Industrial property: legal protection of designs

2004/0203(COD) - 12/12/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a legislative resolution based on the report drafted by Klaus-Heiner **LEHNE** (EPP-ED, DE), and made some amendments, in the first reading of the co-decision procedure, to the proposal for a directive amending Directive 98/71/EC on the legal protection of designs.

It should be recalled that the proposed directive relates to design protection of spare parts intended to restore the appearance of complex products. It seeks to achieve the complete liberalisation of the secondary market in spare parts.

The main amendments are as follows:

transition period: Member States under whose existing legislation protection as a design exists for a design which constitutes a component part of a complex product used within the meaning of Article 12(1) of Directive 98/71/EC for the purpose of the repair of that complex product so as to restore its original appearance, may retain that design protection for five years after the entry into force of the Directive. This measure stems from an agreement reached between the political groups to facilitate the transition to a new system;

consumer information: consumers must be duly informed about the origin of the product used for the repair by the use of a marking, such as a trade mark or a trade name, or in another appropriate form so that they can make an informed choice between competing products offered for use in effecting the repair. Moreover, Article 14(1) of Directive 98/71/EC shall not apply where the primary purpose of putting the component part on the market is other than the repair of the complex product.

Article 14(1) shall apply only in respect of visible component parts in the after market once the complex product is marketed in the primary market by the holder of the design right therein or with his consent.

Parliament also introduced a new recital stating that Directive 2007/46/EC establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, includes provisions for the testing of spare parts manufactured by independent producers to ensure that they meet safety and environmental criteria and the new procedures which it prescribes will provide enhanced consumer safeguards in a fully deregulated market.