Basic information

2022/0391(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Industrial property: protection of Community design Amending Regulation 2002/6 1993/0463(CNS) **Subject** 3.50.16 Industrial property, European patent, Community patent, design and pattern	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	LEBRETON Gilles (ID)	28/02/2023
	Shadow rapporteur MANDERS Antonius (EPP) GARCÍA DEL BLANCO Ibán (S&D) KARLESKIND Pierre (Renew) BREYER Patrick (Greens/EFA) STANCANELLI Raffaele (ECR) MAUREL Emmanuel (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	BRETON Thierry

Key events

Date	Event	Reference	Summary
28/11/2022	Legislative proposal published	COM(2022)0666	
12/12/2022	Committee referral announced in Parliament, 1st reading		
24/10/2023	Vote in committee, 1st reading		
24/10/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
06/11/2023	Committee report tabled for plenary, 1st reading	A9-0315/2023	Summary
08/11/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
09/11/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
24/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
14/03/2024	Decision by Parliament, 1st reading	T9-0164/2024	Summary
14/03/2024	Results of vote in Parliament		
10/10/2024	Act adopted by Council after Parliament's 1st reading		
23/10/2024	Final act signed		
18/11/2024	Final act published in Official Journal		

Technical information

Procedure reference	2022/0391(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation 2002/6 1993/0463(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 118-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/10809

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE749.960	15/06/2023	

Amendments tabled in committee		PE751.776	13/07/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0315/2023	06/11/2023	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0164/2024	14/03/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00096/2023/LEX	23/10/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2022)0666	28/11/2022	
Document attached to the procedure	SEC(2022)0422	28/11/2022	
Document attached to the procedure	SWD(2022)0367	28/11/2022	
Document attached to the procedure	SWD(2022)0368	28/11/2022	
Document attached to the procedure	SWD(2022)0369	28/11/2022	
Commission response to text adopted in plenary	SP(2024)350	22/07/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	ES_PARLIAMENT	COM(2022)0666	15/02/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0101/2023	22/03/2023	

Additional information

Source	Document	Date
EP Research Service	Briefing	09/01/2024
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	**Role**	**Committee**	**Date**	**Interest representatives**
LEBRETON Gilles	Rapporteur	JURI	14/11/2023	Federation of the European Sporting Goods Industry

Final act	
Regulation 2024/2822 OJ OJ L 18.11.2024	Summary

Industrial property: protection of Community design

2022/0391(COD) - 18/11/2024 - Final act

PURPOSE: to improve the protection of EU industrial designs.

LEGISLATIVE ACT: Regulation (EU) 2024/2822 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.

CONTENT: the amended regulation on community designs and the revised directive on the legal protection of designs - update the current design legislation to improve the protection of industrial designs in the era of digital designs and 3D printing.

Objectives

The regulation and the directive will make the procedure to register designs at EU level cheaper and easier and will harmonise procedures between European and national systems.

The amending regulation is driven by the following objectives:

- **modernising and improving existing provisions**, by amending outdated provisions, increasing legal certainty and clarifying rights in terms of scope and limitations;

- **improving the accessibility, efficiency and affordability** of registered Community design protection, by simplifying and streamlining procedures, and adjusting and optimising the level and structure of payable fees.

The main elements of the amending regulation are the following:

Duration of protection of the registered EU design

Protection of a registered EU design will arise upon registration by the Office. A registered EU design will 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.

Terms of protection

In order to ensure legal certainty, the regulation clarifies that protection is conferred upon the right holder, by way of registration of an EU design, for those design features of a product, in whole or in part, which are shown visibly in an application for registration of such design and made available to the public by way of publication.

The registration of a design will confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.

Repair clause

The regulation introduced a “repair clause” with new rules to exempt from design protection the spare parts used for repair of complex products (such as spare parts for the car-repair sector). There will be a harmonised transitional period to allow that existing designs of component parts are protected during the transition from the existing legal framework to the legislation adopted today.

This clause aims to liberalise the spare parts market and ensure that more accessible spare parts for repair are made available to consumers across the EU.

Filing of applications

An application for a registered EU design will be filed at the Office. The Office will issue to the applicant, without delay, a receipt which will include at least the file number, a representation, description or other identification of the design, the nature and the number of documents and the date of their receipt. In the case of a multiple application, the receipt issued by the Office will specify the first design and the number of designs filed.

Fees and charges

The Executive Director will lay down the amount to be charged for any services rendered by the Office other than those set out in the Annex, as well as the amount to be charged for publications issued by the Office.

Fees and charges due to the Office will be paid by the methods of payment determined by the Executive Director with the consent of the Budget Committee. The regulation **increases EU-wide fees**, which will be higher than in national-only protection regimes, to reflect the wider territorial scope of design protection at EU level.

ENTRY INTO FORCE: 2.12.2024.

APPLICATION: from 1.5.2025.

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.

Industrial property: protection of Community design

2022/0391(COD) - 06/11/2023 - Committee report tabled for plenary, 1st reading/single reading

The Legal Affairs Committee adopted the report by Gilles LEBRETON (ID, FR) 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.

As a reminder, the proposal aims to modernise the European design protection system, in particular to adapt it to the digital age, and also to make this protection more attractive to independent designers and businesses, especially SMEs.

The committee recommended that the European Parliament's first-reading position under the ordinary legislative procedure should amend the Commission's proposal. Members broadly endorse the proposed guidelines, but suggest amendments aimed primarily at improving legal certainty.

European Union Intellectual Property Office

The European Union Intellectual Property Office should provide the public with frequent and clear information on these tasks, in order to publicise and promote the possibilities of registering an EU design.

Disclosure

Members note that the scenario where an illegal copy of an (unregistered) design is used as a disclosure against a later registered EU design is not contemplated. This situation significantly harms the rights of users of the design system, and it is unclear whether it constitutes ‘an abuse in relation to the designer’.

To ensure that consumers are not misled but are able to make an informed choice between competing products that can be used for repair purposes, Members believe it is necessary to make it explicitly clear in the legislation that the repair clause cannot be invoked by the manufacturer or seller of a part who has not duly provided consumers with detailed information on the origin of the product and the identity of its manufacturer to be used for the purposes of repairing the complex product. The indication of the manufacturer's identity should include at least the manufacturer's name, the geographical address of its registered place of business and, where appropriate, its telephone number or e-mail address.

Filing and forwarding of applications

From now on, it should only be possible to file an EU design application with the Office. However, Members believe that Member States should establish a ‘one-stop shop' through which applicants can receive guidance, legal and technical support.

Priority claims

The Executive Director may determine that the documentation to be provided by the applicant in support of the priority claim may consist of less than the documentation required under the implementing acts adopted pursuant to Article 42a, subject to compliance with the principle of equal treatment between applicants and provided that the information required is available to the Office from other sources.

Taking evidence

The Executive Director should determine the amounts of expenses to be paid, including advances, to cover the costs of taking of evidence.

Database

In addition to the obligation to keep a register, the Office will collect and store in an electronic database all information provided by holders or any other party to proceedings under this Regulation or acts adopted pursuant thereto.

The Executive Director should determine the conditions of access to the database and the manner in which the contents, other than the personal data, may be made available in machine-readable form, including the charges for such access if it is not free of charge. Any fees to be paid for accessing the database should in no case exceed the actual cost of the costs directly incurred as a result of such access.

Entitlement

Where the entitlement is not conditional upon the requirement of special professional qualifications, the person applying to be entered on the list who acts in design matters before the Benelux Office for Intellectual Property or a central industrial property office should have gained professional experience in the field of designs for at least five years.

Competence

Any other unit or person appointed by the Executive Director for this purpose shall be competent to take any decision within the framework of the procedures prescribed by the regulations, provided that each of the persons so appointed has sufficient professional experience to enable him to make an effective contribution to the protection of designs.

Fees and payment of fees

Where an excessive sum is paid to cover a fee or a charge, the excess should be refunded.

Members also introduced amendments to increase the amount of renewal fees (annex).