

EUIPO invalidates registered design for coin and banknote wallet

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- The design at issue represented a wallet with a coin dispenser and sections for banknotes, as well as a flap to protect its contents
- The invalidity applicant argued that pouches of the shape and design as seen in the contested design had been present on the market prior to the relevant date
- The Invalidation Division concluded that the contested design did not have individual character in view of the earlier design invoked in the invalidity application

In [Novodom doo v 3S SPORT doo](#) (Invalidity No ICD 125 300, 2 September 2024), the EUIPO's Invalidation Division has upheld an application for a declaration of invalidity of registered Community design No 000624697-0001 ('the contested design').

Background

The contested design was filed and registered in the name of 3S SPORT doo on 22 November 2006, and subsequently renewed. Priority was claimed from Slovenian Application No M-200650035, which was filed on 29 May 2006.

The registration contained the views presented below and indicated the following products: "03-01 Purses; Change purses; Purse wallet; Wallets."



Novodom doo ('the applicant') invoked Article 25(1)(b) of the [Community Design Regulation](#) (6/2002), in conjunction with Article 6(1)(b), according to which a registered Community design is 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 before the date of filing of the application for registration or, if a priority is claimed, the date of priority.

The applicant argued that the contested design lacked individual character because the overall impression it produced on the informed user did not differ from the overall impressions produced on such a user by several products/designs that had been made available to the public before the date of priority claimed by the contested design ('the relevant date'). Pouches of the shape and design as seen in the contested design had been present on the market prior to the relevant date. Further, their shape had become common in the design corpus of pouches combining coin holders and sections for banknotes well before the relevant date.

The applicant identified and reproduced three earlier products/designs, including the dates of their disclosure. One of the earlier designs invoked was incorporated in the 'Athrisi purse/wallet for storing coins or banknotes', as shown below:



3S SPORT was invited to submit observations, but did not reply.

Decision

The above design was deemed to have been made available to the public within the meaning of Article 7(1) of the Community Design Regulation, since the archiving dates of the respective web pages submitted by the applicant preceded the relevant date.

The Invalidity Division agreed with the applicant that the designer's degree of freedom in this case was at least average – namely, the pouch, to enable it to fulfil its technical function, contains the coin dispenser and sections for banknotes, as well as a flap to close and protect its contents. Since all those parts may adopt various shapes, arrangements and overall appearance, this did not severely limit the designer's freedom.

After eliminating from the assessment, for obvious reasons, the particular colours of the prior design and the coins inserted in the coin dispenser of the prior design, the Invalidity Division established that not only the designs shared the main features, but also that they differed only in tones of colours in their parts. There were no pronounced differences or distinguishing elements that would lead to a different overall impression. It was thus concluded that the contested design did not have individual character in view of the earlier design. There was no need to examine the other designs also invoked in the invalidity application.

The decision is subject to an appeal.

Comment

The decision is not really surprising; however, it serves as a reminder that many registered designs lack individual character in view of earlier designs, due to the fact that the EUIPO's examination of the substantive protection requirements is limited to merely two grounds for non-registrability: Article 3(a) and Article 9 of the Community Design Regulation.

ITEM doo represented Novodom doo in this case

Documents

Novodom doo v 3S SPORT doo



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