

PRE-REQUISITES FOR A DESIGN TO QUALIFY FOR PROTECTION:

- It should be novel and original;
- It should be applicable to a functional article;
- It should be visible on a finished article;
- It should be non-obvious; and
- There should be no prior publication or disclosure of the design.

WHY PROTECT AN INDUSTRIAL DESIGN?

"First impression is the best impression". This proverb is in fact very important for many businesses. For most of the product based companies, the design of the product is the simplest way to differentiate from similar products of competitors and gain a foothold in the field.

The outer appearance of a product makes it visually more appealing and attractive. The visual appearance of a product significantly grabs the attention of a viewer or user; even before the user understands its functionality. This acts as a value-adding aspect, which in turn increases the marketability of the product. Hence, it is important to protect the creativity behind the appearance of a product from being copied or used by third parties.

Moreover, a customer may associate with a product via its aesthetics even before its quality.

WHAT CANNOT BE PROTECTED UNDER DESIGN LAW?

Industrial design protection is provided only for the aesthetic feature of a product, not its functional design.

- Any industrial design describing any process of construction of an article;
- Industrial Designs of – books, jackets, calendars, certificates, forms and other documents, dressmaking patterns, greeting cards, leaflets, maps and plan cards, postcards, stamps, medals;
- Industrial Designs including flags, emblems or signs of any country;
- Any industrial design being opposing to public moral values; and
- Industrial Designs of integrated circuits

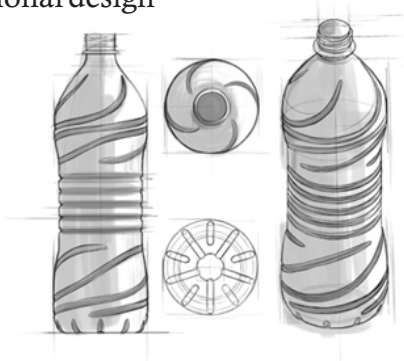
What is Industrial Design?

"The industrial design recognizes the creation new and original three dimensional features such as new shape of an article, configuration, surface pattern, ornamentations or two dimensional features, such as patterns, lines or colour applied to articles which in the finished state appeal to and is judged solely by the eye".

Criterion: Novelty,

Duration of Protection: 10 years, extendable for 5 years, preference first to file.

if the lines on the bottle helps in better gripping of the bottle, then it cannot be considered as the aesthetic feature but is a functional design



OFFICIAL FEE FOR FILING DESIGN IN INDIA

| DESIGN REGISTRATION | FEE FOR NATURAL PERSON (INR) | FEE FOR SMALL ENTITY (INR) | FEE FOR LARGE ENTITY (INR) |
|---|---|---|---|
| Application for registration of design | 1000 | 2000 | 4000 |

*The views expressed in this article are those of the author.