

LEGAL ALERT

DESIGNS: NEW EU LEGISLATIVE PACKAGE

The new European Union (EU) legislative package on designs was published on 18 November 2024 and consists of [Regulation \(EU\) 2024/2822, of 23 October 2024](#) (Regulation) (amending [Regulation \(EC\) no. 6/2002, of 12 December 2002](#) on Community designs) and [Directive \(EU\) 2024/2823 of 23 October 2024](#) (Directive) on the legal protection of designs.

Both the Directive and the Regulation enter into force on 8 December 2024. The Directive contains several legal norms that must be transposed into the national legal systems of Member States of the European Union by 9 December 2027. For its part, the Regulation will apply from 1 May 2025, with the exception of some provisions, which will only apply from 11 July 2026.

The aim of the new legislation is to standardise, modernise and harmonise the systems for the legal protection of designs in all EU countries. In particular, the new legislation allows the concept of designs to be adapted to the digital market, as well as to new technologies.

Consequently, the definition of the concept of “design”, provided for in Article 3 of Regulation and Article 2(3) of Directive, has been amended, and now includes the special features of **movement, transition or any sort of animation of these features**.

On the other hand, the concept of product, also provided for in Article 3 of Regulation and Article 2(4) of Directive, now provides that a product, for the purposes of applying this regulation, is understood to be any industrial or handicraft item, other than a computer program, **regardless of whether or not it is incorporated into a physical object or materialises in a non-physical form**.

The continuous technological evolution also poses challenges for design right holders in the EU.

For example, the growing use of technologies related to 3D printers in several commercial sectors increases the risk of designs being illegitimately copied.

As a result, Regulation and Directive now provide that the owner of an EU design may oppose the creation, downloading, copying and making available, without the authorisation of the right holder, of any medium or software that records the design, for the purpose of reproducing a product that infringes the protected design.

We also note the following new rules that have been introduced as part of this new legislative package:

- **Repair Clause:** allows affordable and sustainable repairs by allowing the use of identical spare parts for restoration, while protecting the original manufacturers from imitations or modifications (e.g., tuning parts);
- **Goods in transit:** aligns with trademark rules, allowing design holders to take action against imports of counterfeit goods in transit, unless the design lacks protection at the final destination;
- **Administrative invalidity procedures:** simplifies the challenging of questionable designs through cheaper and optional national administrative procedures, although EU Member States are not obliged to adopt them.

In conclusion, the legislative amendments introduced by Regulation and Directive aim to simplify and adapt the EU's design protection system and procedures to the digital era and its continuous technological developments.

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