

(publication by extracts)

Juan Costa Pujadas

v

European Union Intellectual Property Office

Judgment of the General Court (Eighth Chamber) of 3 September 2025

(European Union design – Invalidity proceedings – Registered EU design representing a speed variator – Ground for invalidity – No individual character – Visible features of a component part of a complex product – Concepts of ‘normal use’ and ‘visibility’ – Article 4(2) and (3) and Article 25(1)(b) of Regulation (EC) No 6/2002 – Burden of proof)

1. European Union designs – Requirements for protection – Design constituting a component part of a complex product – Component part which is new and has individual character – Visibility of the component part required during normal use of the product – Criteria for assessment

(Council Regulation No 6/2002, Art. 4(2) and (3))

(see paragraphs 65-68, 71, 76, 79)

2. European Union designs – Grounds for invalidity – Design constituting a component part of a complex product – Representation of a speed variator

(Council Regulation No 6/2002, Arts 4(2) and 25(1)(b))

(see paragraphs 72, 77, 80-83)

Résumé

Hearing an action for annulment, which it dismisses, the General Court clarifies the interpretation of the visibility requirement arising from Article 4(2) of Regulation No 6/2002 ([1](#)) and specifies, in particular, whether partial visibility of the component part of a complex product may make it possible to fulfil that requirement.

Juan Costa Pujadas, the applicant, is the holder of an EU design representing a speed variator, intended to be incorporated into motorcycles, ([2](#)) which can be mounted in two different positions, namely an ‘external mounting’ position or an ‘internal mounting’ position. In January 2022, on the basis of lack of novelty and individual character, ([3](#)) Yasunimotor, SL, the intervener, filed with the European Union Intellectual Property Office (EUIPO) an application for a declaration of invalidity of that design, which the Invalidity Division upheld.

The applicant filed a notice of appeal against that decision before the Board of Appeal of EUIPO, which, however, dismissed it on the ground that the part of the speed variator, which is the subject of the contested design, once incorporated into the complex product, is not clearly visible during the product’s normal use.

It is in that context that an application for annulment of the Board of Appeal’s decision was brought before the General Court.

Findings of the Court

In the first place, the Court observes that, in accordance with Article 4(2) of Regulation No 6/2002, a design applied to a product which constitutes a component part of a complex product is to be considered to be new and to have individual character only to the extent that, first, the component part, once it has

been incorporated into the complex product, remains visible during normal use of that product and, second, those visible features of the component part fulfil in themselves the requirements as to novelty and individual character. Therefore, it is apparent from a combined reading of those two cumulative requirements that, in order for such a design to be protected, the component part to which it is applied must be visible during normal use of the complex product at issue, without, however, it being necessary for that component part to be visible in its entirety.

Accordingly, the Court notes that partial visibility of the component part at issue, once applied to the complex product, during normal use of that product, does not exclude protection of the visible features of the design, provided that they fulfil, in themselves, the requirements as to novelty and individual character. The interpretation that the component part must be visible ‘in its entirety’ at some point in time in the normal use of the complex product risks rendering Article 4(2)(b) of Regulation No 6/2002 meaningless, which refers only to the visible features of the component part, which implies that its other features may remain invisible. That conclusion is supported by recital 12 of Regulation No 6/2002, which envisages a situation in which only certain features of a component part are visible during normal use of a product and where those features may be protected provided that they fulfil the two abovementioned requirements.

Consequently, the Board of Appeal erred in law in finding, in particular, that the speed variator to which the contested design was applied had to be visible ‘as a whole’ at some point in time during normal use of the complex product to which that variator is applied.

In the second place, the Court examines whether it is possible to distinguish with sufficient clarity and detail the contours and other aesthetic features of the design at issue for the purposes of examining their novelty and individual character.

In that regard, the Court states that it is necessary for the part of the product or the component part of the complex product protected to be visible and defined by features which constitute its particular appearance. That presupposes therefore 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.

In addition, the Court recalls that the visibility of a component part applied to a complex product must be assessed from the perspective of the end user of that product as well as from that of an external observer, with the result that different angles of view may be relevant in determining the degree of visibility of such a component part during normal use of the complex product to which it is applied. However, it notes, first, that the Board of Appeal took into account additional angles of view. Second, the Court considers that the evidence provided by the applicant does not demonstrate, either from a side view or from an oblique view, that the contours and other visible features of the speed variator in an internal mounting position are distinguishable, during the normal use of a racing motorcycle, with sufficient clarity and detail to enable the assessment of their novelty and individual character. Indeed, the visible parts of the speed variator in an internal mounting position are completely lost in the product as a whole and are not capable, in themselves, of producing an overall impression.

In the light of the foregoing, the Court concludes that the visible parts of the speed variator in an internal mounting position do not enable the contours and other features of the contested design to be distinguished with sufficient clarity and detail, with the result that the visibility requirement referred to in Article 4(2) of Regulation No 6/2002 is not fulfilled.

Consequently, the error of law made by the Board of Appeal in the interpretation of that article has no bearing on the conclusion reached by it.

([1](#)) Council Regulation (EC) No 6/2002 of 12 December 2001 on European Union designs ([OJ 2002 L 3, p. 1](#)), in the version prior to the entry into force of Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 (OJ L, 2024/2822).

([2](#)) In Classes 12-11 and 12-16 within the meaning of the Locarno Agreement of 8 October 1968 establishing an International Classification for Industrial Designs, as amended.

([3](#)) Within the meaning of Article 25(1)(a) and (b) of Regulation No 6/2002, read in conjunction with Article 4(2) and Article 8(1) of that regulation.