Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2022/0391(COD)	Awaiting Council's 1st reading position
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		28/02/2023
		LEBRETON Gilles	
		Shadow rapporteur	
		MANDERS Antonius	
		GARCÍA DEL BLANCO Ibán	
		KARLESKIND Pierre	
		BREYER Patrick	
		STANCANELLI Raffaele	
		MAUREL Emmanuel	
	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

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 71)		
09/11/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
24/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
14/03/2024	Results of vote in Parliament		
14/03/2024	Decision by Parliament, 1st reading	T9-0164/2024	Summary

Technical information

Procedure reference	2022/0391(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2002/6 1993/0463(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 118-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	JURI/9/10809

Documentation gateway

Legislative proposal		COM(2022)0666	28/11/2022	EC	
Document attached to the procedure		SEC(2022)0422	28/11/2022	EC	
Document attached to the procedure		SWD(2022)0367	28/11/2022	EC	
Document attached to the procedure		SWD(2022)0368	28/11/2022	EC	
Document attached to the procedure		SWD(2022)0369	28/11/2022	EC	
Economic and Social Committee: opinion, report		CES0101/2023	22/03/2023	ESC	
Committee draft report		PE749.960	15/06/2023	EP	
Amendments tabled in committee		PE751.776	13/07/2023	EP	

Committee report tabled for plenary, 1st reading/single reading		A9-0315/2023	06/11/2023	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0164/2024	14/03/2024	EP	Summary
Commission response to text adopted in plenary		SP(2024)350	22/07/2024	EC	

Additional information

Research document	Briefing	09/01/2024

Industrial property: protection of Community design

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).

Industrial property: protection of Community design

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.

Transparency

LEBRETON Gilles	Rapporteur	JURI	14/11/2023	Federation of the European Sporting Goods Industry