

INVALIDITY No I 128 495

Longchamp, Société par Actions Simplifiée, Paris, France (applicant), represented by **Grau & Angulo**, Calle Josep Irla i Bosch, 5-7, 08034 Barcelona, Spain (professional representative)

a g a i n s t

Jie Yu, Yangquan City, Shanxi Province, China (holder), represented by **Yanyun Zhang**, Max-Planck-Str. 6, 63128 Dietzenbach, Germany (professional representative).

On 10/07/2025, the Invalidity Division takes the following

DECISION

1. The application for a declaration of invalidity is upheld.
2. Registered EU design No 015060547-0001 is declared invalid.
3. The holder bears the costs, fixed at EUR 750.

REASONS

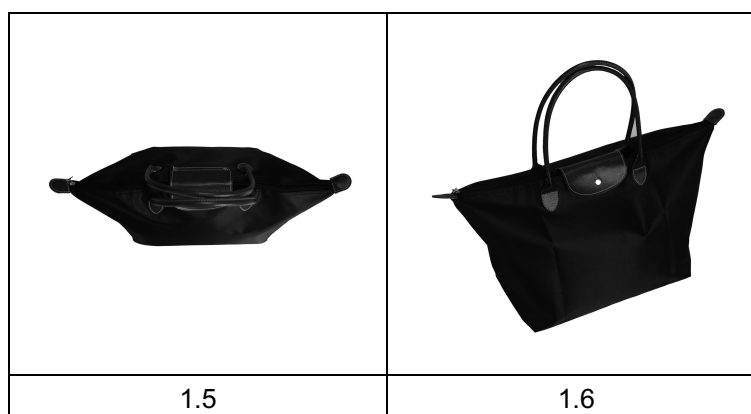
The applicant filed an application for a declaration of invalidity ('the application') against EU design No 015060547-0001 ('the contested design'). The contested design was filed on 16/05/2024 and registered in the holder's name.

The following products are indicated in the registration:

03-01 *Handbags.*

The registration contains the following views:





The applicant invoked Article 25(1)(b) of the European Union design regulation (EUDR) in conjunction with Article 4(1) and Articles 5(1)(b) and 6(1)(b) EUDR.

Preliminary remark

As from 01/05/2025, Regulation (EC) No 6/2002 has been amended and Regulation (EC) No 2246/2002 has been repealed by Regulation (EU) No 2024/2822. Implementing regulation (EC) No 2245/2002 has been amended by Implementing Regulation (EU) No 2025/73. All the references in this decision to the EUDR and the European Union design implementing regulation (EUDIR) shall be understood as references to the Regulations currently in force, except where expressly indicated otherwise.

SUMMARY OF THE PARTIES' ARGUMENTS

The applicant argued that the contested design lacked both, novelty and individual character, since it was either identical to or at least produced the same overall impression as an earlier design that had been made available to the public before the filing date of the contested design. In particular, it claimed that the contested design was a copy of its iconic bag model known as 'Le Pliage', which has been commercialised since 1993. The design shared the following characteristics:

- A trapezoidal- shaped body;
- Triangular- shaped sides;
- Two tubular handles attached to the body of the bag;
- A rectangular flap with rounded ends, featuring a clasp positioned centrally at the lower edge;

- Two oval-shaped tabs at either end of the top zipper, sealing it on both sides.

In support of its observations, the applicant submitted, inter alia, the following evidence:

- A printout of an article, entitled 'Longchamp's Sloane Ranger Le Pliage bag is having a comeback (yes, really)' published in the online magazine 'The Standard' on 25/07/2023, and depicting the bag's model 'Le Pliage' as follows:



The holder was invited to submit observations on the application but did not reply.

For reasons of procedural economy, the Invalidity Division will start with the assessment of individual character within the meaning of Article 6 EUDR,

LACK OF INDIVIDUAL CHARACTER PURSUANT TO ARTICLE 6 EUDR

According to Article 6(1)(b) EUDR, a registered EU design must be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on that user by any design that has been made available to the public before the filing date of the application for registration of the design for which protection is claimed or, if priority is claimed, the priority date. Article 6(2) EUDR states that, in assessing that individual character, the designer's degree of freedom in developing the design must be taken into consideration.

a) Disclosure pursuant to Article 7 EUDR

For the purpose of applying Article 6(1)(b) EUDR, a design will be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the contested design filing date or, if a priority is claimed, before its priority date, except where these events could not reasonably have become known in the normal course of business to the circles specialised in the sector concerned, operating within the European Union.

In principle, the onus is on the applicant to prove that a design has been disclosed. It is deemed to have been made available within the meaning of Article 7(1) EUDR if the applicant has proved the events constituting disclosure. It is for the party challenging the

disclosure to rebut that presumption by establishing to the requisite legal standards that the circumstances of the case could reasonably have prevented the disclosure events from becoming known in the normal course of business to the circles specialised in the sector concerned, operating within the European Union (21/05/2015, T-22/13, Umbrellas, EU:T:2015:310, § 26; 21/05/2015, T-23/13 Umbrellas, EU:T:2015:310, § 26; 14/03/2018, T-651/16, Footwear, EU:T:2018:137, § 47).

As a matter of principle, disclosures on the internet form part of the prior art. Posting an image of a design on the internet constitutes disclosure for the purposes of Article 7(1) EUDR (14/03/2018, T-651/16, Footwear, EU:T:2018:137, § 50), unless circumstances alleged or disputed by the parties cast such disclosure in doubt.

The evidence originating from the internet must contain all the information necessary to ascertain that the invoked design was disclosed to the public. In particular, it must contain the publication date (or other date when the design became available to the public), a clearly identifiable illustration of the invoked prior design and the source from which the evidence comes. All those particulars must be contained in the same piece of evidence without the need to search the internet. (26/09/2023, R 531/2023-3, Tragetaschen (Teil von -), § 28 and the case-law cited).

As evidence of disclosure of the earlier design the applicant submitted, inter alia, the above referred printout of an article published on the online magazine 'the Standard'. The article was published on 25/07/2023, which is deemed to be the date of disclosure of the design depicted in it. The date precedes the contested design filing's date, 16/05/2024. In the absence of any comments or objections from the holder, the design invoked is deemed to have been disclosed within the meaning of Article 7(1) EUDR.

b) Comparison of the prior and contested designs

According to case-law, assessing the individual character of an EU design is, in essence, the result of a four-step examination. That examination consists in determining, firstly, the sector to which the products in which the design is intended to be incorporated or applied to belong; secondly, the informed user of those products in accordance with their purpose and, with reference to that informed user, their degree of awareness of the prior art and their level of attention when comparing the designs, directly if possible; thirdly, the designer's degree of freedom in developing their design; and, fourthly, the outcome of the comparison of the designs at issue, taking into account the sector in question, the designer's degree of freedom and the overall impressions produced on the informed user by the contested design and by any earlier design which has been made available to the public, taken individually (13/06/2019, T 74/18, Informationstafeln für Fahrzeuge, EU:T:2019:417, § 66, and the case-law cited therein).

The sector concerned and the informed user

To determine the sector to which the product of the contested design belongs (and hence the informed user and the degree of freedom of the designer in developing the design), it is appropriate to look at the design itself to specify the nature, intended purpose or function of the product. Taking the design itself into account may make it possible to better determine the product concerned within the wider category of products indicated in the registration (18/03/2010, T-9/07, metal rappers, EU:T:2010:96, § 56).

The informed user is a legal fiction and the interpretation of that concept must be that the status of 'user' implies that the person concerned uses the product in which the design is incorporated, according to the purpose for which that product is intended. The qualifier

‘informed’ suggests that, without being a designer or a technical expert, the user is familiar with the various designs that exist in the sector concerned, possesses a certain degree of knowledge about the features which those designs normally include and, as a result of their interest in the products concerned, pays a relatively high degree of attention when they use them (18/10/2018, T-368/17, Electrically operated lifting column, in particular for tables, EU:T:2018:695, § 26 and the case-law cited therein).

In the present case, the products incorporating the contested design are *handbags*.

Therefore, the informed user, without being an expert or producer, is a person who is familiar with the handbags available on the market during the relevant period before the contested design’s filing date, mainly because of their own experience or interest in these products.

The designer’s freedom

The greater the designer’s freedom in developing the contested design, the less likely it is that minor differences between the conflicting designs will be sufficient to produce a different overall impression, and vice versa (09/09/2011, T-10/08, Internal-combustion engine, EU:T:2011:446, § 33). This factor does not determine, however, how different they have to be. It only moderates the assessment of the individual character of the contested design (10/09/2015, T-525/13, Sacs à main, EU:T:2015:617, § 35), including the weight to be given to certain features or elements in the overall impression.

The designer’s freedom is limited in particular as regards those features imposed by the technical function of the product or an element thereof, or by statutory requirements, resulting in a standardisation of certain features (18/03/2010, T-9/07, metal rappers, EU:T:2010:96, § 67), which thus apply to all designs intended for use in the products concerned.

However, the fact that the intended purpose of a product requires the presence of certain features does not automatically imply a limitation of the designer’s freedom (14/06/2011, T-68/10, Watches, EU:T:2011:269, § 69).

After examining the design, the Invalidity Division finds that the designer’s degree of freedom in the case of handbags is only restricted insofar as these products must have a shape that is suitable for the safe transport of objects. They must also be made of stable material and generally equipped with carrying devices. However, although the intended purpose of a given product requires the presence of certain features, this does not automatically imply that the designer’s degree of freedom is limited or totally excluded. On the contrary, the abovementioned requirements may be achieved in many different ways. There are no specific requirements regarding the shape, material, design or decoration of a handbag that must be met for it to fulfil its purpose and function. Consequently, the designer’s degree of freedom is at least average and only minor differences between the contested design and the prior design would be insufficient to conclude that the contested design produced a different overall impression from that of the earlier design.

The overall impression

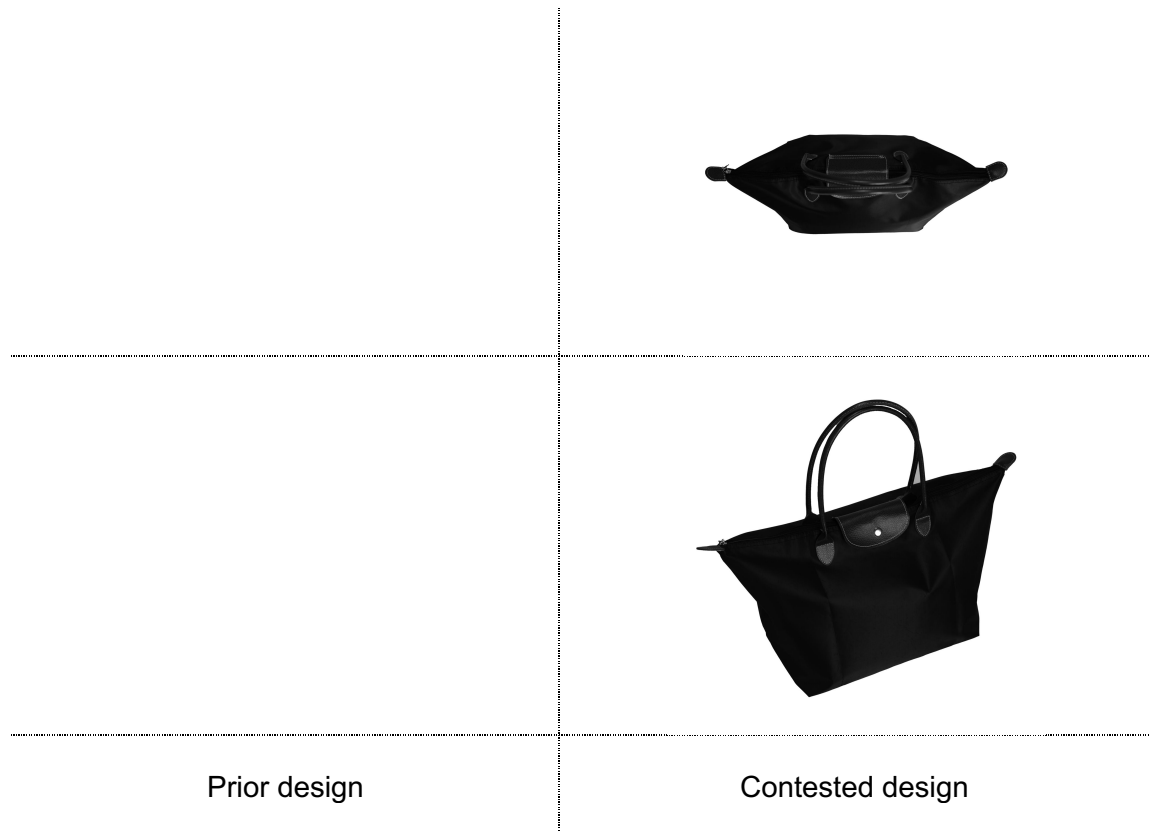
The comparison of the overall impressions conveyed by the designs must be synthetic and cannot be limited to a purely analytical comparison of a list of similarities and differences (13/06/2017, T-9/15, Dosen [für Getränke], EU:T:2017:386, § 79). It must be an all-inclusive comparison, allowing the overall impression produced by the design at

issue to be determined in a sufficiently precise and certain manner (14/06/2011, T-68/10, Watches, EU:T:2011:269, § 73).

The individual character of a design results from a different overall impression from the viewpoint of the informed user with reference to the existing design corpus, considering those differences sufficiently pronounced as to produce a different overall impression, and discarding the differences that do not affect the overall impression (07/11/2013, T-666/11, Felino balzante, EU:T:2013:584, § 29).

The very nature of the informed user implies that, so far as possible, they make a direct comparison between the prior design and the contested design (18/10/2012, C-101/11 P & C-102/11 P, Ornamentación, EU:C:2012:641, § 54).





The images in this document are not to scale.

The Invalidity Division concurs with the applicant that the designs under comparison are very similar as to their shape, proportion, and features. In particular as also underlined by the applicant they have the following common features:

- A trapezoidal- shaped body;
- Two tubular handles attached to the body, ending in pointed oval shapes. These are affixed to the bag with shield-shaped stitching.
- A rectangular flap with rounded edges placed at the centre of the bag with featuring a circular button at its centre.
- A zipper running from one end of the bag to the other, terminating in two oval-shaped closure tabs located at the lateral ends.

The designs differ in terms of the colour of the handles, central closure, and end tabs, as they are brown in the prior design and black in the contested design. In addition, the handles seem to be slightly longer in the contested design than in the earlier one. Moreover, the contested design shows more views than those shown in the prior design, such as the lateral and back views. Therefore, taking into account that the contested design is the point of reference for the comparison, any non-disclosed view from the prior design must be considered as a potential difference.

The differences described above including the potential differences deriving from the non-disclosed view of the earlier design are clearly less striking than the common features that the designs have in common and that will have a significant impact on the overall impression created by the designs. This impression is reinforced by the fact that the features in which the contested design does not differ from the prior one are arbitrary and not limited by technical or statutory constraints.

In light of the foregoing, it is concluded, from the standpoint of the informed user, and taking into account the designer's freedom in the contested design and the other circumstances of the case as set out above, that the overall impression conveyed by the contested design does not differ from that conveyed by the prior design. As a result, the contested design lacks individual character within the meaning of Article 6(1)(b) EUDR.

As the prior design leads to the success of the application and the invalidity of the contested design, there is no need to examine the other prior designs invoked by the applicant.

CONCLUSION

The facts and evidence submitted by the applicant support the grounds for invalidity under Article 25(1)(b) EUDR in conjunction with Articles 4(1) and 6(1)(b) EUDR. Therefore, the application is upheld, and the contested design is declared invalid.

Since the application is fully successful on this ground, there is no need to examine the other ground of Article 25(1)(b) EUDR invoked in the application, namely that in conjunction with Article 5 EUDR.

COSTS

According to Article 70(1) EUDR, the losing party in invalidity proceedings must bear the fees and costs incurred by the other party.

Since the holder is the losing party, it must bear the invalidity fee as well as the costs incurred by the applicant in the course of these proceedings.

According to Article 70(1) EUDR and Article 79(7)(f) EUDIR, the costs to be paid to the applicant are the costs of representation, which are to be fixed on the basis of the maximum rate set therein, and the costs of the invalidity fee.



The Invalidity Division

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DAVIES

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According to Article 56 EUDR, any party adversely affected by this decision has a right to appeal against this decision. According to Article 57 EUDR, notice of appeal must be filed in writing at the Office within two months of the date of notification of this decision. Furthermore, a written statement of the grounds of appeal must be filed within four months of the same date. The notice of appeal will be deemed to have been filed only when the appeal fee of EUR 720 has been paid.

The amount determined in the fixing of costs may only be reviewed on request. According to Article 79(4) EUDIR, such a request must be filed within one month from the date of notification of this fixing of costs and will be deemed to have been filed only when the review fee of EUR 100 has been paid (Annex (14) to EUDR).