

FAQ IN DESIGN REGISTRATION IN INDIA

WHAT IS DESIGN?

Design means the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional 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; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 2(1)(v) of the Trade and Merchandise Marks Act, 1958 or property mark as defined in section 479 of the Indian Penal Code or any artistic work as defined in section 2(c) of the Copyright Act, 1957.

WHAT IS AN ARTICLE UNDER DESIGN ACT

Article means any article of manufacture and any substance, artificial, or partly artificial and partly natural; and includes any part of an article capable of being made and sold separately.

OBJECT OF DESIGN REGISTRATION

An article is distinguished by its utility and appearance. Some time an article gets attention of purchaser not because of its utility but due to its distinctive artistic appearance. Object of design registration is to give protection to that new and original design so created and to reward its creator.

REQUIREMENTS FOR THE REGISTRATION OF DESIGN

The following are the requirements to file a Design Registration Application in India:

- The Design must be new and original;
- The Design must not be published in India or elsewhere in the world;
- Should be significantly distinguishable from known designs ;
- Should not contain scandalous or obscene matter.

WHO CAN APPLY FOR REGISTRATION OF DESIGN

Any person claiming to be proprietor of a new and original design can apply for registration of design. Application can be made either by himself claiming to be proprietor of design or through his agent. In case of application through agent, power of attorney is required.

DOCUMENTS REQUIRED FOR FILING DESIGN REGISTRATION IN INDIA

- Form 1
- Representation of article in prescribed manner
- Power of Attorney
- Priority Documents(for convention application)
- Statement of novelty and disclaimer(if any)

VALIDITY REGISTERED DESIGN

Copy right granted for design is valid for 10 years from the date of registration which can be extended for further period of 5 years if requested before expiry of initial period of copy right.

CAN STAMPS, LABELS, TOKENS, CARDS BE CONSIDERED AN ARTICLE FOR REGISRATION OF DESIGN?

No, because these articles can not have existence independent of design. If designs of these articles is removed, the articles could not exist.

FUNCTIONAL DESIGN ARE NOT REGISTRABLE

Functional designs are not registrable under design Act. That means if a designer makes an article in certain shape not in order to make appeal to eye of a customer but to perform certain functional requirement of the article, that design is not registrable.

RESTORATION OF LAPSED DESIGN

Where a design has ceased to have effect because of failure to pay the fee for extension of copyright, a request may be made by proprietor or legal representative in prescribed manner with fee for restoration of copy right in design within one year from the date design ceased to have effect.

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ON DESIGN REGISTRATION IN INDIA**](#)