Reports of Cases

JUDGMENT OF THE COURT (Fifth Chamber)

28 October 2021 *

(Reference for a preliminary ruling – Regulation (EC) No 6/2002 – Community designs – Articles 4, 6 and 11 – Infringement proceedings – Unregistered Community design – Appearance of a part of a product – Conditions for protection – Component part of a complex product – Individual character – Act of making available to the public)

In Case C-123/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 30 January 2020, received at the Court on 4 March 2020, in the proceedings

Ferrari SpA

v

Mansory Design Holding GmbH,

WH,

THE COURT (Fifth Chamber),

composed of E. Regan, President of the Chamber, C. Lycourgos, President of the Fourth Chamber, and M. Ilešič (Rapporteur), Judge,

Advocate General: H. Saugmandsgaard Øe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– Ferrari SpA, by R. Pansch and A. Sabellek, Rechtsanwälte,

– Mansory Design & Holding GmbH and WH, by B. Ackermann, Rechtsanwältin,

– the Czech Government, by M. Smolek and J. Vláčil and by T. Machovičová, acting as Agents,

* Language of the case: German.

– the Italian Government, by G. Palmieri, acting as Agent, and by S. Fiorentino, avvocato dello Stato,

– the Polish Government, by B. Majczyna, acting as Agent,

– the European Commission, by É. Gippini Fournier, T. Scharf and J. Samnadda, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 15 July 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 4(2)(b), Article 6(1), Article 11(1) and the first sentence of Article 11(2) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

2 The request has been made in proceedings between Ferrari SpA and Mansory Design & Holding GmbH ('Mansory Design') and WH, the Chief Executive Officer of that company, concerning an action for infringement and related claims, on the ground of an alleged infringement of the rights conferred by an unregistered Community design.

Legal context

3 Recitals 6, 7, 16, 17, 21 and 25 of Regulation No 6/2002 state:

'(6) Since the objectives of the proposed action, namely, the protection of one design right for one area encompassing all the Member States, cannot be sufficiently achieved by the Member States by reason of the scale and the effects of the creation of a Community design and a Community design authority, and can therefore be better achieved at Community level, the [Union] may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. …

(7) Enhanced protection for industrial design not only promotes the contribution of individual designers to the sum of Community excellence in the field, but also encourages innovation and development of new products and investment in their production.

…

(16) Some [sectors of industry in the European Union] produce large numbers of designs for products frequently having a short market life where protection without the burden of registration formalities is an advantage and the duration of protection is of lesser significance. On the other hand, there are sectors of industry which value the advantages of registration for the greater legal certainty it provides and which require the possibility of a longer term of protection corresponding to the foreseeable market life of their products.

(17) This calls for two forms of protection, one being a short-term unregistered design and the other being a longer-term registered design.

…

(21) The exclusive nature of the right conferred by the registered Community design is consistent with its greater legal certainty. It is appropriate that the unregistered Community design should, however, constitute a right only to prevent copying. Protection could not therefore extend to design products which are the result of a design arrived at independently by a second designer. This right should also extend to trade in products embodying infringing designs.

…

(25) Those sectors of industry producing large numbers of possibly short-lived designs over short periods of time of which only some may be eventually commercialised will find advantage in the unregistered Community design. …'

4 Article 1 of that regulation, entitled 'Community design', states, in paragraph 2(a):

'A design shall be protected:

(a) by an "unregistered Community design", if made available to the public in the manner provided for in this Regulation'.

5 Article 3 of that regulation, entitled 'Definitions', provides:

'For the purposes of this Regulation:

(a) "design" means the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation;

(b) "product" means any industrial or handicraft item, including inter alia parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;

(c) "complex product" means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.'

6 Article 4 of that regulation, entitled 'Requirements for protection', states, in paragraphs 1 and 2 thereof:

'1. A design shall be protected by a Community design to the extent that it is new and has individual character.

2. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new and to have individual character:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and

(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.'

7 Article 5 of Regulation No 6/2002, entitled 'Novelty', provides in paragraph 1(a) thereof:

'A design shall be considered to be new if no identical design has been made available to the public:

(a) in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public;

…'

8 Article 6 of that regulation, entitled 'Individual character', provides in paragraph (1)(a) thereof:

'A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public:

(a) in the case of an unregistered Community design, before the date on which the design for which protection is claimed has first been made available to the public'.

9 Article 7(1) of that regulation, headed 'Disclosure', provides:

'For the purpose of applying Articles 5 and 6, a design shall be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the date referred to in Articles 5(1)(a) and 6(1)(a) or in Articles 5(1)(b) and 6(1)(b), as the case may be, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the [European Union]. 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.'

10 Article 11 of that regulation, entitled 'Commencement and term of protection of the unregistered Community design', provides:

' 1. A design which meets the requirements under Section 1 shall be protected by an unregistered Community design for a period of three years as from the date on which the design was first made available to the public within the [European Union].

2. For the purpose of paragraph 1, a design shall be deemed to have been made available to the public within the [European 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 [European Union]. 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.'

11 Under Article 19 of Regulation No 6/2002, entitled 'Rights conferred by the Community design':

' 1. A registered Community design shall confer on its holder the exclusive right to use it and to prevent any third party not having his consent from using it. The aforementioned use shall cover, in particular, the making, offering, putting on the market, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or stocking such a product for those purposes.

2. An unregistered Community design shall, however, confer on its holder the right to prevent the acts referred to in paragraph 1 only if the contested use results from copying the protected design.

The contested use shall not be deemed to result from copying the protected design if it results from an independent work of creation by a designer who may be reasonably thought not to be familiar with the design made available to the public by the holder.

…'

The dispute in the main proceedings and the questions referred for a preliminary ruling

12 Ferrari is a racing car and sports car manufacturer established in Italy. Its top-of-the-range FXX K model, which is produced in very limited numbers, is intended exclusively for driving on track.

13 Ferrari first presented the FXX K model to the public in a press release dated 2 December 2014. That press release included the following two photographs, showing, respectively, a side view and a front view of the vehicle:



14 The Ferrari FXX K exists in two versions, which are distinguished solely by the colour of the 'V' on the bonnet. In the first version, that 'V' is black apart from its low point, which is of the same colour as the basic colour of the vehicle concerned. In the second version, the 'V' is entirely black in colour.

15 Mansory Design, of which WH is the chief executive officer, is an undertaking that specialises in the personalisation (known as 'tuning') of high-end cars. Both Mansory Design and WH are established in Germany. Since 2016, Mansory Design has produced and marketed sets of personalisation accessories (known as 'tuning kits') designed to alter the appearance of the Ferrari 488 GTB (a road-going model, produced in a series, available since 2015) in such a way as to make it resemble the appearance of the Ferrari FXX K.

16 Mansory Design offers a number of packages designed to alter the appearance of the Ferrari 488 GTB, including two versions of the front kit reflecting the two versions of the Ferrari FXX K, on the first version, the 'V' on the bonnet is black apart from its low point, whilst on the second version it is entirely black. A complete conversion of the Ferrari 488 GTB involves replacing a large portion of the visible body panels. In March 2016, at the International Motor Show in Geneva (Switzerland), Mansory Design displayed a vehicle featuring that conversion under the name Mansory Siracusa 4XX.

17 Ferrari maintains that the marketing of those components by Mansory Design constitutes an infringement of the rights conferred by one or more unregistered Community designs of which it is the holder.

18 As its principal argument, Ferrari submitted that the marketing of the front kits constitutes an infringement of the first unregistered Community design of which it is the holder, relating to the appearance of the part of its FXX K model consisting of the V-shaped element on the bonnet, the fin-like element protruding from the centre of that element and fitted lengthways ('the strake'), the front lip spoiler integrated into the bumper and the vertical bridge in the centre connecting the spoiler to the bonnet. That section is seen as a unit that defines the specific 'facial features' of that vehicle and also creates an association with an aircraft or Formula 1 car. According to Ferrari, that unregistered Community design arose at the time of the publication of the press release of 2 December 2014.

19 In the alternative, Ferrari claimed to be the holder of a second unregistered Community design relating to the appearance of the front lip spoiler, which arose in its favour on publication of the press release of 2 September 2014 or, at the latest, on the release of a film entitled *Ferrari FXX K – The Making Of*, on 3 April 2015, and which Mansory Design also infringed by marketing its 'front kits'.

20 In the further alternative, Ferrari based its action on a third unregistered Community design concerning the presentation of the Ferrari FXX K as a whole, as revealed in another photograph of the vehicle, shown in an oblique view, which also appeared in the press release of 2 December 2014.

21 Ferrari also claimed, as regards the components offered for sale on the territory of the Federal Republic of Germany, rights based on protection against imitation under the law on unfair trading practices.

22 At first instance, Ferrari, on those various grounds, sought an injunction throughout the European Union against the making, offering, putting on the market, importing, exporting, using or stocking of the accessories at issue, and made a number of associated requests, namely, provision of accounting documents, recall and destruction of the products at issue and the award of financial compensation. The Landgericht Düsseldorf (Regional Court, Düsseldorf, Germany) dismissed those applications in their entirety.

23 Ferrari appealed against that decision to the Oberlandesgericht Düsseldorf (Higher Regional Court, Düsseldorf, Germany), claiming that its applications for an injunction and its claims relating to the recall and destruction of the products at issue, in so far as they were based on the rights conferred by the Community designs relied on, had become devoid of purpose because the rights in question expired on 3 December 2017. On the other hand, Ferrari maintained, in particular, its claims for compensation.

24 The appeal court dismissed Ferrari's appeal, holding that its claims based on the unregistered Community designs were unfounded. According to that court, the first Community design claimed, relating to the part of the Ferrari FXX K described in paragraph 18 of this judgment, never existed, since Ferrari had not shown that the minimum requirement of a certain autonomy and consistency of form was satisfied. The second Community design claimed by Ferrari, covering the front lip spoiler, was also non-existent, on the ground that it too failed to satisfy the consistency of form requirement. As regards the third design claimed, relating to the presentation of the Ferrari FXX K taken as a whole, it does indeed exist, but has not been infringed by Mansory Design.

25 Ferrari then brought an appeal on a point of law before the Bundesgerichtshof (Federal Court of Justice, Germany). That court, which declared the appeal admissible, considers that the outcome of the appeal depends on the interpretation of Regulation No 6/2002, in particular the circumstances in which the appearance of a part of a product, in the present case that claimed by Ferrari on part of the FXX K model, may, under that regulation, be protected as an unregistered Community design.

26 In that context, the referring court asks, first, whether the making available to the public, within the meaning of Article 11(2) of Regulation No 6/2002, of the image of a product in its entirety also amounts to the making available of the designs of the parts of that product.

27 Assuming that to be the case, it asks, secondly, whether the appearance of a part of the product must, in order to be capable of constituting a separate design from that of that product, present, as the appeal court held, a certain autonomy and consistency of form, so that it is possible to establish that the appearance of that part is not completely lost in the appearance of that product and presents, on the contrary, an overall autonomous impression by comparison with the form as a whole of that product.

28 It was in those circumstances that the Bundesgerichtshof (Federal Court of Justice) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Can unregistered Community designs in individual parts of a product arise as a result of disclosure of an overall image of a product in accordance with Article 11(1) and the first sentence of Article 11(2) of Regulation No 6/2002?

(2) If Question 1 is answered in the affirmative:

What legal criterion is to be applied for the purpose of assessing individual character in accordance with Article 4(2)(b) and Article 6(1) of Regulation [No 6/2002] when determining the overall impression of a component part which – as in the case of a part of a vehicle's bodywork, for example – is to be incorporated into a complex product? In particular, can the criterion be whether the appearance of the component part, as viewed by an informed user, is not completely lost in the appearance of the complex product, but rather displays a certain autonomy and consistency of form such that it is possible to identify an aesthetic overall impression which is independent of the overall form?'

Consideration of the questions referred

29 By its two questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 11(2) of Regulation No 6/2002 must be interpreted as meaning that the making available to the public of images of a product, such as the publication of photographs of a car, may lead to the making available to the public of a design on a part or a component of that product, and, if so, to what extent the appearance of a part of a product, within the meaning of Article 3(a) of that regulation, or of a component part of a complex product, within the meaning of Article 3(c) and Article 4(2) of that regulation, must be autonomous in relation to the product in its entirety so that it can be examined whether that appearance has individual character, within the meaning of Article 6(1) of that regulation.

30 It should be noted, as a preliminary point, that, in accordance with Article 3(a) of Regulation No 6/2002, 'design' is defined as 'the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation'. It follows that, under the system laid down by Regulation No 6/2002, appearance is the decisive factor for a design (judgments of 21 September 2017, *Easy Sanitary Solutions and EUIPO* v *Group Nivelles*, C-361/15 P and C-405/15 P, EU:C:2017:720, paragraph 62, and of 8 March 2018, *DOCERAM*, C-395/16, EU:C:2018:172, paragraph 25).

31 As regards the objective of Regulation No 6/2002, it should be recalled that, according to recitals 6 and 7 thereof, it establishes the protection of design rights for one area encompassing all the Member States, an enhanced protection for industrial design encouraging innovation and development of new products and investment in their production. The Court has also already stated that the objective of that regulation is to ensure effective protection of Community designs (judgment of 27 September 2017, *Nintendo*, C-24/16 and C-25/16, EU:C:2017:724, paragraph 73 and the case-law cited).

32 Furthermore, it is apparent from recitals 16 and 25 of Regulation No 6/2002 that, by establishing an unregistered Community design system, the EU legislature intended, with a view to promoting innovation, to protect designs applied to or incorporated in products with a short market life in respect of which their designers wish to obtain rapid and effective protection without having the burden of registration formalities and for which the duration of protection is of lesser significance.

33 The material conditions required for the protection of a Community design to arise, whether registered or not, namely novelty and individual character, within the meaning of Articles 4 to 6 of Regulation No 6/2002, are the same for both products and parts of a product. However, as regards the protection of the appearance of a component part of a complex product, account must be taken of the requirements set out in Article 4(2) of that regulation.

34 In the present case, it is for the referring court to determine whether the components of the bodywork of the car at issue in the main proceedings constitute 'parts of a product', within the meaning of Article 3(a) of Regulation No 6/2002, or 'component parts of a complex product', within the meaning of Article 3(c) and Article 4(2) of that regulation. That being so, it is for the Court of Justice to provide that court with any helpful guidance to resolve the dispute before it (see, to that effect and by analogy, judgment of 4 July 2019, *Tronex*, C-624/17, EU:C:2019:564, paragraph 25 and the case-law cited).

35 The referring court asks, inter alia, whether the making available to the public, within the meaning of Article 11(2) of Regulation No 6/2002, of the image of a product in its entirety also amounts to making available designs of parts of that product.

36 In that regard, it must be observed that, in accordance with Article 1(2)(a) of Regulation No 6/2002, provided that the material conditions for obtaining protection are satisfied, the formal condition for giving rise to an unregistered Community design is that of making available to the public in accordance with the detailed rules laid down in Article 11(2) of that regulation. In accordance with that provision, a design is to be deemed to have been made available to the public within the European 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 [European Union]'.

37 As is apparent from that provision, the unregistered Community design arises as from the date on which it was first made available to the public within the European Union. Under that provision, a design is 'made available' when it is disclosed by events which may, in the normal course of business, 'reasonably have become known to the circles specialised' in the sector concerned, operating within the European Union. That criterion may be satisfied where the images of the design at issue were distributed to traders operating in that sector (see, to that effect, judgment of 13 February 2014, *H. Gautzsch Großhandel*, C-479/12, EU:C:2014:75, paragraph 30).

38 Therefore, as the Advocate General observed in point 64 of his Opinion, in order for the making available to the public of the design of a product taken as a whole to entail the making available of the design of part of that product, it is essential that the appearance of that part is clearly identifiable when the design is made available. If not, the specialised circles cannot reasonably acquire the knowledge required at Article 11(2) of Regulation No 6/2002, as regards the part of the product concerned.

39 In this connection, the Court has previously held, concerning registered Community designs, that the Community design system arising from Regulation No 6/2002 requires that the representation of a design makes it possible to identify that design clearly, so that economic operators obtain relevant information concerning the rights of third parties (see, to that effect, judgment of 5 July 2018, *Mast-Jägermeister* v *EUIPO*, C-217/17 P, EU:C:2018:534, paragraphs 54, 55 and 60). Those considerations are also relevant to unregistered Community designs, since current and potential competitors of the designer or operator of the design at issue need, in that case also, clear and precise information.

40 That being so, the requirement concerning the ability to identify the subject matter of the protection, which contributes to a certain level of legal certainty in the context of the system of protection of unregistered Community designs, does not imply an obligation for designers to make available separately each of the parts of their products in respect which they seek to benefit from unregistered Community design protection. Thus the Advocate General observed in point 70 of his Opinion that such a requirement would be contrary to the objective of simplicity and rapidity which, as the Court has noted, justified the establishment of the unregistered Community design (see, to that effect, judgment of 19 June 2014, *Karen Millen Fashions*, C-345/13, EU:C:2014:2013, paragraph 42).

41 In addition, as the Advocate General observed in point 76 of his Opinion, to impose a requirement to make available separately the design of a part of the product on designers, in the interests of legal certainty for third parties, would amount to disregarding the equilibrium desired by the EU legislature in the context of the system of protection of unregistered Community designs, which by its very nature implies a reduction in the level of legal certainty by comparison with the certainty resulting from registered Community designs.

42 In that regard, it should be noted that the level of protection enjoyed by the holder of an unregistered Community design is also reduced. First, under Article 19(2) of Regulation No 6/2002, the holder is to be protected only against the copying of that holder's unregistered Community design. Secondly, the duration of the protection afforded to holders of unregistered Community designs is limited to three years as from the date on which the design was first made available to the public, pursuant to Article 11(1) of that regulation.

43 From that point of view, since the EU legislature did not express a different intention, Article 11(2) of Regulation No 6/2002 must be interpreted as meaning that it does not require designers to make available separately each of the parts of their products in respect of which they wish to benefit from unregistered Community design protection.

44 However, the criterion of awareness of the events constituting the making available to the specialised circles requires that the design of the part or component of the product is clearly identifiable. Where, as in the present case, the act of making available consists of the publication of images of a product, the features of the part or component of that product in respect of which the design at issue is claimed must, therefore, be clearly visible.

45 In that regard, it must be borne in mind that, as the Court has already held in relation to the words 'any design' in Article 6 of Regulation No 6/2002, it is necessary, in order to assess whether the design claimed has individual character, to be able to compare it with one or more specific, individualised, defined and identified designs from among all the designs which have been made available to the public previously (see, to that effect, judgment of 19 June 2014, *Karen Millen Fashions*, C-345/13, EU:C:2014:2013, paragraph 25). To that end, it is essential to have an image that makes it possible to visualise, precisely and with certainty, the design claimed.

46 The comparison of the overall impression produced by the designs at issue must be made in the light of the overall appearance of each of those designs. In that regard, the Court has held that Article 6 of Regulation No 6/2002 must be interpreted as meaning that, in order for a design to be considered to have individual character, the overall impression which that design produces on the informed user must be different from that produced on such a user not by a combination of features taken in isolation and drawn from a number of earlier designs, but by one or more earlier designs, taken individually (judgment of 19 June 2014, *Karen Millen Fashions*, C-345/13, EU:C:2014:2013, paragraph 35).

47 It follows that, as the Advocate General observed in point 104 of his Opinion, the concept of 'individual character', within the meaning of Article 6 of Regulation No 6/2002, governs not the relationship between the design of a product and the designs of its component parts, but rather the relationship between those designs and other earlier designs.

48 For the purposes of assessing that individual character in the light of the overall impression produced on the informed user by the appearance of the design claimed, it is necessary to rely on the very definition of the concept of 'design', as provided for in Article 3(a) of Regulation No 6/2002, taking into account the features of, in particular, the lines, contours, colours, shape, texture and/or materials.

49 In the absence of any definition of the term 'part of a product' in Regulation No 6/2002, it must be understood in accordance with its usual meaning in everyday language (see, by analogy, judgment of 20 December 2017, *Acacia and D'Amato*, C-397/16 and C-435/16, EU:C:2017:992, paragraph 64 and the case-law cited). As the Advocate General observed in point 107 of his Opinion, it is a section of the 'whole' that is the product. For the appearance of that section to be protected as a Community design, it must, by definition, be visible. The same is true, as is apparent from the wording of Article 4(2) of that regulation, where the design claimed consists of a component part of a complex product.

50 It follows that, in order to assess the conditions for protection as a Community design, the part of the product or component part of the complex product at issue must be visible and defined by features which constitute its particular appearance, namely by particular lines, contours, colours, shapes and texture. That presupposes that the appearance of that part of the product or that component part of a complex product is capable, in itself, of producing an overall impression and cannot be completely lost in the product as a whole.

51 Consequently, in the case in the main proceedings, it is for the national court to determine whether the features of the designs claimed by Ferrari for the parts of the bodywork of the car concerned fulfil the abovementioned requirements for protection as an unregistered Community design.

52 In the light of the foregoing considerations, the answer to the questions referred is that Article 11(2) of Regulation No 6/2002 must be interpreted as meaning that the making available to the public of images of a product, such as the publication of photographs of a car, entails the making available to the public of a design of a part of that product, within the meaning of Article 3(a) of that regulation, or of a component part of that product, as a complex product, within the meaning of Article 3(c) and Article 4(2) of that regulation, provided that the appearance of that part or component part is clearly identifiable at the time the design is made available. In order for it to be possible to examine whether that appearance satisfies the condition of individual character referred to in Article 6(1) of that regulation, it is necessary that the part or component part in question constitute a visible section of the product or complex product, clearly defined by particular lines, contours, colours, shapes or texture.

Costs

53 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 11(2) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs must be interpreted as meaning that the making available to the public of images of a product, such as the publication of photographs of a car, entails the making available to the public of a design of a part of that product, within the meaning of Article 3(a) of that regulation, or of a component part of that product, as a complex product, within the meaning of Article 3(c) and Article 4(2) of that regulation, provided that the appearance of that part or component part is clearly identifiable at the time the design is made available.

In order for it to be possible to examine whether that appearance satisfies the condition of individual character referred to in Article 6(1) of that regulation, it is necessary that the part or component part in question constitute a visible section of the product or complex product, clearly defined by particular lines, contours, colours, shapes or texture.

[Signatures]