



Plenary sitting

A9-0315/2023

3.11.2023

*****I**

REPORT

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 (COM(2022)0666 – C9-0394/2022 – 2022/0391(COD))

Committee on Legal Affairs

Rapporteur: Gilles Lebreton

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in bold italics and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT 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 (COM(2022)0666 – C9-0394/2022 – 2022/0391(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0666),
 - having regard to Article 294(2) and Article 118(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0394/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 March 2023¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A9-0315/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) In its conclusions of 11 November 2020 on intellectual property policy and

Amendment

(3) In its conclusions of 11 November 2020 on intellectual property policy and

¹ OJ C 184, 25.3.2023, p. 39.

the revision of the industrial design system in the Union²⁹, the Council called on the Commission to present proposals for the revision of Regulation (EC) No 6/2002 and Directive 98/71/EC. The purpose of that revision should be to modernise the protection systems relating to industrial designs in the Union and to make design protection more attractive for individual designers and businesses, especially small and medium-sized enterprises (SMEs).

²⁹ Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union 2020/C 379 I/01 (OJ C 379I, 10.11.2020, p. 1).

the revision of the industrial design system in the Union, the Council called on the Commission to present proposals for the revision of Regulation (EC) No 6/2002 and Directive 98/71/EC, ***an invitation which was echoed by the European Parliament in its resolution of 11 November 2021 on an action plan for intellectual property***^{29a}. The purpose of that revision should be to modernise the protection systems relating to industrial designs in the Union and to make design protection more attractive for individual designers and businesses, especially small and medium-sized enterprises (SMEs).

²⁹ Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union 2020/C 379 I/01 (OJ C 379I, 10.11.2020, p. 1).

^{29a} ***European Parliament resolution of 11 November 2021 on an intellectual property action plan to support the EU's recovery and resilience (2021/2007(INI)) (OJ C 205, 20.5.2022, p. 26).***

Justification

It is worth recalling the role of the European Parliament

Amendment 2

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In its resolution of 11 November 2021^{1 a}, the European Parliament pointed out that the current EU design protection system was set up 20 years ago and should be reviewed, highlighting the need for the provisions of the Regulation to be updated in order to ensure greater legal certainty;

Amendment 3

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) While the Commission's evaluation of the Union's legislation on design protection confirmed that it is still largely fit for purpose, it announced in its communication 'Making the most of the EU's innovative potential – An intellectual property action plan to support the EU's recovery and resilience'³⁰ of 25 November 2020 that following the successful reform of the EU trade mark legislation, among others, it will revise the Union legislation on design protection with a view to improving the accessibility and ***affordability of design protection in the Union.***

³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Making the most of the EU's innovative potential. An intellectual property action plan to support the EU's recovery and resilience (COM/2020/760 final).

Amendment 4

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) In order to ensure legal certainty, it is appropriate to clarify that protection is conferred upon the right holder for those design features of a product, in whole or in

Amendment

(6) While the Commission's evaluation of the Union's legislation on design protection confirmed that it is still largely fit for purpose, it announced in its communication 'Making the most of the EU's innovative potential – An intellectual property action plan to support the EU's recovery and resilience'³⁰ of 25 November 2020 that following the successful reform of the EU trade mark legislation, among others, it will revise the Union legislation on design protection with a view to improving the accessibility, ***efficiency and streamlining, and with a view to updating the regulatory framework in line with the evolution of new technologies on the market.***

³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Making the most of the EU's innovative potential. An intellectual property action plan to support the EU's recovery and resilience (COM/2020/760 final).

part, which are shown visibly in an application for a registered EU design and made available to the public by way of publication or consultation of the relevant file. While *otherwise* design features *of a given product do not* need to be visible *at any particular time* or in *any* particular situation *of use* in order to *attract design* protection, an exception should apply to the design protection of component parts of a complex product that need to remain visible during normal use of that product.

part, which are shown visibly in an application for a registered EU design and made available to the public by way of publication or consultation of the relevant file. While design features need to be visible *to benefit from design* protection, *it is not necessary for these characteristics to be visible at all times* or in *a* particular situation in order to *benefit from this* protection. **However**, an exception should apply to the design protection of component parts of a complex product that need to remain visible during normal use of that product.

Justification

Linguistic clarification (linked to Article 18a)

Amendment 5

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Technological innovation should not be hampered by granting design protection to designs consisting exclusively of features or the arrangement of features dictated solely by a technical function. It is understood that this does not entail that a design must have an aesthetic quality and that designs with a technical function are not excluded from design protection. Likewise, the interoperability of products of different makes should not be hindered by extending protection to the design of mechanical fittings. Features of a design which are excluded from protection for these reasons should not be taken into consideration for the purpose of assessing whether other features of the design fulfil the requirements for protection.

Justification

It is important to emphasise that functional and technical products are not excluded from design protection. To align with amended recital 21 of the recast Directive.

Amendment 6

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The use of 3D printing technologies in different areas of industry is growing, which results in challenges for design right holders to effectively prevent illegitimate copying of their protected designs. Therefore, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software recording the design for the purpose of reproducing a product that infringes the design, amounts to use of the design being subject to the right holder's authorisation.

Amendment

(11) The use of **artificial intelligence** and 3D printing technologies in different areas of industry is growing, which results in challenges for design right holders to effectively prevent illegitimate copying of their protected designs. ***In this context, there should be clarity when it comes to the protection of 3D printing files and the limitations to the private use of designs.*** Therefore, it is appropriate to provide that the creation, downloading, copying and making available of any medium or software recording the design for the purpose of reproducing a product that infringes the design, amounts to use of the design being subject to the right holder's authorisation.

Amendment 7

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) To that effect, it should be permissible for holders of registered EU designs to prevent entry of infringing products and their placement in all customs situations, ***also when such products are not intended to be placed on the market of the Union.*** In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the

Amendment

(13) To that effect, it should be permissible for holders of registered EU designs to prevent entry of infringing products and their placement in all customs situations. In performing customs controls, the customs authorities should make use of the powers and procedures laid down in Regulation (EU) No 608/2013 of the European Parliament and the Council³², including at the request of the right

European Parliament and the Council³², including at the request of the right holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.

³² Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).

holders. In particular, the customs authorities should carry out the relevant controls on the basis of risk analysis criteria.

³² Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15).

Amendment 8

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Directive (EU) [xxx] harmonises the laws of the Member States with regard to the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the design is applied to or incorporated in a product which constitutes a component part of a complex product upon whose appearance the protected design is dependent. Accordingly, the current transitional repair clause contained in Regulation (EC) No 6/2002 should be converted into a permanent provision. As the intended effect of that provision is to make registered and unregistered Community design rights unenforceable where the design of the component part of a complex product is used for the purpose of the repair of a complex product so as to restore its original appearance, the repair clause should be placed among the available defences to EU design right infringement under Regulation (EC) No 6/2002. Furthermore, for the sake of coherence with the repair clause inserted into

Amendment

(16) Directive (EU) [xxx] harmonises the laws of the Member States with regard to the use of protected designs for the purpose of permitting the repair of a complex product so as to restore its original appearance, where the design is applied to or incorporated in a product which constitutes a component part of a complex product upon whose appearance the protected design is dependent. Accordingly, the current transitional repair clause contained in Regulation (EC) No 6/2002 should be converted into a permanent provision. As the intended effect of that provision is to make registered and unregistered Community design rights unenforceable where the design of the component part of a complex product is used for the purpose of the repair of a complex product so as to restore its original appearance, the repair clause should be placed among the available defences to EU design right infringement under Regulation (EC) No 6/2002. Furthermore, for the sake of coherence with the repair clause inserted into

Directive (EU) [XXX], and in order to ensure that the scope of design protection is only restricted to prevent design right holders from actually being granted product monopolies, it is necessary to explicitly limit the application of the repair clause set out in Regulation (EC) No 6/2002 to component parts of a complex product ***upon whose appearance the protected design is dependent***. In addition, in order to ensure that consumers are not misled but are able to make an informed decision between competing products that can be used for the repair, it should also be made explicit in the law that the repair clause cannot be invoked by the manufacturer or ***the*** seller of a component part who have failed to duly inform consumers about the origin of the product to be used for the purpose of repair of the complex product.

Directive (EU) [XXX], and in order to ensure that the scope of design protection is only restricted to prevent design right holders from actually being granted product monopolies, it is necessary to explicitly limit the application of the repair clause set out in Regulation (EC) No 6/2002 to component parts of a complex product. In addition, in order to ensure that consumers are not misled but are able to make an informed decision between competing products that can be used for the repair, it should also be made explicit in the law that the repair clause cannot be invoked by the manufacturer or seller of a component part who have failed to duly inform consumers ***with detailed information about the origin and the identity of the manufacturer*** of the product to be used for the purpose of repair of the complex product.

Amendment 9

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) In view of the insignificant number of EU design applications filed at the central industrial property offices of the Member States and the Benelux Office for Intellectual Property, and in order to align the system for EU design applications to the system set out in Regulation (EU) 2017/1001, it should henceforth only be possible to file an EU design application at the Office.

Amendment

(18) In view of the insignificant number of EU design applications filed at the central industrial property offices of the Member States and the Benelux Office for Intellectual Property, and in order to align the system for EU design applications to the system set out in Regulation (EU) 2017/1001, it should henceforth only be possible to file an EU design application at the Office. ***However, Member States should establish a ‘one-stop shop’ through which applicants can receive guidance, legal and technical support.***

Amendment 10

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) It is desirable that Member States' central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all fields of design registration and administration in order to promote convergence of practices and tools, such as the creation and updating of common or connected databases and portals for consultation and search purposes. The Member States should further ensure that their central industrial property offices and the Benelux Office for Intellectual Property cooperate with each other and with the EUIPO in all other areas of their activities which are relevant for the protection of designs in the Union.

Justification

Alignment with directive on the legal protection of designs, recital 43

Amendment 11

Proposal for a regulation

Recital 19

Text proposed by the Commission

Amendment

(19) ***Both*** technological advancement and the experience gained in the application of the current EU design registration system has revealed the need ***for improvement of*** certain aspects of procedure. Consequently, certain measures should be taken to update, simplify and speed up procedures where appropriate and to enhance legal certainty and predictability where required.

(19) Technological advancement, ***artificial intelligence evolution***, and the experience gained in the application of the current EU design registration system has revealed the need ***to improve and streamline*** certain aspects of procedure. Consequently, certain measures should be taken to update, simplify and speed up procedures where appropriate and to enhance legal certainty and predictability where required.

Amendment 12

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) For reasons of efficiency and to streamline proceedings, the means of notifications and communications should be electronic ***only***.

Amendment

(22) For reasons of efficiency and to streamline proceedings, the means of notifications and communications should ***primarily*** be electronic.

Amendment 13

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) Given the essential importance of the amounts of fees payable to the Office for the functioning of the EU design protection system and its complementary relationship as regards national design systems, and in order to align the legislative approach with Regulation (EU) 2017/1001, it is appropriate to set those fee amounts directly in Regulation (EC) No 6/2002 in the form of an annex. The amounts of the fees should be fixed at a level which ensures both that the revenue they produce is in principle sufficient for the budget of the Office to be balanced and that there is coexistence and complementarity between the EU design and the national design systems, also taking into account the size of the market covered by the EU design and the needs ***of SMEs***.

Amendment

(24) Given the ***impact and*** essential importance of the amounts of fees payable to the Office for the functioning of the EU design protection system and its complementary relationship as regards national design systems, and in order to align the legislative approach with Regulation (EU) 2017/1001, it is appropriate to set those fee amounts directly in Regulation (EC) No 6/2002 in the form of an annex. The amounts of the fees should be fixed at a level which ensures both that the revenue they produce is in principle sufficient for the budget of the Office to be balanced and that there is coexistence and complementarity between the EU design and the national design systems, also taking into account the size of the market covered by the EU design and the needs ***and minimal impact of these fees on SMEs accessing the industrial design protection system in the Union. A sufficient level of flexibility shall be given on the amounts of the fees to take into account the inflation and ensure stable level of resources for the Office.***

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 6/2002

Article 2 – paragraph 1

Text proposed by the Commission

The European Union Intellectual Property Office ('the Office'), established by Regulation (EU) 2017/1001 of the European Parliament and of the Council*, shall carry out the tasks entrusted to it by this Regulation.

Amendment

The European Union Intellectual Property Office ('the Office'), established by Regulation (EU) 2017/1001 of the European Parliament and of the Council*, shall carry out the tasks entrusted to it by this Regulation. ***The Office shall communicate publically often and clearly about these tasks, in order to raise awareness and promote the possibilities of registering an EU design.***

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 6/2002

Article 3 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) 'manufacturer' means manufacturer as defined in Article 3, point (8), of Regulation (EU) 2023/988 of the European Parliament and of the Council^{1a}.

^{1a} Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1).

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 6/2002

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. 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 or copying of the protected design.

Justification

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’.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 10 a (new)

Regulation (EC) No 6/2002

Article 11 – paragraph 2

Present text

Amendment

2. For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the **Community** if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known 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.

(10a) Article 11(2) is replaced by the following:

“2. For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the **Union** if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known to the circles specialised in the sector concerned, operating within the **Union**. A design shall not, however, be deemed to have been made available to the public **if** it has been **only** disclosed to a third person under explicit or implicit conditions of confidentiality.”

Linguistic clarification.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 6/2002

Article 20a – paragraph 1

Text proposed by the Commission

1. Protection shall not be conferred on *an EU* design which constitutes a component part of a complex product, ***upon whose appearance the design of the component part is dependent, and*** which is used within the meaning of Article **19**(1) for the sole purpose of the repair of that complex product so as to restore its original appearance.

Amendment

1. Protection shall not be conferred on ***a registered*** design which constitutes a component part of a complex product which is used within the meaning of Article **16**(1) for the sole purpose of the repair of that complex product so as to restore its original appearance. ***The use of that component part of a complex product for the purpose of enabling that complex product to be repaired will be presumed.***

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 6/2002

Article 20 a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Paragraph 1 shall not apply to rims, covers and similar parts of a complex product the shape of which is not determined by the appearance of the complex product.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 6/2002

Article 20a – paragraph 2

Text proposed by the Commission

2. Paragraph 1 cannot be invoked by the manufacturer or the seller of a component part of a complex product who have failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the **origin** of the product to be used for the purpose of the repair of the complex product, so that they can make an informed choice between competing products that can be used for the repair.

Amendment

2. Paragraph 1 cannot be invoked by the manufacturer or the seller of a component part of a complex product who have failed to duly inform consumers, through a clear and visible indication on the product or in another appropriate form, about the **identity of the manufacturer** of the product to be used for the **exclusive** purpose of the repair of the complex product, so that they can make an informed choice between competing products that can be used for the repair. ***That indication of the manufacturer's identity shall include at least the name of the manufacturer, the geographical address of its registered place of business and, where applicable, its telephone number or email address.***

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 6/2002

Article 26(a) – paragraph 1

Text proposed by the Commission

The holder of a registered EU design may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter **D** enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the Register.’;

Amendment

The holder of a registered EU design may inform the public that the design is registered by displaying on the product in which the design is incorporated or to which it is applied the letter **R** enclosed within a circle. Such design notice may be accompanied by the registration number of the design or hyperlinked to the entry of the design in the Register.’; ***Any misuse of this indication may lead to legal proceedings.***

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 25

Text proposed by the Commission

Amendment

1a. Member States shall establish a 'one-stop shop' through which applicants can receive guidance, legal and technical support.

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 31

Regulation (EC) No 6/2002

Article 42 – paragraph 2

Text proposed by the Commission

Amendment

2. 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, provided that the information required is available to the Office from other sources.’;

2. 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.

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 40

Regulation (EC) No 6/2002

Article 47(a) – paragraph 2

Text proposed by the Commission

Amendment

2. The applicant may at any time amend the representation of the EU design applied for in immaterial details.;

2. The applicant may at any time amend the representation of the EU design applied for in immaterial details, **which merely remedy a lack of precision, certainty or clarity regarding the design for which EU design registration is sought.**

Justification

When a discrepancy between views of the design occurs, the current regulation allows the applicant to opt option between deleting conflicting views or splitting the application into two or more applications as necessary. The amendment seeks to solve such errors in a more efficient way.

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 49

Regulation (EC) No 6/2002

Article 50e – paragraph 1

Text proposed by the Commission

1. The representation of the registered EU design shall not be altered in the Register during the period of registration or on renewal thereof except in immaterial details.

Amendment

1. The representation of the registered EU design shall not be altered in the Register during the period of registration or on renewal thereof except in immaterial details, ***which merely remedy a lack of precision, certainty or clarity regarding the design for which EU design registration is sought.***

Justification

When a discrepancy between views of the design occurs, the current regulation allows the applicant to opt option between deleting conflicting views or splitting the application into two or more applications as necessary. The amendment seeks to solve such errors in a more efficient way. In alignment with the amendment to Article 47a, paragraph 2.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 59

Regulation (EC) No 6/2002

Article 55a – subparagraph 1

Text proposed by the Commission

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the ***details of appeal***

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 109a to supplement this Regulation by specifying the ***formal content of the notice of appeal and the proceedings for lodging***

proceedings under this Regulation.

and examining an appeal.

Justification

This is a reference to the terms used in Article 73 of Regulation No 2017/2001.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 65 – point b

Regulation (EC) No 6/2002

Article 65 - paragraph 5

Text proposed by the Commission

5. The Executive Director shall determine the amounts of expenses to be paid, including advances, *as regards* the costs of taking of evidence as referred to in this Article.

Amendment

5. The Executive Director shall determine the amounts of expenses to be paid, including advances, *to cover* the costs of taking of evidence as referred to in this Article.

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 67

Regulation (EC) No 6/2002

Article 66 – paragraph 2

Text proposed by the Commission

2. Notification shall be effected by electronic means. The details regarding electronic means shall be determined by the Executive Director.

Amendment

2. Notification shall be *mainly* effected by electronic means. The details regarding electronic means shall be determined by the Executive Director. *The Office shall designate an official address for official communication with the Office.*

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 84

Regulation (EC) No 6/2002

Article 72(a) – paragraph 3

Text proposed by the Commission

3. The Executive Director shall determine the conditions of access to the database and the manner in which the contents, other than the personal data referred to in paragraph 2 of this Article but including the data listed in Article 72, may be made available in machine-readable form, including the charges for such access.

Amendment

3. The Executive Director shall determine the conditions of access to the database and the manner in which the contents, other than the personal data referred to in paragraph 2 of this Article but including the data listed in Article 72, 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 shall in no case exceed the actual cost of the costs directly incurred as a result of such access.***

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 93 – point a

Regulation (EC) No 6/2002

Article 78 - paragraph 4 - subparagraph 2

Text proposed by the Commission

Where the entitlement referred to in the first subparagraph, point (c), 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 shall have ***habitually so acted*** for at least five years. However, persons whose professional qualification to represent natural or legal persons in design matters before the Benelux Office for Intellectual Property or a central industrial property office is officially recognised in accordance with the regulations laid down by the State concerned shall not be required to have exercised the profession.

Amendment

Where the entitlement referred to in the first subparagraph, point (c), 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 shall have ***gained professional experience in the field of designs*** for at least five years. However, persons whose professional qualification to represent natural or legal persons in design matters before the Benelux Office for Intellectual Property or a central industrial property office is officially recognised in accordance with the regulations laid down by the State concerned shall not be required to have exercised the profession.

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 100

Regulation (EC) No 6/2002

Article 88 – paragraph 2

Text proposed by the Commission

2. On all matters not covered by this Regulation, an EU design court shall apply the applicable national law.;

Amendment

2. On all **design** matters not covered by this Regulation, an EU design court shall apply the applicable national law.;

Justification

There is no subject matter limitation in the Commission proposal, and it should mirror the EU Trade Mark Regulation's provision (Article 129 (2)) 'On all trade mark matters not covered by this Regulation,'.

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 111

Regulation (EC) No 6/2002

Article 102 – paragraph 1 – point e

Text proposed by the Commission

(e) any other unit or person appointed by the Executive Director to that effect.

Amendment

(e) any other unit or person appointed by the Executive Director to that effect, ***provided that each of the persons so appointed has sufficient professional experience to enable him or her to make an effective contribution to the protection of designs.***

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 116

Regulation (EC) No 6/2002

Article 106a(d) – paragraph 2

Text proposed by the Commission

2. The Office ***may, however, in so far as is possible*** within the time remaining before the end of the period for payment,

Amendment

2. The Office ***shall***, however, within the time remaining before the end of the period for payment, give the person

give the person making the payment the opportunity to pay the amount lacking or, where this is considered justified, overlook any small amounts lacking, without prejudice to the rights of the person making the payment.

making the payment the opportunity to pay the amount lacking or, where this is considered justified, overlook any small amounts lacking, without prejudice to the rights of the person making the payment.

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 116

Regulation (EC) No 6/2002

Article 106a(d) – paragraph 4 – subparagraph 1

Text proposed by the Commission

Where an excessive sum is paid to cover a fee or a charge, the excess shall **not** be refunded ***if the amount is insignificant and the party concerned has not expressly requested a refund.***

Amendment

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

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 116

Regulation (EC) No 6/2002

Article 106a(d) – paragraph 4 – subparagraph 2

Text proposed by the Commission

With the consent of the Budget Committee, the Executive Director may determine the amount below which an excessive sum paid to cover a fee or a charge shall not be refunded.

Amendment

deleted

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 116

Regulation (EC) No 6/2002

Article 106a(d) – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

Determinations pursuant to the second subparagraph shall be published in the Official Journal of the Office.’;

deleted

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 127

Regulation (EC) No 6/2002

Article 110b – paragraph 1

Text proposed by the Commission

1. By [OP please complete: please insert the date = the first day of the month following **84** months after the date of entry into force of this Regulation], and every five years thereafter, the Commission shall evaluate the implementation of this Regulation.

Amendment

1. By [OP please complete: please insert the date = the first day of the month following **60** months after the date of entry into force of this Regulation], and every five years thereafter, the Commission shall evaluate the implementation of this Regulation.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EC) No 6/2002

Annex – point 1

Text proposed by the Commission

1. Application fee referred to in Article 36(4):

EUR 250.

Amendment

1. Application fee referred to in Article 36(4):

EUR 350.

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 129

Regulation (EC) No 6/2002

Annex – point 6

Text proposed by the Commission

1. Renewal fee referred to in Article 50d(1), (3) and (9):

Amendment

1. Renewal fee referred to in Article 50d(1), (3) and (9):

- (a) for the first period of renewal: **EUR 70** per design;
- (b) for the second period of renewal: **EUR 140** per design;
- (c) for the third period of renewal: **EUR 280** per design;
- (d) for the fourth period of renewal: **EUR 560** per design.

- (a) for the first period of renewal: **EUR 250** per design;
- (b) for the second period of renewal: **EUR 250** per design;
- (c) for the third period of renewal: **EUR 700** per design;
- (d) for the fourth period of renewal: **EUR 1400** per design.

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 6/2002 can be credited for establishing a European design protection system. But having been in place for over 20 years, the regulation needed to be modernised, in particular to adapt it to the digital age and also to make it more attractive for independent creators and businesses, in particular SMEs. This is the focus of the Commission proposal.

The rapporteur broadly agrees with the proposed guidelines, but suggests some 20 amendments which seek primarily to bolster legal certainty. The main aims are to clarify the ‘repair clause’ (recital 16, Article 20a), to remove powers from the Executive Director which are difficult to justify (Articles 42, 65, 72a, 78, 100 and 102), and to increase the amount of the renewal fees (annex).

MINORITY OPINION

24/10/2023

Rule 55(4) of Rules of Procedure of the European Parliament

Amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002

As pro-European and democratic political group, committed to the improvement and modernisation of the EU legal framework on industrial design protection, Renew Europe fully supports the revision of the Regulation on Community designs introduced by the European Commission and amended by Members of this Parliament.

For this reason, our political group will support the legislative report attributed to Mr LEBRETON from ID Group. Nevertheless, our support can in no way link us to this political group and the Eurosceptic positions it conveys, which we firmly oppose.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amendment of Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002		
References	COM(2022)0666 – C9-0394/2022 – 2022/0391(COD)		
Date submitted to Parliament	28.11.2022		
Committee responsible: Date announced in plenary	JURI 12.12.2022		
Committees asked for opinions Date announced in plenary	ECON 12.12.2022	IMCO 12.12.2022	
Not delivering opinions The date when a decision was taken;	ECON 25.1.2023	IMCO 24.1.2023	
Rapporteurs Date appointed	Gilles Lebreton 28.2.2023		
Discussed in committee	25.4.2023	3.7.2023	7.9.2023
Date adopted	24.10.2023		
Result of final vote	+: –: 0:	15 2 6	
Members present for the final vote	Pascal Arimont, Ibán García Del Blanco, Pierre Karleskind, Gilles Lebreton, Maria-Manuel Leitão-Marques, Sabrina Pignedoli, Jiří Pospíšil, Franco Roberti, Raffaele Stancanelli, Axel Voss, Marion Walsmann		
Substitutes present for the final vote	Alessandra Basso, Caterina Chinnici, Heidi Hautala, Antonius Manders, Catharina Rinzema, Kosma Złotowski		
Substitutes under Rule 209(7) present for the final vote	Andrus Ansip, Jonás Fernández, Eider Gardiazabal Rubial, Katrin Langensiepen, Philippe Olivier, Anne-Sophie Pelletier		
Date tabled	6.11.2023		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

15	+
ECR	Raffaele Stancanelli, Kosma Złotowski
ID	Alessandra Basso, Gilles Lebreton, Philippe Olivier
NI	Sabrina Pignedoli
PPE	Pascal Arimont, Caterina Chinnici, Antonius Manders, Jiří Pospíšil, Axel Voss, Marion Walsmann
Renew	Andrus Ansip, Pierre Karleskind, Catharina Rinzema

2	-
The Greens/EFA	Heidi Hautala, Katrin Langensiepen

6	0
S&D	Jonás Fernández, Ibán García Del Blanco, Eider Gardiazabal Rubial, Maria-Manuel Leitão-Marques, Franco Roberti
The Left	Anne-Sophie Pelletier

Key:

+ : in favour

- : against

0 : abstentions