



The Court of Justice of the EU rules the requirements for an object to have copyright protection

The recent judgement from the Court of justice of the EU concludes that designs and models do not benefit from copyright protection just because of the simple fact that they create a visual and an aesthetic differentiated impact.

The Court judgment differentiates between (i) the protection that should be applied to the drawings and models made by the brand and (ii) the protection guaranteed by the copyright.

The first of the protections is intended for those objects that, although they are novel products, are conceived for mass production and for a limited time.

On the other hand, the protection associated with copyright applies to those objects classified as a piece of art.

What the EU Court is raising is if the degree of originality is something to be considered in order to determine if something deserves a copyright protection. As a conclusion, the EU court exposes which are the requirements in order to consider an object as a piece of art, which are:

- » The distinction between the form of expression and ideas (which reflects the identity and personality of the author in it)
- » The existence of originality in the object.

In summary, it is necessary to objectively assess whether the object is the result of intellectual creations since the aesthetic effect of a design is the result of the subjective sensation of beauty that each one has.



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