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AN OVERVIEW OF THE DESIGN ACT OF 2000 AND LANDMARK CASES

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Abstract

The Design Act, 2000 is an area of law in India that establishes a legal framework for the protection of designs. The Act defines a design as the visual appearance of a product and allows for the registration of designs to offer the owner exclusive rights. The Act also stipulates the grounds for cancellation of design registration and offers remedies in the event of design rights infringement. Designers can profit from design protection in a variety of ways, including avoiding unauthorized copying and selling of their ideas, gaining a competitive advantage, and boosting the value of their intellectual property portfolio. However, design piracy continues to be a problem. To safeguard their design rights, designers and firms must understand and apply the Design Act of 2000.

Key words:- *design protection, registration, cancellation, infringement, piracy, intellectual property rights, competitive advantage.*

Introduction

The Design Act of 2000 is an important part of Indian legislation that governs the registration and protection of industrial designs. An industrial design, according to the Act, is any feature of shape, arrangement, pattern, ornament, or composition of lines or colours applied to any object, whether two-dimensional, three-dimensional, or both. Industrial designs are critical components of the design and manufacturing industries because they influence both the visual appeal and functional features of items.

The Design Act of 2000, which replaced the earlier Design Act of 1911, establishes a contemporary and effective legal framework in India for the registration and protection of industrial designs. The Act has been revised multiple times to accommodate the industry's evolving needs and to provide stronger protection for designers and producers.

Industrial designs can be registered with the Design Office, a department of the Ministry of Commerce and Industry, under the Act. The registration process requires submitting an application with drawings or photographs of the design, as well as paying the prescribed price. The registration is valid for 10 years and can be renewed for another five years.

The Design Act of 2000 also gives the owner of a registered design with legal remedies against infringement, such as injunctions, damages, and profit accounting. Infringement is defined by the Act as the act of creating, importing, selling, or utilising a product that is identical or substantially similar to a registered design without the owner's permission.

Overall, the Design Act of 2000 establishes a strong legal framework for the protection of industrial designs in India, while also encouraging innovation and creativity in the design and manufacturing industries.

Design

A design is the decorative or aesthetic aspects of an article in the context of Intellectual Property Rights (IPR). It includes the shape, configuration, pattern, ornament, or composition of lines or colours applied to any two-dimensional or three-dimensional product. Design protection is a type of intellectual property that protects a product's visual appearance and is applicable to a wide range of objects, including jewellery, textiles, furniture, and consumer goods.

For example, the iconic Coca-Cola bottle design is a well-known example of an IPR-protected design. The bottle's unique and recognisable shape is recognised as a design in numerous places across the world. Similarly, design patents under IPR protect the iPhone's design, including its shape, colour, and graphic interface.

By offering legal protection to designers and manufacturers against unauthorised copying or replication of their creations, design protection promotes innovation and creativity in the design industry. It also allows customers to recognise and differentiate products based on their visual look and design aspects.

Design Definition

The Design Act of 2000, Section 2(d). This section defines design as "any features of shape, configuration, pattern, ornament, or composition of lines or colours applied to any article, whether in two-dimensional, three-dimensional, or both forms, by any industrial process or means that appeals to the eye and can be judged by the eye." The section goes on to say that a design can also comprise any artistic effort or other visually appealing components of an article.

The Design Act of 2000 in India has the following objectives such as

- To provide for industrial design registration and protection in India.
- To stimulate design industry innovation and creativity by giving legal protection to designers and manufacturers against unauthorised copying or replication of their designs.
- Encourage the usage of registered designs by establishing a legal framework for their enforcement and protection.
- To build an efficient and cost-effective design registration system while maintaining the quality and validity of the registered designs.
- To give registered design owners with legal remedies against infringement, such as injunctions, damages, and profit accounting.
- To enable Indian designers and manufacturers to compete globally by establishing a solid legal framework for design protection.
- To promote the development of new products and technology by rewarding designers and manufacturers for creating and protecting creative designs.

Essentials Of Design

- Novelty:

To be eligible for IPR protection, a design must be novel and original. It should not have been made public anywhere in the globe prior to the date of registration application.

- Individual Character:

A design should have a unique personality that sets it apart from other designs that are already well-known to the public. It should not be identical or similar to any other previously published or registered design.

- Registrability:

A design should be registrable under the applicable rules and regulations. Some designs may be denied protection if they are solely influenced by functional reasons.

- Territoriality:

As design protection is territorial, it is only valid in the country or region where it has been registered or awarded. Designers and manufacturers must seek protection in the nations where their products will be marketed or sold.

- Duration:

The duration of design protection varies by jurisdiction, however it normally lasts 10-15 years from the date of registration. To keep their protection, designers and manufacturers must renew their registration.

If Design Registered Under IPR

Having a design registered under IPR (Intellectual Property Rights) provides several benefits to the design's owner, including:

- Exclusive rights:

The registered design owner has only the right to use the design for commercial purposes and to prohibit others from using it without permission. This can assist the owner in establishing a strong market position and preventing competitors from misusing their innovative efforts.

- Legal protection:

Registering a design gives legal protection and remedies against design infringement. The owner has the right to sue anyone who uses their design without permission, and can seek injunctions, damages, and a statement of revenue.

- **Competitive advantage:**

A registered design can provide a competitive advantage by assisting the owner in differentiating their products from those of their competitors. This can boost brand recognition and consumer loyalty, resulting in greater sales and profitability.

- **Increased value:**

A registered design can boost a company's or product's worth by proving to investors, partners, and customers that the organisation values innovation and creativity. This can help to attract investment and strategic collaborations, as well as boost the company's total worth.

- **Licencing and franchising:**

In exchange for royalties or other types of compensation, a registered design can be licenced or franchised to others. This can create a new source of cash for the designer and boost the design's commercial potential.

If Design Not Registered Under IPR

If a design is not registered under IPR (Intellectual Property Rights), it may be vulnerable to unauthorised copying or replication. This means that others may be allowed to use the design without authorization, potentially costing the designer or manufacturer revenue, market share, and a competitive edge.

In the case of a dispute or legal action, the designer or manufacturer may have trouble proving ownership of the design without registration. This can make defending against infringement or seeking compensation for damages or losses more difficult.

Furthermore, without registration, the designer or manufacturer may be restricted from licensing or franchising the design to others because it may not have the same level of commercial value or recognition as a registered design.

Overall, while IPR registration is not required, it can provide major legal protection and commercial benefits to designers and manufacturers, allowing them to protect their creative efforts, build a strong market position, and maximize the value of their designs.

Locarno

The Locarno Classification is an international system for classifying designs in order to register and protect them under Intellectual Property Rights (IPR). The World Intellectual Property Organization (WIPO) established it, and many countries throughout the world utilize it.

The Locarno Classification's primary characteristics are:

- **Classification:**

The Locarno Classification provides a systematic and regulated method of categorizing designs based on their visual appearance and features. This contributes to the uniform and efficient registration and protection of designs.

- **Scope:**

The Locarno Classification includes a broad spectrum of designs, including industrial objects, handicrafts, and visual symbols. It has 32 classes and over 8,000 subclasses, allowing for accurate and extensive classification of various types of designs.

- **Function:**

enable the registration and protection of designs under IPR. It aids in determining the scope and amount of protection for a certain design, as well as if a design infringes on the rights of another registered design.

- **Internationally Recognized:**

which implies that a design registered in one country using the Locarno Classification system is commonly accepted and recognized in other nations that utilize the system as well.

- **Revision:**

The Locarno Classification is amended on a regular basis to reflect changes in technology, design techniques, and market trends. The "Nice Agreement," the most recent version, was adopted in 2019 and adds new classes and subclasses for upcoming technology and design fields.

What can be Protected

Design IPR can protect a wide range of designs with a distinct visual appearance, such as:

- **Consumer Products:**

such as electronic devices, furniture, apparel, and accessories. The design of the Apple iPhone or the Chanel handbag, for example, is protected by design IPR.

- **Industrial Products:**

such as machinery, equipment, and tools. The design of a 3D printer or a power drill, for example, can be protected by design IPR.

- **Handicrafts:**

Design IPR can be used to protect the design of handicrafts such as jewelry, pottery, and textiles. Design IPR can be used to protect the design of a one-of-a-kind piece of handmade jewelry or a traditional textile pattern, for example.

- **Graphic Symbols:**

such as logos, trademarks, and icons. Design IPR protects the design of the Nike "swoosh" logo and the Apple "apple" emblem, for example.

Registration of Design

The Design Act, 2000 governs design registration in India. The following steps are included in the registration process:

- **Application filing:**

A design registration application can be filed with the Indian Patent Office's Design Office. The application should include a design representation as well as the applicant's name and address.

- **Formal examination:**

The Design Office undertakes a formal examination of the application to ensure that it meets the registration procedural requirements, such as the payment of fees and the inclusion of all required information.

- **Substantive examination:**

After the application has passed the formal examination, the Design Office performs a substantive examination to determine whether the design is eligible for registration. This assessment looks at if the design is new or original, whether it has a distinct visual appearance, and whether it can be mass-produced or duplicated in a consistent and standardized manner.

- **Publication:**

If the design is found to be eligible for registration, it is published in the Designs Journal and made public.

- **Opposition:**

Any interested party may register an opposition to the registration of the design within a specific time period on the grounds that it does not meet the registration requirements.

- **Registration:**

If there are no objections to the design's registration or if any objections are unsuccessful, the design is registered and a certificate of registration is provided.

Design registration grants the owner the rights to use the design and prevents others from using or copying it without permission. These rights are legally enforceable and can last for up to 15 years from the date of registration. Sections 4, 5, 6, 7, 8, 9, 10, and 11 of the Design Act, 2000 regulate design registration.

Cancellation of Registration

- **Lack of novelty or originality:**

If it is established that the design is not new or unique, or that it has been disclosed or made available to the public prior to the date of registration application, the registration may be cancelled.

- **Lack of individual character:**

If it is decided that the design lacks a distinct visual appearance that distinguishes it from other designs that have already been registered or made available to the public, the registration may be revoked.

- In contravention of public order or morality:

If it is decided that the design is offensive or in violation of public order or morality, the registration may be revoked.

- Incorrect or incomplete information:

If it is discovered that the registration application contained incorrect or incomplete information, or if the applicant misrepresented the design or its ownership, the registration may be revoked.

- Non-use:

If a registered design is not utilized in commerce for a defined length of time, as specified by applicable rules and regulations, the registration may be cancelled.

Piracy

Piracy of design is defined as the unauthorized reproduction, imitation, or use of a registered design without the owner's permission. This can happen if a third party manufactures or sells a product that closely resembles a registered design or includes specific parts of the design without first getting the relevant permission or authorization.

For example, design piracy may occur if a corporation makes a product that is identical or substantially similar to a registered design for a piece of furniture or a consumer electrical gadget and sells it without the consent of the design's owner. Another example is piracy of design when a manufacturer copies a unique and distinctive pattern or graphic design from a piece of apparel or accessory and puts it on its own products without the owner's permission.

Design piracy is a violation of intellectual property rights, and the infringing party may face legal action. The registered design owner may be entitled to damages or other remedies for any loss or harm caused as a result of design piracy.

Landmark case

- Micolube India Ltd v. Rakesh Kumar Trading As R.K. Enterprises (2002): In this case, the plaintiff had registered a design for a lubricant container, and the defendant had created a similar container, resulting in an infringement of design rights. The court decided in favor of the plaintiff, finding that the defendant's design was "substantially similar" to the plaintiff's registered design and thus an infringement of the plaintiff's design rights.
- J. R. Kapoor Micronix India v. (2007): This case concerned whether a registered design for a label might be cancelled since it was not new or original. The court determined that the plaintiff's design was not innovative or original because it was simply a blend of pre-existing features, and so the plaintiff's design registration was cancelled.
- Holland Company LP v. S. P. Industries (2010): In this case, the plaintiff registered a design for a disc blade used in agricultural equipment, and the defendant created a blade that was comparable to the plaintiff's. The court decided in favor of the plaintiff, noting that the defendant's blade was a "slavish imitation" of the plaintiff's registered design and thus violated the plaintiff's design rights.

These decisions have helped to define India's legal framework for design rights and have established key precedents for forthcoming design infringement and registration issues.

Conclusion

The Design Act of 2000 establishes a legal framework for the protection of designs in India. The Act defines a design as the visual appearance of a product and allows for the registration of designs to offer the owner exclusive rights. The Act also stipulates the grounds for cancellation of design registration and offers remedies in the event of design rights infringement.

Designers can profit from design protection in a variety of ways, including avoiding unauthorized copying and selling of their ideas, gaining a competitive advantage, and boosting the value of their intellectual property portfolio. Failure to register a design, on the other hand, can result in the loss of these benefits as well as potential violation of design rights.

Furthermore, design piracy is still a problem, with individuals or businesses copying and selling items that violate the design rights of others. As a result, designers must be aware of their design rights and take proper actions to safeguard them.

Overall, the Design Act, 2000 establishes a thorough framework for protecting designs in India, and it is critical for designers and businesses to understand and apply this framework in order to secure their design rights.

