

Car rims not under spare parts exemption may enjoy Community designs protection

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Facts

Decision

Comment

In the first decision⁽¹⁾ of its kind from a Swedish appellate court, a Svea Court of Appeal panel (including the court president and head of the IP division) recently found that car rims do not constitute spare parts under Article 110(1) of the EU Community Designs Regulation (6/2002, December 12 2001) and thus enjoy the protections offered by the regulation.

Facts

A major car company filed suit against a Swedish corporation trading in car rims alleging infringement of a number of the car company's registered Community designs. In order to ascertain the scope of the alleged infringement, the car company sought an information order concerning, among other things, the origin of the rims and the number of rims imported and sold.

The Stockholm District Court found for the car company and ordered the importer to comply with the information order on penalty of a fine.

The importer appealed, arguing that rims were component parts of a complex product (a car) used to repair and restore the original appearance of that complex product. Rims allegedly thus constituted spare parts under Article 110(1) of the Community Designs Regulation and the holder of a Community design depicting a rim was thus prohibited from exercising the rights conferred by the regulation. The importer further argued that this conclusion had been drawn by an Italian court, though evidence was not supplied to this effect, and that since the rims were legally manufactured and imported from Italy, they could be freely exported and sold within the European Union.

Decision

Article 110(1) stipulates that a design which constitutes a component part of a complex product used for the purpose of the repair of that complex product so as to restore its original appearance does not enjoy protection under the regulation. If the rims were found to constitute such parts, the information order would consequently be overturned.

The Court of Appeal found that rims normally have an independent design in relation to the rest of the car. A car's appearance is not usually dependent on a rim in the sense that there is only one possible rim for a particular car model. On the contrary, it is possible and intended that the appearance of a car can be varied through the independent choice of rims. According to the court, rims are thus not normally component parts that are intended for the sole purpose of restoring a car's original appearance and do not constitute spare parts under Article 110(1).

Under these circumstances, the information order against the importer was upheld and the case was sent back to the district court to be decided on the merits.

Comment

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The judgment sheds light on the spare parts exemption in Article 110(1) from a Swedish perspective and confirms the findings of a number of courts in different EU member states. The Svea Court of Appeal's findings give the spare parts exemption a fittingly narrow and functional interpretation in line with the structure of the regulation. In Sweden, car manufacturers may now clear the market of replica and counterfeit wheels with a greater degree of certainty. This will give adequate protection to the investments made in design and research and development. However, until a case like this reaches the European Court of Justice, the issue may continue to dog car rim manufacturers in remaining EU jurisdictions. This could prove problematic, since these companies act in a heavily counterfeited market where safety considerations are paramount.

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Endnotes

(1) Ö 8596-15.

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