelines for Examination of Design Invalidation Application*, para. 5.10, p. 47.

¹⁹ See UK case *Sealed Air v Sharp Interpack & Sharpak Aylesham* [2013] EWPC 23, 30 May 2013.

²⁰ See Schaap/van den Berg/George, Art. 10 in (ed. Hasselblatt) *Community Design Regulation Commentary* (2015), mn 5 p. 152; Ruhl, *Gemeinschaftsgeschmacksmuster*, Art. 10, mn. 5, 6; Musker, *Community Design Law*, mn. 1–042, p. 41 for an earlier commentary.

²¹ <http://aippi.org/wp-content/uploads/2016/10/Resolution-on-Requirements-for-protection-of-designs-English.pdf>.

²² See Christopher V. Carani, *Design Patent Functionality: A Sensible Solution*, 7 *LANDSLIDE* 19 (2014) (discussing problems with the feature-exclusion approach and proposing alternative approach); see also Christopher V. Carani, *Design Patents Take Center Stage*, 5 *LANDSLIDE* 3 (2013) (criticising the functional feature exclusion approach; referring to it as ‘masking tape approach’).

sum of functionally determined elements, if their composite overall appearance may have a clear aesthetic effect, as it was in the case of a dolphin shaped knife, which had its EU TM registration denied.²³

- 12 The above concerns urge for **clear guidelines** concerning the impact of functionally excluded design features on both the scope of protection and the extent of a design right. This could be achieved either via **legislative amendments** aiming to reformulate the provisions (together with the Recitals) in question – which would be an optimal step – or via **CJ interpretation** in cases referred with preliminary questions. It is worth noting here that the first of such referrals based on Art. 8 CDR – see *Doceram case C-395/16* – does not address questions concerning the scope and effect of these legal provisions.
- 13 Art 8 (1) CDR is not an obstacle to registration to be examined by the Office during the registration procedure cf. Art. 47 CDR read in conjunction with Art. 45 CDR. However, it may be invoked as a **ground for invalidity** cf. Art. 25 (1)(b) CDR,²⁴ which refers to a failure of fulfilling the requirements of Art. 4 to 9 CDR. In principle, this ground is not raised ex officio as in the case of trade mark provision of Art. 7 (1)(e) CTMR.²⁵ Where the ground of Art. 8 CDR is **not explicitly** included in the invalidity application form – where general reference is made to Art. 25 (1)(b) CDR – the reasoned statement (deposited observations) **should directly refer to it and substantiate it**.²⁶ Otherwise OHIM is not entitled to choose Art. 8 CDR among other possible grounds listed in Art. 25 (1)(b) CDR, and invalidate the design on this basis.²⁷ This results directly from Art. 28 (1) (b) CDiR which requires any application for a declaration of invalidity to contain facts, evidence and arguments submitted in support of the statement of the invalidity grounds.
- 14 As a matter of principle, Art. 8 (1) CDR constitutes an invalidity ground to be analysed **at a prior stage of examination**, before testing design's validity on the basis of such criteria as lack of novelty and/or individual character. However, this exclusion may be in casu (e.g. for certain features of a vehicle wheel) overtaken by the ground related to the requirement of visibility of a component part cf. Art. 4 (2) CDR.²⁸ In addition, technical features meant to enable mechanical interconnection between two products which might be caught by exclusion set in Art. 8 (2) CDR, should be firstly analysed on this ground, subsequently should need be, on the grounds of Art. 8 (1) CDR. However recent EUIPO decisions demonstrate an opposite practice, i.e. the test on Art. 8 (1) CDR is assessed in the first place.²⁹
- 15 According to the Guidelines and practice of the EUIPO, the exclusion should relate to **all 'essential' features** of a design if it is aimed to **invalidate it entirely**. However, pursuant to Art. 25 (6) CDR, the possibility to rule on a **partial invalidity** depends on safeguarding the 'identity' of the design submitted in an amended form. As the EUIPO

²³ Cf. GC case T-164/11 *Reddig v. OHIM & Morleys*, ECLI:EU:T:2012:443.

²⁴ More on the invalidity issues see below Spintig, Art 25.

²⁵ See GC Case T-508/08 *Bang Olufsen A/S v OHIM*, ECLI:EU:T:2011:575, mn. 33–34, 43–44.

²⁶ Consult BoA dec. of 18/10/2015 – R 831/2014-3 – Extinguishers, mn. 37 or cases of the Invalidity Division: dec. of 24/09/2012 *Clap-banner Limited* ICD 8577, mn. 3, 9; dec. of 14/03/2012 *Sunflex Europe GmbH* ICD 8306, mn. 5; dec. of 03/01/2012 *ACV Manufacturing NV* ICD 8368, mn. 20.

²⁷ See BoA' dec. of 20/12/2012–R-971/2011–3– Combine Harvesters, mn. 14–18 annulling the decision of Invalidity Division of 3/03/2011 ICD 7081, which ruled on design's invalidity on the ground of Art. 8 CDR not expressly raised and substantiated by the applicant. Invalidity Division passed also a decision raising ex officio Art 8 (2) CDR on 09/01/2012, *Camatic Pty Ltd* ICD 8384 with approving comments by Stone, *European Union Design Law*, mn. 6.60.

²⁸ See Invalidity Division dec. of 22/05/2013 *Estrella Dominguez Martinez* ICD 8701, mn. 20–22.

²⁹ Cf. BoA joint decisions of 14/04/2014 *Game cartridges* – R 1769/2012-3 (R 1770/1771/1772 – 2012-3); see also BoA dec. of 29/04/2010 – R-211/2008-3 – *Fluid distribution equipment*.

Guidelines clearly state, such modification may consist in disclaiming features covered by Art. 8 CDR or features which do not affect the novelty or individual character of the design (such as minor details).³⁰

II. Commentary

1. Preliminary remarks

Art 8 (1) CDR, being an exclusion, requires a **restrictive interpretation**. Two issues remain mutually connected, i. e. identifying the technical function of the product and the features performing it, and determining the impact of the function on their appearance (shape). The latter allows to select those features considered to be ‘solely dictated’ by the technical function, and therefore left unprotected. Such algorithm of assessment has been slowly introduced in EUIPO’ practice since 2009,³¹ which remains the main judicial source on the topic. Several GC and CJ judgments passed on design law have only indirectly touched upon the issue, while the first CJ ruling addressing directly Art. 8 (1) CDR in *Doceram* case C-395/16 was recently delivered.³² The CJ considered the expression “features of the appearance of a product which are solely dictated by its technical function” to be an AUTONOMOUS CONCEPT of EU law which requires an uniform interpretation in all Member States (see mn 21 of the CJ judgment).

It is worth noting that **CJ argumentation developed in trade mark cases** on the basis of Art. 7 (1)(e)(ii) EUTMR **cannot be transposed as such** into design field due to different policies underpinning the functionality issues and different legal criteria.³³ However Advocate General Saugmandsgaard in his Opinion delivered in case *Doceram v. CeramTec* recommends to apply (by analogy) the algorithm of assessment settled in trade mark case-law.³⁴ Fortunately no reference to trade mark law was made by the CJ. It seems important here to emphasize that the main concern of anticompetitive effects of trade marks protection is basically a consequence of the legal possibility to renew it indefinitely. As a result, trade mark protection may create perpetuated monopoly over technical solutions embodied in a three-dimensional sign or other characteristics of a product which may enable the owners to maintain market dominance and impose supra-competitive prices. Such risk does not necessarily emerge in case of design protection, which is set within strict time-limits.³⁵ The exclusion provided for in Art. 7 (1)(e)(ii) EUTMR should thus receive a broader scope of application than that of Art. 8 (1) CDR, the difference in their wording being an additional proof of this (i. e. Art. 7 (1)(e)(ii) EUTMR deals with shapes or another characteristics of goods ‘necessary to obtain’ (a technical result) while Art. 8 (1) CDR mentions features ‘solely dictated’ (by the technical function).³⁶ It seems, nevertheless, that CJ’ ruling in trade mark field has, to a certain extent, influenced the EUIPO’s practice in designs.

³⁰ Cf. EUIPO *Guidelines for Examination of Design Invalidity Application* s. 5.10, p. 47.

³¹ A major turn in EUIPO’s practice took place after BoA decision of 22/10/2009– R-690/2007-3– *Chaff Cutters*.

³² CJ judgment of 8 March 2018, *DOCERAM GmbH v CeramTec GmbH*, ECLI:EU:C:2018:172.

³³ See L. Brancusi, *Designs Determined by the Product’s Technical Function: Arguments for an Autonomous Test*, *EIPR* 2016, p. 23–25.

³⁴ See Opinion of 19 October, 2017, to Case C-395/16, paras 43–46.

³⁵ See opinion of Advocate General Ruiz-Jarabo Colomer of 23 January 2001, mn. 16, 36–38 in CJ case C-299/99 *Philips v Remington* ECLI:EU:C:2001:52.

³⁶ See Eichmann in Eichmann/Kur (ed.), *Designrecht*, § 2, mn. 96, 97; Ruhl, *Gemeinschaftsgeschmacksmuster*, Art. 8, mn. 21; Steinberg in: Büscher, Dittmer, Schiwy, *Gewerblicher Rechtsschutz*. Art. 8 GGV, mn. 6, p. 2239.

2. Identification of the product's 'technical function' and the corresponding features

- 18 The first step of assessment consists in **identifying the function** of the product and, on its basis, appropriate **design features enabling** its performance. A restrictive, literally approach may require that only the 'technical' function of the product should have relevance, and not any utilitarian purpose which derives from the nature/purpose of the product itself. For instance, the common use and purpose of a bag is to carry an item, yet the technical function may incidentally be manifested in a specific mechanism of closing it. However, the present EU case-law demonstrates a **broad** understanding of the notion of functionality.
- 19 **a) Notion of the technical function.** According to EUIPO Guidelines,³⁷ a technical function should be determined by considering the **indication of the product** included in the application for registration and subsidiarily, i. e. 'where necessary', the design itself, as it helps to clarify 'the nature of the product, its intended purpose or its function'. Reference was made, **by analogy**, to GC case T- 9/07 *Grupo Promer v OHIM & PepsiCo* ECLI:EU:T:2010:96, mn. 56, although it should be stressed that GC' findings dealt with the category of goods identified in casu to determine the informed user and the scope of designer's freedom. A practical suggestion was advanced to rely more on the product disclosed in the graphical representation of an RCD than on the literal indication of product whereas for an unregistered design to relate to the product which first time disclosed that design.³⁸
- 20 By way of **example from EUIPO practice**: for a design classified as 'electronic devices' or 'handheld computers' its 'technical function' was described as 'to record, transmit and display information and to allow the user to be mobile, regardless of the place of use';³⁹ whereas the function of a cot bomber is 'to cover a cot bar', of a light emitting diode is 'to illuminate bottles filled with liquid with a pleasant and attractive lighting effect' or the function of an expandable hose is to convey a fluid and to expand/contract while being used/not used.⁴⁰ In many cases the nature of the product resulting from the graphical representation (and the description) sufficed to consider the implicit assessment of the function, e. g. the purpose of a game cartridge to store and transfer data into an interconnecting device or the purpose of a cover (case) to protect portable computers.⁴¹
- 21 By equating the nature/purpose/function (of a product) and giving them a similar weight in assessment it is **difficult to make** a clear **distinction** between the functional aspects identified to determine the restrictions of **designer's freedom** (cf. Art 6 and 10 CDR) and the scope of functionality required for **the exclusion** of Art. 8 (1) CDR. In practice, such delineation is essential. It is important to note that the settled GC and the CJ case-law concerning the 'overall impression' test expressively requires to establish the degree of designer's freedom on the basis of constraints imposed by the 'technical

³⁷ See EUIPO *Guidelines for Examination of Design Invalidity Application*, s. 5.3.2, p. 26.

³⁸ Consult Stone, *European Union Design Law*, mn. 6.40–41.

³⁹ Decisions of the Invalidity Division in *Samsung Electronics* cases: of 05/07/2013 ICD 8717, mn. 51; of 05/07/2013 ICD 8539, mn. 57. A similar approach in *Samsung Electronics* decisions of 14/05/2013 ICD 8721, mn. 51; of 15/05/2013 ICD 8683, mn. 90; of 10/06/2013 ICD 8537, mn. 23.

⁴⁰ BoA dec. of 25/07/2017 - R 208/2016-3 - Cot bumpers; BoA dec. of 06/06/2016 - R 1341/2015-3 - Light emitting diodes, mn. 35 and BoA dec. of 23/01/2017 - R-1525/2014-3 - Hoses, mn. 37 et seq.

⁴¹ BoA dec. of 07/05/2014 - R 1996/2012-3 - *Protective cover* or BoA dec. of 14/04/2014 - R 1771/2012-3 - *Game cartridges*.