

The keys to the new EU Design Regulation

As we have already anticipated **in this publication**, on 18 November 2024 the new EU design regulation was published in the Official Journal of the European Union:

Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 46/2002.

Directive (EU) 2024/2823 of the European Parliament and of the Council of 23 October 2024 on the legal protection of designs.

In general, the novelties introduced by the Regulation apply from **1 May 2025**, although certain provisions will apply from 1 July 2026 (i.e. those requiring secondary legislation).

The deadline for the transposition of the Directive into national law is 9 December 2027.

Main changes to EU Design Law as of 1 May 2025

On 1 May 2025, what is known as Phase I of the Regulation begins to apply, of which we highlight the following **changes**:

- 1 All references to the '**Community**' are replaced by references to the '**European Union**' or, in some cases, to the 'Union'.

Also, in all articles of the Regulation, **the term 'Community design' is replaced by the term 'EU design'** (whether registered or unregistered designs).

2 **The concept of 'design' is amended**, clarifying that, in addition to the current concept, it consists of 'the appearance of the whole or a part of a product resulting from the special characteristics of, in particular, line, configuration, colour, shape, texture or material of the product itself or of its ornamentation', it also consists of 'movement, transition or any other form of animation of those characteristics'.

Thus, **digital animations** can be protected as long as they meet the requirements of novelty and uniqueness, protecting both static visual appearance and dynamic visual behaviour. Thus, for example, transitions between screens, animation effects when buttons are pressed, or visual displays of menus, may be protected by this figure. This modification is particularly interesting for graphic designers, interface developers, etc., as they will be able to register and enforce their rights over dynamic visual aspects.

3 **The definition of 'product' is broadened**: it is clarified that it can be any industrial or handicraft item other than software, whether incorporated into a physical object or embodied in a non-physical form, including:

- Packaging, assemblies of articles, spatial arrangements of elements intended to form an interior or exterior environment, and parts intended for assembly into a complex product;
- Graphic works or symbols, logos, surface patterns, typographical characters and graphical user interfaces.

4 **The creation, downloading, copying and distribution to others of any medium or software that records the design** for the purpose of enabling the product to be made (3D printing) is included as **infringing conduct**. From now on, authorization from the right holder will be required.

5 **The holder of a registered EU design** will have the right **to prevent** any third party from introducing into the Union from third countries, in the course of trade, **products which are not put into free circulation in the Union** where the design is incorporated in or applied in an identical manner to such products, or where the design cannot be distinguished in its essential aspects from such products, and no authorization has been granted by the right holder.

6 **Protection is provided for features of an EU design** that are not visible in the normal use of the design, **provided that they are visibly displayed in the application for registration**.

- 7 **The limits of design protection are updated**, including that the rights conferred by an EU design may not be exercised in respect of:
- Acts done for the purpose of identifying a product as that of the design right holder or for the purpose of referring to such a product;
 - Acts done for the purpose of comment, criticism or parody.
- 8 **The Locarno unit of class requirement for multiple applications is removed** (this will facilitate the protection of designs covering multiple product categories).
- In addition, a limit of 50 designs per multiple application for registered EU designs has been introduced.**
- 9 The **repair clause** is definitively introduced, which allows for **the liberalization of the spare parts market**. In particular, the new regulation specifies that components of complex products will not benefit from EU design protection if they are used for the sole purpose of repair in order to restore the product to its original appearance.
- 10 Design holders (or third parties with their consent) will be able to display a design indication on their products, consisting of a **letter 'D' surrounded by a circle**.

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