

THE USAGE OF DESIGNS FOR REPAIR PURPOSES- 2001

Taking into account the function of design law, designs which have novel and individual character can be protected for certain period so the investment made in the design returns back and the designer is rewarded. One must be aware that the design law protects the designs; not the products itself. Inspired by this, legal systems do not provide protection if the technical function shapes the design. Hence, if a product can fulfill its function only when it is designed in a specific way, then the design of that product will not be protected. In other words, designs that do not present alternatives to its designer are not protected.

Although legal systems have excluded designs that do not present alternatives in technical and engineering terms from protection, many legal systems have not adopted this kind of regulation with respect to designs rendered obligatory by the aesthetic function. This fact especially bears vital importance regarding automobile spare parts.

To me, a settlement should be made by taking into account the consumers, competition and the economy. Considering the function of design protection and the settlement to be made, it can be said that the regulation regarding *must match part designs* should be in parallel with the one relating to *must fit parts*. Therefore, there should be an exception for the protection of the must match part designs. Just as must fit part designs leave no alternative for designers to make replacement designs, neither do the must match part designs give way to replacement designs. Otherwise the legislator would protect the product which is designed or on which the design is applied while attempting to protect the design itself; however such regulation would transgress the limits of design law.