Industrial property: protection of Community design

2022/0391(COD) - 14/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 447 votes to 14, with 66 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002.

This proposal and the parallel proposal to recast Directive 98/71/EC of the European Parliament and of the Council aim to ensure that the design protection system as a whole is adapted to the digital age and becomes significantly more accessible and efficient for independent designers, SMEs and design-intensive industries, by lowering costs, simplifying procedures, making them faster and more predictable, and increasing legal certainty.

The proposal to amend the Regulation meets the following objectives:

- to modernise and improve existing provisions, by amending obsolete provisions, increasing legal certainty and clarifying rights as regards their scope and limits;

- to improve the accessibility, effectiveness and affordability of the design protection systems, by simplifying and streamlining procedures and adapting and optimising the level and structure of fees payable.

Overall, Parliament supports the proposal. The European Parliament's position at first reading under the ordinary legislative procedure amends the proposal as follows:

Duration of the protection of the registered EU design

Protection by a registered EU design should arise upon registration by the Office. A registered EU design should be registered for a period of five years calculated from the date of filing of the application for registration. The right holder may renew the registration for one or more periods of five years each, up to a total term of protection of 25 years from the date of filing of the application for registration.

Repair clause

An amendments stipulated that the manufacturer or seller of a component part of a complex product should not be required to guarantee that the component parts they make or sell are ultimately used by end users for the sole purpose of repair so as to restore the original appearance of the complex product.

Grounds for invalidity

The amended text stated that an EU design may be declared invalid only in the following situations:

- the EU design is in conflict with a prior design which has been made available to the public prior to or after the date of filing of the application, or if priority is claimed, the date of priority of the EU design, and which is protected from a date prior to the said date:

- the design constitutes an improper use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property, or of badges, emblems and escutcheons other than those covered

by that Article and which are of particular public interest in a Member State, and without the consent of the competent authorities to the registration having been given.

Promoting the system

The amended text stressed that as a complement to the administration of the EU design system, it is essential that the Office adequately promotes that system with a view to raising awareness and improving understanding of the possibility, value and benefits of obtaining and using design protection at Union level.

Cooperation

In order to facilitate the provision of information and administrative guidance to applicants on the procedure for the registration of EU designs, it is appropriate that the Office and the central industrial property offices of the Member States and the Benelux Office for Intellectual Property cooperate with each other to that effect under the cooperation framework laid down in Regulation (EU) 2017/1001.

The Office should provide appropriate technical guidance and assistance, both online and offline, in order to facilitate the use of electronic means and prevent digital divide.