

INDUSTRIAL DESIGN FAQS

➤ **What is an Industrial Design?**

An industrial design means features of shapes, configuration, pattern or ornament, whether in two dimensional or three dimensional applied or both forms, applied to an article by any industrial process or means which in the finished article appealed to and is judged by the eye. Articles which are commonly registered are containers, bottles, furniture, lamp shapes, vases, design packagings, etc.

➤ **What are the requirements for filing an Industrial Design?**

To be registrable, an industrial design must be new and original in India or elsewhere, i.e. the design must not have been disclosed before, fulfil the design definition, and not contrary to public order or morality. Therefore, the validity of a Registered Design can be impugned:

- if the design is not new and original;
- if the design features are functional, or
- if the article is one which, when people buy it, they are unconcerned about its aesthetic features

➤ **Who can apply for a design?**

An application for design registration can be filed by any person claiming to be the proprietor of any new or original design.

➤ **Where can I apply for industrial design registration?**

An application for design can be filed at any of the four Patent Offices located in Delhi, Mumbai, Chennai or Kolkata. However, the Designs wing of the Patent office at Kolkata is the head office for handling the design applications and the other three offices also transit such applications to Kolkata for further processing and prosecution.

➤ **What kinds of designs are unregistrable?**

Industrial designs falling under the following categories are not registrable:-

- Not new or original;

- Disclosed to the public anywhere in India or in any other country by publication or by use or in any other way prior to the date of filing
- Not significantly distinguishable from known designs or combinations of known designs
- Comprises or contains scandalous or obscene matter
- the designs of articles that are integral parts of other articles and the features are dependent upon the appearance of other articles

Further to this, any article falling in the following categories are also not registrable under the Designs Act:-

- Books, jackets, calendars, certificates, forms and documents;
- Dress making patterns, greeting cards, leaflets, maps and planning cards;
- Post cards, stamps and medals;
- Labels, tokens, cards and cartoons

An important criterion for selection is that the article should exist by itself independent of the design applied on it. The aforementioned articles are therefore included in the non-eligible list as once the designs on these items are removed only a blank paper or cloth or the like remains.

➤ **Why should you register your industrial design?**

The owner of a registered industrial design obtains exclusive rights to the design as well as the right to stop others from using the design without his permission. These rights will give him the liberty to exploit the designs in many ways, i.e. licensing the design to others for royalties, applying the design on articles he is producing for sale, or even sell the design for a sum of money.

➤ **What is the validity of an industrial design:**

An Industrial Design is valid for a period of 10 years and can be further renewed thereafter for a period of 5 years at a time.

➤ **When should I apply to register an Industrial Design?**

You should file your design for registration before disclosure to the public.

➤ **What are the rights conferred on the owner of the Industrial Design?**

Registration of the industrial design gives the owner exclusive right to make or import for sale or hire; for use for the purpose of any trade or business; to sell or hire; or to offer or expose for sale or hire, any article to which the registered industrial design has been applied.

➤ **What are the Benefits of Industrial Design?**

- Helps to ensure a fair return on investment
- Improves the competitiveness of a business against copying and imitating the design by competitors
- Helps to increase the commercial value of a company, as successful industrial designs constitute business assets
- Encourages creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts