

Designs Registration in India

WHAT IS A DESIGN?

- Aesthetic aspects or outward appearance that is applied to a product
- 2 D like patterns, lines, composition, colour; or
- 3 D like shape; or combination of both 2D & 3D



WHY REGISTER YOUR DESIGN?

Criteria for Design Registration

- Finished article appeals to and is judged solely by the eye
- New or original
- not prior published in any country and not publicly known in India
- is significantly distinguishable from known designs or combination of known designs
- Not a technical or useful function of a product

- Statutory right – accrues only on registration - territorial
- Right to prevent all other from producing, importing, selling or distributing products having an identical appearance or a fraudulent or obvious imitation
- Monopoly Period of 10 years extendable by 5
- Gives you a Unique Selling Point (USP)
- Is an asset & can be licensed



Objectives of

The Designs Act, 2000

- ★ To make efficient and user friendly legal system for protection of Design in India.
- ★ To promote creativity and protection.
- ★ Compliance of TRIPs Agreements

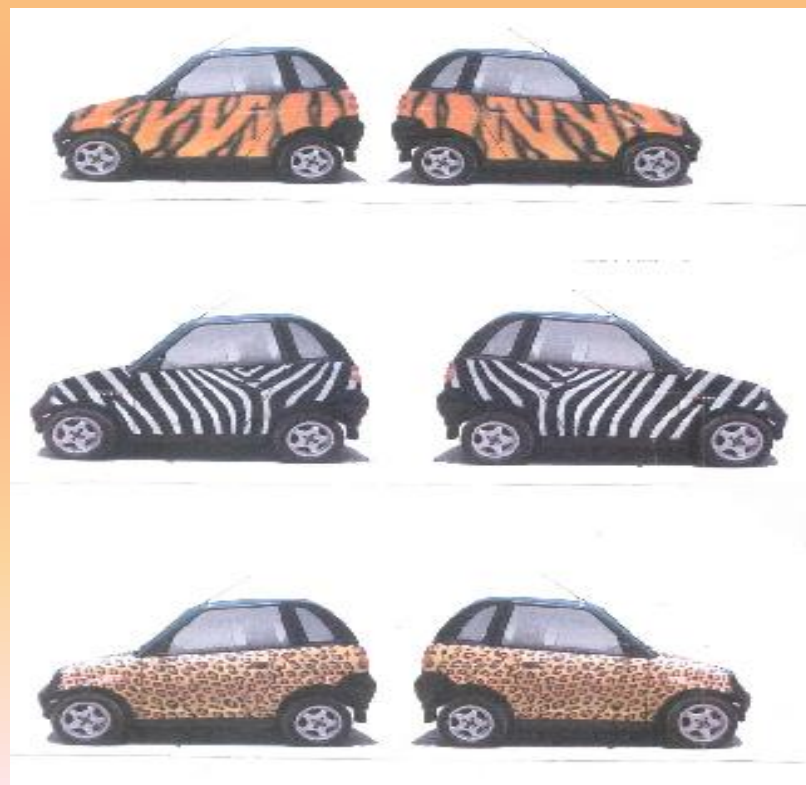
THE DESIGNS ACT, 2000, [No. 16 of 2000]

- An Act to consolidate and amend the law relating to protection of designs
- It repealed The Designs Act ,1911
- Published in the Gazette of India (Extraordinary Part II – Section I) dated 12.05.2000



Design is one of the categories of IPR where the design system **focuses on the aesthetic feature of an article derived from its visual appearance.**

Relevant aspects are the shape, configuration, surface pattern, the colour or line or a combination thereof as applied to an article which produces an aesthetic impression on the sense of sight.



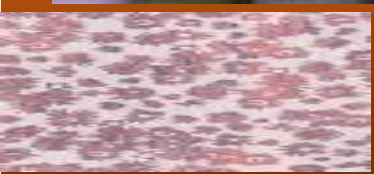
Consumer Products



Pharmaceutical Product



Textile & Jewellery



Criteria of Registrability

- ❑ Design should be new or original
- ❑ It should not be published in any country
- ❑ Not contrary to public order or morality
- ❑ Should not attract the provision of section 4 of Designs Act,2000



Prohibition of registration of certain designs

A design shall not be registered if the design:

(a) is **not new or original**; or

(b) **has been disclosed to the public**:

any where in India or in any other country by **publication** in tangible form or by **use**

or in any other way prior to the filing date,

or where applicable, the priority date of the application for registration; or

(c) is **not significantly distinguishable** from, known designs or combination of known designs; or

(d) comprises or contains **scandalous or obscene** matter.

Designs incorporating official symbols or emblems, maps, buildings, stamps, medals etc. cannot be registered under The Designs Act, 2000

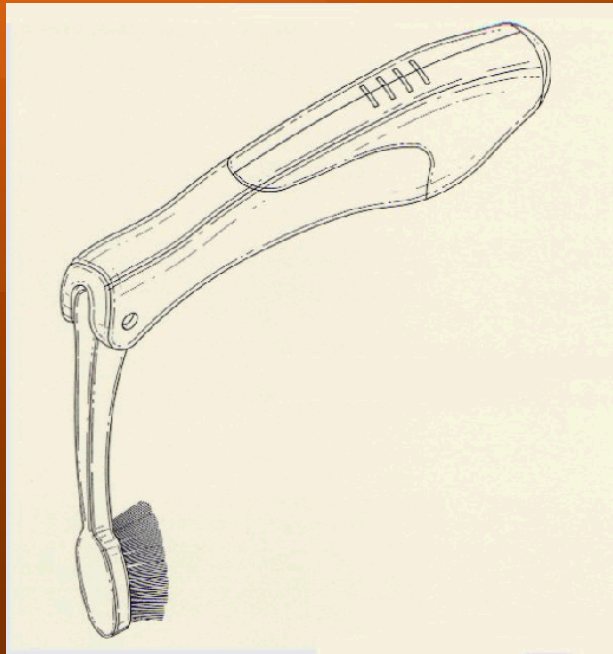


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Example with a toothbrush

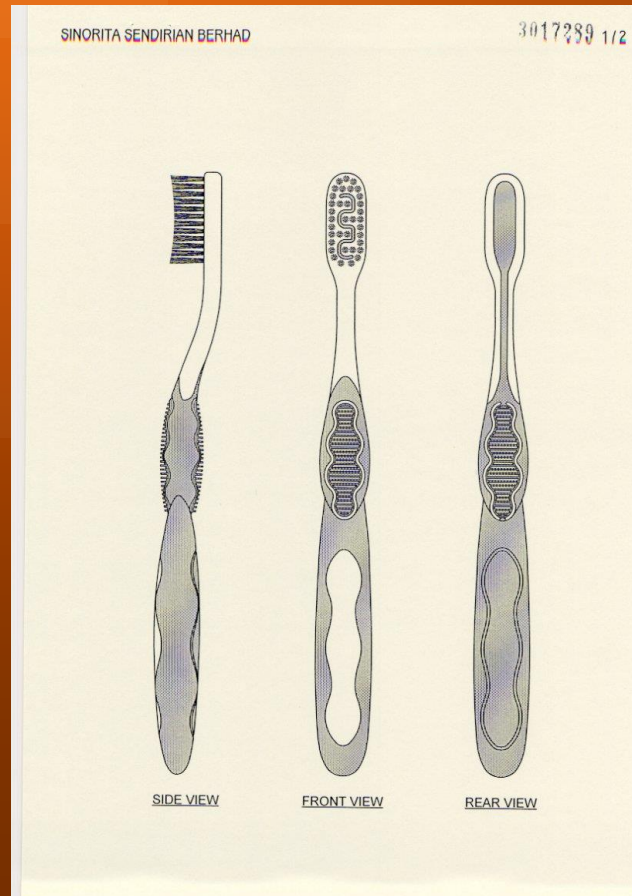
Shape & Configuration signify something solid where an idea has been incorporated into the article.



Contd.

Example with a toothbrush

Pattern or ornament or composition of colour / lines relates to something two dimensional.



Contd.

Design of 'set' is registrable

Rule 2(e) of Design Rules 2001:

‘Set’ means a number of articles of the same general character ordinarily sold together or intended to be used together ; all bearing the same design, with or without modification not sufficient to alter the character or substantially to effect the identity thereof.



FILING OF DESIGN APPLICATION

It can be filed in any of the Patent offices

Kolkata
Receiving and
examination office

Delhi
Receiving office

Mumbai
Receiving office

Chennai
Receiving office

WHO CAN FILE THE APPLICATION FOR REGISTRATION OF DESIGN:

- ❑ Any person – proprietor of a design
- ✦ Person includes:
 - Individual
 - Firm
 - Partnership/ Corporate Body
 - Legal entity

Flow Chart of Design Application up to Acceptance

