Evaluation of EU legislation on design protection

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I. Context of public consultation


- Overall evaluation launched to establish degree to which acquis works as intended and can still be considered fit for purpose.

- Two studies published in 2015 (economic) and 2016 (legal).

- Complementary public consultation run from 18/12/18 to 30/04/19. 196 replies received from different stakeholders (21 FR, incl. CNCPI).

- Results published on 26/07/19 including all individual contributions: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-3527248/public-consultation_en

- Evaluation report (CSWD) planned for July 2020.

- Legislative reform initiative likely in 2021.
II. Replies to general questions
Q2: Overall functioning of design system in the EU

- Almost 2/3 (64%) consider that system works well.
- Out of the 1/5 (21%) finding it to be bad, nearly 2/3 (63%) do so because of non-harmonization of spare parts protection.
Q7: Awareness of shortcomings of EU legislation

Almost half of the respondents (49%) however pointed out certain shortcomings of the existing designs acquis.
III. Replies to specific questions
Q16: Different rules on spare parts as problem? Q17: Should rules be the same in the EU?

55.6% see non-harmonization of rules as a problem for them. More than 2/3 (69.9%) of the respondents favour same rules.
Q31: Should EUIPO examine novelty ex ante?

- **56.2%** of those who replied to the question do not want the EUIPO doing so.
- Only small percentage (**8.6%**) of those who replied to the question are for that even it would lead to higher fees & longer registration time.
Q39: Clarity of basic concepts in the legislation

Of those who replied to the question:

- **60%** see design/product definitions as clear, **21.9%** don’t.
- **44.76%** see protection requirements as clear, **37.1%** don’t.
- **38.1%** see scope of protection as clear, **43.8%** don’t.
Q40: Protection against copying by 3D printing

- **31.4%** of those who replied to the question think that the current scope of design rights provides sufficient protection against copying by means of 3D printing.
- The **same percentage** thinks that this is not the case.
Q41: Protection against goods in transit needed?

65.7% of those who replied to the question think the scope of design rights should extend to goods in transit (alignment with reformed TM acquis).
Q43: Requirements for representation of RCD adequate?

37.1% of those who replied to the question consider current requirements for representation of RCDs (e.g. means, number of views) not appropriate.
Q46: Inappropriately rigid/complex rules?

- 24.8% of those who replied to the question think there are unnecessarily rigid/complex rules.
- ‘Same-class-requirement’ for multiple applications named most;
- In response to Q58, 39% of those who replied saw such ‘same-class-requirement’ as inappropriate.
Q48: Need for further harmonization

Of those who replied to the question:

<table>
<thead>
<tr>
<th>Top five design law aspects</th>
<th>Important</th>
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<tbody>
<tr>
<td>1. Requirements for the representation of a design</td>
<td>71.4%</td>
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<tr>
<td>2. Substantive grounds for refusal</td>
<td>69.5%</td>
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<tr>
<td>3. Product indication &amp; the design’s scope of protection</td>
<td>69.5%</td>
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<td>4. Right to the design</td>
<td>67.6%</td>
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<td>5. Multiple applications and its conditions</td>
<td>65.7%</td>
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Takeaway
Thank you for your attention!

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