



What is Design?

A design is defined by Section 2(d) of the Designs Act 2001 as only the features of a shape pattern, configuration arrangement, or ornament of lines or colours that are applied to any article that is two dimensional, three dimensional, or both by an industrial process or other means, whether mechanical, manual, or chemically separated or mixed, and are judged solely by the eye in the finished article; However, it is not taken into account in terms of construction principles or anything that is essentially a mechanical unit.

Simply placed, a style is the product's overall aesthetic presentation that is distinct from other products. Form, colour combination, line structure, and other factors may all contribute to the appearance's beauty. The important thing to remember is that the design must be able to be adapted to an article. As a result, the design cannot exist in a vacuum; It must be used on both two-dimensional and three-dimensional objects.

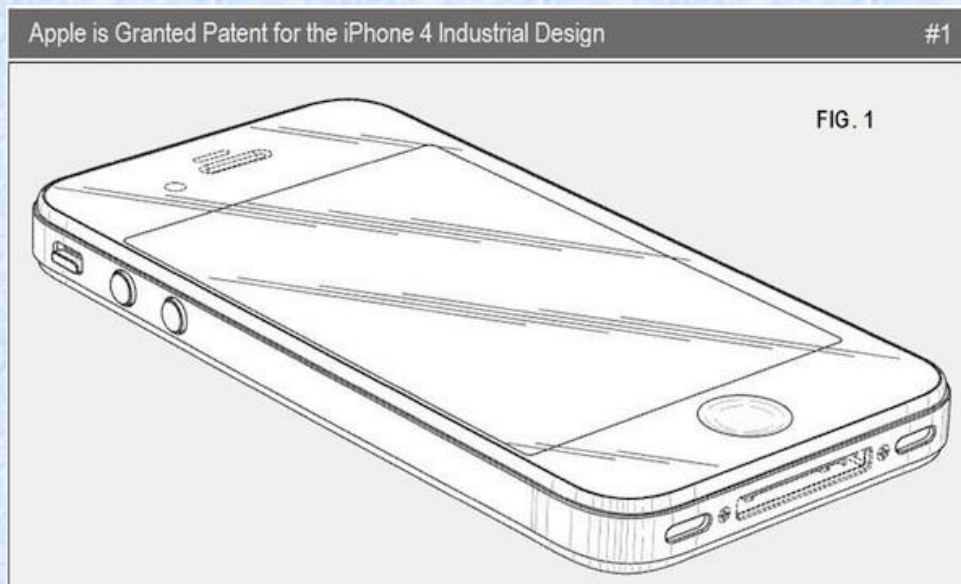


Image Source: <https://www.macstories.net>



Why Registers a Design?

A product's visual appeal is enhanced by design. The majority of customers make purchasing choices based on the appearance of a commodity. Given the value of design in consumer decision-making, it is only appropriate to preserve original and exclusive designs by granting the designers the freedom to use them. And if a product's concept is replicated, it may be detrimental to the designer's enterprise.

1. Statutory right – comes into effect only after registration – territorial
2. The right to prohibit anyone from making, importing, selling, or exporting goods that have a similar appearance or are a fraud or an apparent imitation.
3. The Monopoly Game Ten-year period with a five-year extension option
4. Provides you with a distinct selling point (USP)
5. It's a valuable commodity that can be authorised.

What are the requirements for Registering a Design?

The Designs Act, 2000, lists the following requirements to be met before a design can be registered:

1. Novelty—the concept must be exclusive and cannot have been written or used in any other region. A current template on a new subject-matter, on the other hand, may be recorded.
2. It must be extended or appropriate to a piece of writing. Industrial plans or prototypes are not eligible for design approval.
3. A manufacturing method should be used to apply the design to an article. Paintings and drawings that are not mass-produced in a manufacturing process are not eligible for approval.
4. In the final article, the template should be visible. This is due to the fact that the architecture is exclusively judged by the eye.
5. A mechanical instrument cannot be recorded in any mode of operation.
6. A trademark, property mark, or other creative rights as specified by the Copyright Act of 1957 cannot be used in a design.

There must be significant variations between the design and those that have already been registered. Designs that are similar to or have a strong resemblance to already existing designs, even though they are slightly new, do not apply for registration.



What are the rights conferred by registration of a Design?

The owner of a design who registers it gets the copyright to use it for the article for which it was registered. Which effectively ensures that the owner gets a one-time licence to use the template for the specific article for which it was registered. When a signed design is violated, the author has the power to sue the infringer for damages.

As a result, registering a specification is critical for protecting the product's appearance. It's necessary to remember that an article must exist independently of its architecture. This means that the article will continue to survive even though the template isn't added to it. As a result, stickers, logos, and other similar items are not considered articles for brand registration.

INDUSTRIAL DESIGN REGISTRATION PROCESS

Submit a duly filled registration form along with the prescribed fees and four copies of the Design Representation



Submit it to the Design Wing of the Patent Office in Kolkata or to any branch office of the Patent office in Mumbai, Delhi or Chennai.



At the Patent Office the Application is numbered and dated and taken up for Examination.



Defects, if any, are communicated to the Applicant/ his Agent



The defects must be corrected within a period of 6 months from the official date of Application.



If the Controller is not satisfied with the correction, a personal hearing is given to the Applicant.



After the hearing the Controller's decision is communicated to the Applicant in writing



The Applicant can appeal to the High Court against the Controller's decision, within three months of the decision.



Once accepted the Application is notified in the Patent Office Journal





The Application for registration of a design can be filed by the Applicant himself or by a professional employed by the Applicant for this purpose. (If a professional is employed, then the power of attorney has to be filed along with the Application)

Below is a list of the comprehensive steps involved in registering a Design in India:

1. Submit a properly completed registration form, along with four versions of the Design representation, along with the necessary fees (of size 33cm x 25cm with suitable margins). The drawing must clearly represent the design's characteristics from all angles and state the viewpoint.
2. The application must be forwarded to the Design Wing of the Patent Office in Kolkata, or to any Patent Office branch office in Delhi, Mumbai, or Chennai, along with the necessary documentation. (If it's not online)
3. The filing is numbered, dated, and picked up for review as soon as it arrives at the Patent Office. (Please notice that, unlike patents, no specific request for review is required.) Design applications are immediately examined after they are submitted.)
4. If any flaws in the application are discovered, they are reported to the Applicant or his Agent.
5. The errors must be repaired within six months of the application's formal submission date.
6. If the faults are not corrected as prescribed by the Controller, the claimant is given a personal hearing. The Controller's decision is reported to the Applicant or his Agent in writing (with reasons) after the hearing.
7. The Applicant has three months from the date of the Controller's order to file an appeal with the High Court.
8. The Application is published in the Patent Office Journal until it has been approved.

The term of Design:

A Design is valid for ten years from the date of registration after it has been registered. By filing an Application for Renewal along with the required charge, this limit may be extended for another 5 years.



In India, registering a template does not have to be done by a physical filing. E-filing for Designs has been available since the 9th of March, 2015. The e-filing procedure is identical to the procedure outlined above. The added benefit is that if you already have a digital signature for patent e-filings, you can use it for design e-filing as well.

Let us now examine the Industrial Design Fee system in India. The current fee arrangement is in compliance with the Design (Amendment) Rules, 2014. For the first time, the 2014 Amendment (effective December 30, 2014) established two groups of applicants for Design registration: Other than Natural Persons and Natural Persons. The latter category is further sub-divided into Small Entity and Others except Small Entity. Prior to the Amendment, the same amount of fees was applicable to all categories of Applicants. With the Amendment in place, each listed category has to pay a different amount for the Design Registration Process. (Please refer to the below Table for the exact fee structure in India)

The fee for a small entity has been fixed between the fees for a natural person and fees for all persons other than a natural person (except small entity). This, in effect,, means that there is a 50% reduction in the fee for a small entity (as opposed to a large entity). The Amendment has also introduced a new Form. Form-24. This Form has to be submitted along with a new Application, if an Applicant wants to claim the status of a Small Entity. It is important to note that Form-24 has to be filed at least once against the application number for subsequent documents for which a fee has been prescribed.

Sl. No.	On What Payable	Fee Structure in India		
		Statutory Fee (INR)		
		<i>Natural person</i>	<i>Small Entity</i>	<i>Large Entity</i>
1.	Application for Registration	1000	2000	4000
2.	Claim to proceed as an Applicant or joint-applicant	500	1000	2000



3.	Inspection of a Registered Design	500	1000	2000
4.	Request for Information of Design when Registration No. is given	500	1000	2000
5.	Request for Information of Design when Registration No. is not given	1000	2000	4000
6.	Notice of intended exhibition or Publication of an unregistered Design	500	1000	2000
7.	Application for Registration of a document in the Register of a Design – in respect one design	500	1000	2000
	For each additional design	200	400	800
8	Application for entry of name of proprietor or part-proprietor in the	500	1000	2000



	Register of Design – in respect one design			
	For each additional design	200	400	800
9.	Request for Correction of Clerical Error	500	1000	2000
10.	Application for Certified copy of Registered Design	500	1000	2000
11.	Application for Rectification of Register of Design	500	1000	2000
12.	Application for Extension of time for filling Priority Document	200 (per month)	400 (per month)	800 (per month)
13.	Notice of Opposition	100	200	400
14.	Petition for Amendment of Document	500	1000	2000
15.	Inspection of Register of Design	250	500	1000
16.	Application for renewal of Design	2000	4000	8000



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17.	Application for Restoration of lapsed Design	1000	2000	4000
18.	Petition to cancel Registration of Design	1500	3000	6000