

Intellectual Property - France

Court of Appeal Decides on Protection of Shower Head Designs

January 18 2010

Hansgrohe AG, a German manufacturer of sanitation products, owned an EU design for its Raindance hand shower.

Hansgrohe AG and its French distributor, Hansgrohe SARL, instituted legal proceedings for design infringement and unfair competition against DGK Productions Europe SARL, Carrefour Hypermarchés France SAS and MTK Import Export to stop the sale of the Lagoone hand shower, which was protected as a French design.

Hansgrohe's claims were dismissed at first instance. The court held that Hansgrohe's EU design registration for its Raindance shower head reproduced an earlier registered third party's design. Therefore, the court concluded that Hansgrohe's EU design was invalid and there was no design infringement. The court also found the Lagoone design invalid.

On appeal, the Paris Court of Appeal annulled the decision.⁽¹⁾ It held that although the functional features of the Raindance shower head, in particular the elastic spikes and wedges, could not be taken into account for the examination of novelty and individual character, the design was characterized by its lines, contours, chrome finishing and shape. On account of these characteristic features, the Raindance design was new and had individual character.

Comparing Hansgrohe's EU design with the design of the Lagoone shower head, the appeal court held that, regardless of the differences in the number of spikes and the shape of the wedges, which were not highly visible, the overall impression of the designs appeared similar to an informed user. The court concluded that the Lagoone shower head infringed Hansgrohe's design rights on its Raindance shower head.

On the claim for breach of competition law, the court stated that the mere reproduction of the functional elements did not constitute an act of unfair competition since such elements are common to hand showers.

This decision is in line with French case law on the protection and enforcement of design rights.

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Endnotes

⁽¹⁾ Paris Court of Appeal, September 9 2009 (*Hansgrohe AG (German) v DGK Productions Europe SARL*).

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