Industrial property: protection of Community design

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OBJECTIVE: to establish a Community system for the protection of designs in order to eliminate the present need to carry out national registrations under different national procedures within the Community. CONTENT 1. This regulation made it possible to establish a right in a design which would be valid throughout the Community. As with trade marks, this Community system would co-exist at least temporarily with national protection systems which would themselves be harmonised to a large degree. 2. The regulation provided for two forms of protection: *without any formalities, as an 'unregistered Community design'; * as a 'registered Community design', if it was registered at the Community Design Office. 3. Definition of 'design' within the meaning of the regulation. Definition of cases of exemption from protection, for example designs whose publication is contrary to public policy. 4. In order to be able to enjoy protection, a design had to be new and have an individual character. 5. Statement of the term and scope of protection, drawing a distinction depending on whether or not the design was registered. The former was protected for a minimum term of five years and a maximum term of twenty-five, and the protection conferred on its holder both the right to prevent its use by third parties and the exclusive right to use the design. The latter granted protection against copying for three years and accorded the exclusive right to prevent use by third parties. 6. Limitation et exhaustion of rights conferred by the Community design. These did not extend, for example, to acts done for experimental purposes. 7. Rules on invalidity of designs. Conditions, grounds and effects of invalidity. Rules on surrender of a registered design. 8. Rules on ownership of Community designs: criteria for connection to the Member State of registration comparable to national designs, transfer, rights in rem (security etc) in a design, levy of execution, bankruptcy, licensing and effects vis-à-vis third parties (possibilities of asserting rights vis-à-vis third parties). 9. Rules governing the application for registration: filing of application and forwarding to the Office, conditions with which applications must comply, date of filing and rules governing right of priority. 10. Rules governing the registration procedure: examination of compliance of the application with formal requirements, registration and publication. 11. Appeals from the decisions of the Office: decisions subject to appeal, persons entitled to appeal, time-limit and form of appeal etc. 12. Procedure before the Office: obligation to state reasons and to give notification of decisions, exchange of publications with central industrial property services etc. 13. Jurisdiction and procedure in legal actions relating to Community designs. 14. Community Design Office: organisation, management, distribution of powers within the Office etc. Source : European Commission - Info92 08/95