

LEGAL STATUS OF DESIGN WHICH DOES NOT PROVIDE THE DESIGNER AN OPTION – 2002

Under EU and Turkish law both esthetical and functional designs are protected. That is to say that it is not required for the design to be esthetical in order for the protection and the designs could not be taken out of the protection since it has functional features only.

On the contrary, the designs which require for the goods to fulfill its technical function excludes from the protection. In other words, the designs which do not provide the designer any other option on the technical aspect are not protected. For instance, the design of a key of the automobile is not protected unless it designs as its original if it does not make the automobile work. However, since the handle of the key could be differently designed, the design relating to this part benefits from the protection. The rule that the designs are shaped by the technical function is not protected has importance in terms of the designs of the spare part and connection parts in particular.