

Industrial property: legal protection of designs

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The Committee adopted (23 votes for, one against and one abstention) the report by Manuel MEDINA ORTEGA (PES, E) on the legal protection of designs. At present, the chief point of disagreement concerns car repairs and whether or not garages should be obliged to use the manufacturers' spare parts. Since Council failed to reach agreement on this point, the common position allows member states to decide for themselves on whether or not to introduce a restrictive repairs clause. The Legal Affairs Committee has stuck to Parliament's position at first reading, which is basically the same as the Commission's position ie. that garages would be allowed to use imitation parts based on the manufacturer's design provided the following conditions were observed: - the component is part of a "complex product" (e.g. a motorbike or car) upon whose appearance the protected design is dependent (for example, the wing of a car), - the purpose of the repair is to restore the original appearance, - the origin of the part is clearly indicated by an indelible marking, such as a trademark or tradename, - the right holder is informed of the use of the design, and is offered "reasonable remuneration" for that use. The rapporteur regards this as a fair solution and regrets the fact that Council was unable to agree on a solution whereas Parliament and the Commission were both looking for a solution to enable a single market for parts to exist. It is possible to register a design if it is new. Registration is carried out by applying to national industrial property patent offices. If a design is registered, the owner has exclusive rights to use the design. Third parties may not use it without authorisation. Protection lasts five years and can be renewed several times, but not exceed 25 years in total, but as far as car parts are concerned there is at present no protection in the UK while in France it can last 25 years. On the other points, the Committee reinstated most of the amendments at first reading, which relate to: a clearer definition of the concept of a design. Protection is also available in member states which do not have a formal system of registration but one of official publication. The idea of "relative novelty" is introduced, which protects European industry in cases where there is a similar design in another part of the world but where those concerned could not reasonably have known about it. After the vote, Mr DE CLERCQ said that, it was important that the EU should devise an appropriate legal framework to enable it to face up to competition from the United States and Japan. If necessary, Parliament would take the matter to conciliation and defend its position firmly.