

Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs

TITLE II

THE LAW RELATING TO DESIGNS

Section 1

Requirements for protection

Article 3

Definitions

For the purposes of this Regulation:

- (a) ‘design’ means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation;
- (b) ‘product’ means any industrial or handicraft item, including *inter alia* parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;
- (c) ‘complex product’ means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.

Article 4

Requirements for protection

1 A design shall be protected by a Community design to the extent that it is new and has individual character.

2 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:

- a if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and
- b to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.

3 ‘Normal use’ within the meaning of paragraph (2)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1. (See end of Document for details)

Article 5

Novelty

1 A design shall be considered to be new if no identical design has been made available to the public:

- a in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public;
- b in the case of a registered Community design, before the date of filing of the application for registration of the design for which protection is claimed, or, if priority is claimed, the date of priority.

2 Designs shall be deemed to be identical if their features differ only in immaterial details.

Article 6

Individual character

1 A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:

- a in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public;
- b in the case of a registered Community design, before the date of filing the application for registration or, if a priority is claimed, the date of priority.

2 In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

Article 7

Disclosure

1 For the purpose of applying Articles 5 and 6, a design shall be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the date referred to in Articles 5(1)(a) and 6(1)(a) or in Articles 5(1)(b) and 6(1)(b), as the case may be, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the Community. The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

2 A disclosure shall not be taken into consideration for the purpose of applying Articles 5 and 6 and if a design for which protection is claimed under a registered Community design has been made available to the public:

- a by the designer, his successor in title, or a third person as a result of information provided or action taken by the designer or his successor in title; and
- b during the 12-month period preceding the date of filing of the application or, if a priority is claimed, the date of priority.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1. (See end of Document for details)

3 Paragraph 2 shall also apply if the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title.

Article 8

Designs dictated by their technical function and designs of interconnections

1 A Community design shall not subsist in features of appearance of a product which are solely dictated by its technical function.

2 A Community design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

3 Notwithstanding paragraph 2, a Community design shall under the conditions set out in Articles 5 and 6 subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Article 9

Designs contrary to public policy or morality

A Community design shall not subsist in a design which is contrary to public policy or to accepted principles of morality.

Status:

Point in time view as at 31/01/2020.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 6/2002, Section 1.