A design protection for the digital age

Executive Summary – March 2022

The harmonisation success story

Industrial design is an important part of today's economy. As customers, the choices we make are often based on the design. It does not matter if it is the choice of buying a new car or a new lamp for the office, the design is the tipping point.

The harmonised design protection within the EU has been successful in many ways. With the harmonised protection a protection with a design approach was created. This approach is the foundation of a protection that is still largely fit for purpose. However, there are further steps necessary to create a modern EU legislation on industrial design.

The need for change

There are three challenges that must be considered in order to reach a design protection for the digital age. These are:
- Formal examination and the underuse
- Spare parts
- Digitalisation

Formal examination and the underuse

Design is all around us, all the time. Therefore, it could be assumed that a possibility of filing for protection would be used by many. This is however not the case. Two main problems can be identified. One is that there is no formal examination of design applications. That means that there is an uncertainty on the value of the right. The other problem is that there is a lack of knowledge.

Spare parts

There are aims at creating a more sustainable future. One part of that is to improve the possibilities to repair products. In order to do so, spare parts are necessary. Making products possible to repair requires investments in design. However, there are differences in the protection of spare parts between the Member States. One desire behind the modernisation of the design protection is an aim to support the transition to a green economy. A protection for spare parts in all Member States is a necessary step.

Digitalisation

Digitalisation will change the foundation of how design is being used. Additive manufacturing can make binary code to three-dimensional objects. It today also possible to make three-dimensional objects into binary code. This will change everything.

However, not all legislative changes will have to be done right now and perhaps not in the design protection.