Industrial property: protection of Community design

1993/0463(CNS) - 12/12/2001 - Final act

PURPOSE : to protect Community designs in the European Union. COMMUNITY MEASURE : Council Regulation 6/2002/EC on Community designs. CONTENT : a unified system for obtaining a Community design to which uniform protection is given with uniform effect throughout the entire territory of the Community would further the objectives of the Community as laid down in the Treaty. Only the Benelux countries have introduced a uniform design protection law. In all other Member States the protection of designs is a matter for the relevant national law and is confined to the territory of the Member State concerned. Identical designs may be therefore protected differently in different Member States and for the benefit of different owners. This inevitably leads to conflicts in the course of trade between Member States. The substantial differences between Member States' design laws prevent and distort Community-wide competition. This Regulation introducing legal protection for designs, basically aligned on the substantive provisions of Directive 98/71/EC, is intended to display uniform effect throughout the entire territory of the Community. It provides for both registered and unregistered designs. Registered designs will be managed by the Office for Harmonisation in the Internal Market (Trademarks and Designs) in Alicante. With regard to the requirements for protection, a design shall be protected by a Community design to the extent that it is new and has individual character. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character: - if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and - to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character. As regards the commencement and the term of protection of the registered Community design, upon registration by the Office, a design which meets the requirements under Section 1 (requirements for protection) shall be protected by a registered Community design for a period of 5 years as from the date of the filing of the application. The right holder may have the term of protection renewed for one or more periods of 5 years each, up to a total term of 25 years from the date of filing. ENTRY INTO FORCE : this Regulation shall enter into force on 06.03.2002. Applications for registered Community designs may be filed at the Office from the date fixed by the Administrative Board on the recommendation of the President of the Office.