

ABSTRACT

One of the most important sectors in Spain is the fashion industry, a sector which has increased in size not only in Spain but also internationally.

That is why in a globalized world where business competition is more intense than ever, innovative new technologies are fast to enter the market, and short-lived products satisfy the consumers; industrial design, whether registered and unregistered, is now perceived as a valuable intangible asset.

Design protection is governed by the EU Community Design Regulation (6/2002) (CDR), along with the specific national design regulation. The CDR was a result of more than 10 years of discussion. Finally, the member states reached a valuable commitment, providing two-tier community protection for all types of industrial design through unregistered and registered designs.

The purpose of the unregistered designs is specified in the Statement of Reasons of the CDR. It states that in sectors a large number of designs are created, which often have a short commercial life, they require protection without registration procedure. Unregistered community design may be advantageous for those sectors in which numerous designs are created, almost always of ephemeral life, in short periods of time and, of which only a part are commercialized at the time. Nevertheless, there are a lot of disadvantages and weaknesses.

The book aims to examine the legal regime of the unregistered community design. It explores the obstacles, the long and arduous registration process, as well as the often overlooked inconveniences that could operate as the cause of inefficiencies in the fashion industry. It analyses the consequences of the legislator removing the requirement of the registration process and negative impact of the remaining requirements on the fashion sector.

We must not forget the biggest challenge to fashion industry is the protection of intangible property. We need to be aware and consider the strengths and weaknesses of all the modalities of protection in order to provide the best advice to our clients.