

## Registration of Design: A Strategic Business Tool

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“Beauty is a good letter of introduction” - this famous Portuguese proverb sounds very significant in today’s glam hungry world. Globalization and liberalization have flooded the Indian Market with a large variety of products and consumers tend to choose a product which catches their eye by the beauty of its design.

Design grants visibility and attractiveness to the product which not only attracts the consumers but also increases its commercial value. It adds value to the product.

Presence and recognition of design in the market helps a brand to enter into a completely different product market. For e.g. Ferrari entered into license agreement with Acer and launched Ferrari branded product series like laptop, accessories, Notebook etc using its iconic red, black and hitech lines

Hence, the success of a product not only depends on its brand but also on its design. In India, the protection of design is governed by The Design Act, 2000 (Act) and The Design Rules, 2001 (Rules). India's Design Act, 2000 complies with the articles 25 and 26 of TRIPS agreement which stresses on designs protection.

Object of the Designs Act is to protect new or original designs so created to be applied or applicable to a particular article to be manufactured by the Industrial Process or means. It also ensures that the artisan, creator, originator of a design having aesthetic look is not deprived of his bonafide reward by others applying it to their goods.

As per the Act, “Design” means only the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article whether in 2D or 3D or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which, in the finished article appeal to and are judged solely by the eye.

Further, design does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trademark or property mark or artistic work.

A design is registrable in India only if it is new or original and the said design has not been disclosed to the public anywhere in India or in any country by way of use or by publication or in any other way prior to the date of filing. It should significantly be distinguishable from known designs or combinations thereof. In addition, the design should not contain any scandalous or obscene matter.

Once a design is registered, the Applicant shall have the copyright of the design for a duration of ten years from the date of registration. This duration can further be extended for a period of five years, if the applicants desires so, by applying an extension in a desired manner.

Currently, any person, whether he is a citizen of India or not can file an application for registration of design which he claims to be proprietor of. Here, person includes both individual and legal entity. There is no categorisation of applicant. However, recently the Government of India has notified the Draft Designs Amendment Rules (2013) which proposes categorization of the Applicants. As per the draft

amended Rules there would be two categories of applicants now - a natural person and other than a natural person. Separate fee structure has been designed for each categories. For a natural person the fees would remain the same. However, for the applicant other than a natural person, the fee would be four times the natural person. Draft Design Amendment Rules (2013) can be accessed by clicking on the following link

[http://www.ipindia.nic.in/IPActs\\_Rules/Draft\\_Designs\\_Amendment\\_Rules%202013.pdf](http://www.ipindia.nic.in/IPActs_Rules/Draft_Designs_Amendment_Rules%202013.pdf)

A successful registration of design, acts as a significant legal and strategic business tool. It confers exclusive rights to prevent others from copying the design on articles, for which the protection has been sought. This gives you a monopoly on the design applied to the article. Secondly, design registrations for your articles may act as a very good marketing tool for differentiating your articles from the articles existing in market. Lastly, the design registration provides you the right to approach any court seeking injunction or damages against any violation of your copyright on designs.



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