

Case 53/87

**Consorzio italiano della componentistica
di ricambio per autoveicoli and Maxicar**

v

Régie nationale des usines Renault

(reference for a preliminary ruling
from the tribunale civile e penale, Milan)

(Exercise of design rights for car bodywork components —
Compatibility with Articles 30 to 36 and 86 of the Treaty)

Report for the Hearing	6041
Opinion of Mr Advocate General Mischo delivered on 21 June 1988	6055
Judgment of the Court, 5 October 1988	6067

Summary of the Judgment

- 1. Free movement of goods — Industrial and commercial property — Designs and models — Protection — Conditions and procedures — Determination by national law — Protection of components forming part of a unit protected as such — Whether permissible (EEC Treaty, Art. 36)*
- 2. Free movement of goods — Industrial and commercial property — Designs and models — Car bodywork components — Exercise of the right by the manufacturer who is the proprietor thereof — Whether permissible (EEC Treaty, Arts 30 and 36)*
- 3. Competition — Dominant position — Designs and models — Car bodywork components — Exercise of right — Abuse — Conditions (EEC Treaty, Art. 86)*

4. *Competition — Dominant position — Designs and models — Car bodywork components — Sale by the manufacturer who is the proprietor of the right for a price higher than that charged by independent producers — Abuse — None (EEC Treaty, Art. 86)*

1. In the absence of Community standardization or harmonization of laws, the determination of the conditions and procedures under which protection of designs and models is granted is a matter for the national rules of each Member State. It is for the national legislature to determine which products qualify for protection, even if they form part of a unit already protected as such.

2. The rules on the free movement of goods do not preclude the application of national legislation under which a car manufacturer who holds protective rights in an ornamental design in respect of spare parts intended for cars of its manufacture is entitled to prohibit third parties from manufacturing parts covered by those rights for the purpose of sale on the domestic market or for exportation or to prevent the importation from other Member States of parts covered by those rights which have been manufactured there without his consent, having regard to the fact that such national legislation is intended to protect the very substance of the exclusive right conferred on the proprietor and can be enforced without distinction against both those who manufacture spare parts within national territory and those who import them from other Member States and is not intended to favour national products at the expense of products originating in other Member States.

3. The mere fact of securing protective rights in respect of ornamental designs

for car bodywork components does not constitute an abuse of a dominant position within the meaning of Article 86 of the Treaty.

However, the exercise of the exclusive right corresponding to those protective rights may be prohibited by Article 86 of the Treaty if it involves, on the part of an undertaking holding a dominant position, certain abusive conduct such as the arbitrary refusal to supply spare parts to independent repairers, the fixing of prices for spare parts at an unfair level or a decision no longer to produce spare parts for a particular model even though many cars of that model are still in circulation, provided that such conduct is liable to affect trade between Member States.

4. The fact that a car manufacturer sells bodywork components in respect of which protective rights exist for a price higher than that charged for the same components by independent manufacturers does not necessarily constitute an abuse of a dominant position within the meaning of Article 86 of the Treaty since the proprietor of protective rights in respect of an ornamental design may lawfully call for a return on the amounts which he has invested in order to perfect the protected design.