

Meaning of Industrial Design

The word “**Design**” in the context of *Industrial Design* refers to the **aesthetic or ornamental aspects** of an article — the visual features that make a product *look attractive or unique*. It’s not about how the product works, but how it *appeals to the eye*.

Detailed Explanation of Definition

1. Features of Shape, Configuration, Pattern, Ornament or Composition

These terms describe the *visual characteristics* of a product:

- **Shape:** The external form or outline of an article (e.g., the curved shape of a bottle).
- **Configuration:** The arrangement of parts within an article (e.g., the unique layout of buttons on a TV remote).
- **Pattern:** A decorative design, often repeated (e.g., printed motifs on fabric or wallpaper).
- **Ornament:** Decorative elements added to enhance beauty (e.g., carving on furniture, engravings on jewellery).
- **Composition of Lines or colours:** The artistic use of colours and lines (e.g., the colour pattern on a shoe or gadget).

These features can exist in:

- **One-dimensional** (1D) form — e.g., a printed line or colour pattern.
- **Two-dimensional** (2D) form — e.g., wallpaper design, textile prints.
- **Three-dimensional** (3D) form — e.g., the shape of a chair, car body, or bottle.
- Or a **combination** of these.

2. Created by Any Industrial Process or Means

The design can be made using:

- **Manual process:** Handcrafted designs such as handmade jewellery.
- **Mechanical process:** Machine-produced patterns like embossed metal sheets.
- **Chemical process:** Color finishes or coatings created through chemical treatments.
- Or a **combination** of these.

The key is that the design should be applied to an article **by an industrial process**, meaning it can be **reproduced** on a large scale — not just a one-time artwork.

3. Appeal to and Judged Solely by the Eye

This phrase is central to the definition.

It means:

- The **design’s beauty or uniqueness is evaluated visually**, not by touch, function, or technical use.
- The **visual impression** of the article matters — what the *eye sees* when you look at it.

Example:

A mobile phone may have both internal technical features and an external appearance.

Only the **external look** (shape, color combination, screen layout) is covered under *design law*, not the circuits or technology inside.

4. Exclusion – What Is Not a Design

A “Design” does **not** include:

- **Any mode or principle of construction:**
i.e., how the article works or is made (the functional/mechanical part).
Example: The internal locking mechanism of a door is not a design; but the decorative look of the door handle is.
- **Anything that is merely a mechanical device:**
Meaning — designs based only on utility or mechanics cannot be protected under Industrial Design law.
Example: The shape of a gear or engine part that is purely functional is *not* protectable.

Objective of Registering Industrial Designs

The **main object** of design registration is to:

1. **Protect the originality and creativity** of the creator (designer or manufacturer).
2. **Prevent others** from copying or imitating the visual appearance of the article.
3. **Encourage innovation and artistic expression** in industrial and commercial fields.
4. **Promote aesthetic development** — making products both functional and attractive.
5. **Boost market competition** by rewarding unique and creative designs.

When a design is registered, the designer gets **exclusive rights** to use it for a specified period (usually **10 years**, extendable by another **5 years**).

❖ Eligibility Criteria for Industrial Design Registration

For a design to be **eligible for protection** (i.e., for registration under the **Designs Act, 2000** in India), it must meet certain **essential conditions**. These ensure that only *unique, creative, and original* designs receive legal protection.

1. The Design Must Be Novel or Original

Meaning of “Novel” or “Original”

A **novel** or **original** design means that the *appearance* or *visual features* of the article are **new** — they have **not been seen or disclosed before** in the public domain.

This includes:

- Not **published** in India or any other country before the filing date.
- Not **used publicly** (for example, displayed, sold, or advertised).
- Not **known** through any other medium (books, catalogues, online platforms, exhibitions, etc.).

The test of novelty lies in whether the *overall visual impression* of the design is new and distinctive to the eye.

Why It Matters

The main purpose of the design law is to protect **innovation in appearance** — not imitation. If a design is already known or copied, granting protection would discourage true creativity.

Example

- If a company designs a new **bottle shape** for a perfume that has never been seen before, it is *novel*.
- But if someone else creates a bottle that looks almost the same as an existing registered design — even with minor changes — it's *not novel* and cannot be registered.

Prior Disclosure Destroys Novelty

Once a design has been shown to the public (in any form) **before** applying for registration, it **loses its novelty**.

Even if it was displayed by the creator themselves (e.g., shown at a trade fair or on social media), it becomes **ineligible**.

So, designers must **file for registration before public disclosure**.

2. The Design Must Be Significantly Distinguishable

Meaning

The design should be **visibly and clearly different** from:

- Already **registered designs**, and
- Designs that are **publicly known** or **commonly used**.

It should not be a mere **trivial variation** or **imitation** of an existing design.

The law requires the design to have a **distinct identity** — something that sets it apart in the eyes of an ordinary observer.

Example

- Suppose there are 50 models of **electric kettles** already in the market. If you submit a new kettle design that looks almost the same except for a small handle change or a color tweak — that's *not sufficiently distinguishable*.
- But if your design gives the kettle a **unique body curve or decorative pattern** that clearly stands out — then it can be considered *distinguishable*.

“Significantly Distinguishable” Test

When comparing two designs, authorities consider:

- The **overall visual effect** or impression — not minute details.
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❖ ACTS AND LAWS GOVERNING INDUSTRIAL DESIGNS IN INDIA

Industrial Designs in India are **protected by law** under a specific act and its rules. This legal framework ensures that a creator's *aesthetic or visual innovation* gets formal recognition and protection.

1. The Designs Act, 2000

- The **Designs Act, 2000** is the **main law** that governs **industrial design protection** in India.
- It replaced the old **Indian Patents and Designs Act, 1911**, which had outdated provisions.
- The new Act was brought to:
 - Align Indian laws with **international standards** (especially under the TRIPS Agreement of the WTO).
 - Encourage **creativity and innovation** in industrial products.

- Prevent **unauthorized copying** or imitation of designs.

Purpose of the Act

The Act provides:

- **Legal protection** to new and original industrial designs.
- **Exclusive rights** to the creator/designer to use their design for a specific period (10 years, extendable by 5 more).
- A way to take **legal action against infringement** (copying or imitation).

Administering Authority

The Designs Act is administered by the:

Office of the Controller General of Patents, Designs and Trademarks (CGPDTM)

under the **Department for Promotion of Industry and Internal Trade (DPIIT)**, Government of India.

You can visit the official website: <http://www.ipindia.nic.in>

2. The Designs Rules, 2001

- These are the **procedural guidelines** that explain **how** to apply and register a design.
- They specify:
 - Application forms and fees
 - Classification of articles (as per the Locarno Classification)
 - Examination process
 - Publication and renewal procedures

The **Designs Rules, 2001** have been **amended** in **2008, 2013, 2014, and 2019** to make registration simpler, more digital, and globally consistent.

Key Amendments

- Simplified the fee structure.
- Introduced **electronic filing** (e-filing).
- Added **small entity** and **startup** categories with reduced fees.
- Updated classification as per **Locarno Agreement** (for international harmonization).

3. Characteristics Required for a Valid Industrial Design

For a design to qualify for protection under the **Designs Act, 2000**, it must fulfill the following conditions:

Characteristic	Explanation
Novel and Original	The design must be new and not previously published or used anywhere.
Applicable to a Functional Article	It must be applied to a product or article that has some practical use (e.g., furniture, electronics, containers).
Visible on a Finished Article	The design should be visible on the product when it's complete — not hidden inside.
No Prior Publication or	The design must not have been disclosed to the public before the date of

Characteristic	Explanation
Disclosure	registration application.

In essence: The law protects the **visual beauty** of something you can see and use — not its internal working or mechanical function.

4. Famous Examples of Industrial Designs

Let's look at how these principles apply in real life:

Coca-Cola Bottle (1915)

- The **contoured glass bottle** was designed to stand out even in the dark or when broken.
- It is a **classic example** of industrial design — combining aesthetics and brand identity.
- Registered and protected worldwide.
- Even after more than a century, the bottle's design is iconic and instantly recognizable.

Apple iPhone

- Apple's **iPhone design** — sleek, rectangular body with **rounded corners** and minimal buttons — set a new global design trend.
- The **simplicity and symmetry** make it aesthetically appealing.
- Apple holds **industrial design rights** for both hardware and graphical interface layouts in many countries.

These designs show that a **successful industrial design combines visual appeal with usability**, without focusing on technical function.

❖ ENFORCEMENT OF DESIGN RIGHTS

Once a designer's creation is registered under the **Designs Act, 2000**, they are legally recognized as the **owner** of that design.

This ownership gives them **exclusive rights** to use, sell, or license the design — and also the **right to take legal action** against anyone who copies or imitates it.

Let's break this down in detail

1. Right to Sue for Infringement (Piracy of Design)

Once a design is registered, the **proprietor (owner)** gets the **exclusive right** to:

- Apply the design to any article in the same class in which it is registered.
- Stop others from **copying, imitating, or reproducing** the same design without permission.

If any other person or company uses, makes, sells, or imports a product that **copies or closely resembles** the registered design, it is called "**piracy of design.**"

In such a case, the owner can **sue the infringer** in a court of law.

In simple words:

If someone copies your registered design to make and sell similar-looking products, you have the legal right to stop them and claim damages.

2. Filing a Case for Design Infringement

- The **registered proprietor** can file a **civil suit** for infringement.

- The case can be filed in a **court not lower than a District Court**.
(This means — cases can be filed in the **District Court, High Court**, or in special **IP courts** where available.)
- The objective of the case can be:
 - To **stop further use** of the pirated design (injunction order), and
 - To **claim damages or compensation** for the loss caused.

3. Court's Preliminary Check — Registration Validity

Before taking any action, the **court first verifies** that:

- The design in question is **validly registered** under the **Designs Act, 2000**, and
- The **registration certificate** is still **active (not expired)**.

If the design is **not registered** or the registration has **expired**, the owner **cannot** claim legal protection.

Only **registered designs** are enforceable in a court of law.

An **unregistered design**, even if original, does **not** get protection under the Designs Act.

4. Legal Consequences — When the Infringer Is Found Guilty

If the court finds that the infringer (individual or company) has indeed copied or imitated a registered design, it can:

- Order the infringer to **stop** using or selling the pirated design immediately (called an **injunction**).
- Direct the infringer to **pay compensation or damages** to the design owner.

Penalty for Piracy of Design

As per **Section 22 of the Designs Act, 2000**:

- The infringer may have to pay a **statutory fine of ₹50,000/-** for each act of infringement.
- However, the **total sum recoverable** in one design case **cannot exceed ₹50,000**.
- The design owner may alternatively choose to file a **civil suit** and claim **actual damages** (if they can prove greater financial loss).

5. Reliefs Available to the Registered Proprietor

The owner of the registered design can seek the following **legal remedies**:

Type of Relief	Explanation
Injunction	A court order to stop the infringer from further use or sale of the copied design.
Damages / Compensation	Monetary compensation for the loss caused by the infringement.
Seizure of Goods	The court can order that the infringing products be seized or destroyed.

6. Importance of Enforcement

Enforcement of design rights is crucial because it:

- Protects the **commercial value** of a design.
- Deters **copying and unfair competition**.
- Ensures that **innovators and creators are rewarded** for their originality.

- Builds **trust** in the intellectual property system.

Without enforcement, even registration would lose its meaning, as anyone could freely copy others' designs without consequences.

Example (Illustrative Case Scenario)

Suppose:

- Designer A creates a **unique chair design** and registers it under the Designs Act.
- Later, Company B starts manufacturing and selling **chairs with the same design** without permission.

Designer A can:

- File a case in the **District Court**,
 - Obtain an **injunction** to stop Company B from selling the copied chairs, and
 - Claim **₹50,000/- per infringement** or seek **actual damages** if the loss is higher.
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❖ NON-PROTECTABLE INDUSTRIAL DESIGNS IN INDIA

Not every design can be protected under the **Designs Act, 2000**.

To maintain fairness, morality, and distinction from other forms of intellectual property, certain types of designs are **excluded** from registration.

These are called **non-registrable or non-protectable designs**.

1. Designs Against Public Order or Morality

Any design that:

- Offends **public morality, decency, or religious sentiments**, or
- Promotes **immoral, obscene, or offensive content**,

cannot be registered.

Example:

- Designs showing obscene images, offensive symbols, or culturally disrespectful elements are not protectable.
- A design that imitates sacred symbols or religious idols for commercial use would be considered **against public order**.

The law ensures that creativity should not violate ethical or cultural values of society.

2. Designs Including National Symbols, Flags, or Emblems

Designs **containing or resembling**:

- The **national flag, emblem, or seal** of India, or
- Similar flags, emblems, or official signs of **any other country**, or
- The **United Nations emblem** or insignia,

are **prohibited** from registration.

Legal Reference:

This restriction follows the **Emblems and Names (Prevention of Improper Use) Act, 1950**, which prevents misuse of national and international symbols.

Example:

You cannot register a handbag design that includes the **Indian national flag** pattern or the **Ashoka Chakra** as part of its decorative feature.

3. Designs of Integrated Circuits

Designs that depict or are part of the **layout or configuration of integrated circuits (ICs)** cannot be protected under the Designs Act.

Reason:

Integrated circuits have a **separate law** for their protection:

Semiconductor Integrated Circuits Layout-Design Act, 2000

Thus, these designs fall under **layout-design rights**, not under industrial design protection.

Example:

The internal pattern of a microchip or printed circuit board (PCB) cannot be registered as an industrial design.

4. Designs That Describe the Process or Method of Making an Article

Industrial design protection is only for the **visual appearance** of an article — *not for how it is made*.

If a design merely explains or shows the **process, principle, or mechanism** used in making a product, it cannot be registered.

Example:

A diagram showing the *method of assembling a chair or molding a plastic bottle* is not protectable. Only the **final shape or external look** of the chair or bottle may be registered.

Remember: *Design = appearance, not manufacturing process*.

5. Designs of Common and Routine Articles

Certain everyday printed or decorative items are excluded because they are considered **purely artistic or literary**, not industrial.

These include:

- Books, calendars, certificates, forms, and documents
- Dressmaking patterns
- Greeting cards, leaflets, maps, and plan cards
- Postcards, stamps, medals

Reason:

Such articles do not form the **shape or configuration of a manufactured product** — they mainly carry printed content or artwork.

These items are protected under **Copyright law**, not **Design law**.

6. Artistic Works under Section 2(c) of the Copyright Act, 1957

According to **Section 2(c)** of the Copyright Act, 1957, *artistic works* include:

- **Paintings, sculptures, drawings**, including diagrams, maps, charts, or plans
- **Photographs**
- **Architectural works** (buildings or structures)
- **Artistic craftsmanship**, like handmade jewelry or pottery

These works already have **copyright protection** — so they are **excluded** from industrial design registration.

Example:

- A **painting** or **sculpture** is protected as an artistic work under copyright, not as an industrial design.
- A **building design** or **photographic composition** is also outside the scope of industrial design law.

7. Designs That Include Trademarks

Any design that includes or resembles a **trademark** cannot be registered as an industrial design.

Legal Basis:

The **Designs Act, 2000** clearly excludes designs that incorporate:

- **Trade names, logos, brand marks, or symbols** used to identify goods/services.

Example:

A **shoe design** featuring the **Nike swoosh logo** or **Adidas stripes** cannot be registered as an industrial design — those features are protected under **Trademark law**. Industrial Design protects *appearance*, whereas Trademark protects *brand identity*.

Summary Table: Non-Protectable Industrial Designs

Category	Reason / Explanation	Example
Against public morality	Offends decency or religious beliefs	Obscene or disrespectful design
Flags or national emblems	Misuse of national/international symbols	Indian flag on a product
Integrated circuits	Protected under different law	Microchip layout
Process of making	Describes method, not appearance	Diagram showing molding process
Common printed items	Artistic/literary works, not industrial articles	Greeting cards, maps
Artistic works (Copyright Act)	Protected under copyright, not design	Paintings, sculptures, photographs
Trademarks	Brand symbols, not design elements	Logos, labels, names

❖ Cancellation of a Registered Design

The **cancellation** of a registered design means **removing a design from the Register of Designs** maintained by the **Controller General of Patents, Designs and Trademarks (CGPDTM)**.

This usually happens when it is found that the design **does not meet the legal requirements** for protection under the **Designs Act, 2000**.

Grounds for Cancellation (Section 19 of the Designs Act, 2000)

Any interested person can apply for cancellation of a registered design on the following grounds:

1. **The design is not new or original.**
→ It was already known or used before registration.
2. **The design has been published in India or elsewhere prior to registration.**
3. **The design is not registrable under the Designs Act.**
→ For example, it does not meet criteria like novelty, originality, or industrial applicability.
4. **The design is not a design as defined under Section 2(d) of the Designs Act.**
→ For example, it includes a method, principle, or mechanical device rather than a shape or pattern.
5. **The design is contrary to public order or morality.**

Application for Cancellation – Forms Used

- The **application for cancellation** must be filed in **Form 8** as per the **Designs Rules, 2001**.
- It should be accompanied by:
 - **A statement of reasons** for cancellation.
 - **Evidence or documents** supporting the claim.
 - **Prescribed fee** (as per the First Schedule of the Designs Rules).

Procedure

1. The **application (Form 8)** is submitted to the **Controller of Designs** at the **Patent Office, Kolkata**.
2. A **copy** of the application is sent to the **registered proprietor** of the design.
3. Both parties may be **heard** and can submit **written arguments or evidence**.
4. After considering the matter, the **Controller** may:
 - **Cancel the registration**, or
 - **Refuse the application**, giving reasons in writing.

Appeal

If either party is dissatisfied with the Controller's decision, they can file an **appeal to the High Court** within **three months** from the date of the decision.

GEOGRAPHICAL INDICATIONS (GIs)

A **Geographical Indication (GI)** is a **sign or name** used on products that have a **specific geographical origin** and possess **qualities, reputation, or characteristics** that are essentially due to that origin.

A GI tag tells us *"This product is special because it comes from this place."*

Example:

- **Darjeeling Tea** – grown in Darjeeling, West Bengal
- **Mysore Silk** – produced in Mysuru, Karnataka
- **Banarasi Saree** – made in Varanasi, Uttar Pradesh
- **Alphonso Mango** – grown in Ratnagiri, Maharashtra

❖ ACTS, LAWS, AND RULES PERTAINING TO GEOGRAPHICAL INDICATIONS (GIs)

1. Governing Legislation

In India, **Geographical Indications (GIs)** are governed by:

The Geographical Indications of Goods (Registration and Protection) Act, 1999

and

The Geographical Indications of Goods (Registration and Protection) Rules, 2002

Both came into effect on **15th September 2003**.

2. Objective of the GI Act, 1999

The **main objectives** of the Geographical Indications Act are:

- To **provide legal protection** to Indian GIs.
- To **prevent unauthorized use or imitation** of registered GIs by others.
- To **promote economic prosperity** of producers of goods produced in a particular territory.
- To **encourage preservation of traditional knowledge**, skills, and cultural heritage.
- To ensure **exclusive rights** to the authorized users and registered proprietors.

3. Administration of the Act

- The Act is administered by the **Controller General of Patents, Designs and Trademarks (CGPDTM)**, who also functions as the **Registrar of Geographical Indications**.
- The **Geographical Indications Registry** is located in **Chennai, Tamil Nadu**.

4. Key Provisions of the GI Act, 1999

(a) Definition of a Geographical Indication (Section 2(1)(e))

A *Geographical Indication* is a sign used on goods that:

- Originate from a specific **territory, region, or locality**, and
- Have **qualities, reputation, or characteristics** essentially due to that origin.

(b) Registration of GIs (Chapter III)

- Producers or associations can apply for GI registration.
- Application must include details such as geographical area, product features, proof of origin, etc.

- Once registered, the GI is entered in the **GI Register**, divided into:
 - Part A – for registered GIs
 - Part B – for authorized users

(c) Duration of Protection (Section 18)

- A GI is valid for **10 years** from the date of registration.
- It can be **renewed indefinitely** every 10 years with renewal fees.

(d) Rights Conferred (Section 21)

- Registered proprietor and authorized users have **exclusive rights** to use the GI.
- They can **initiate legal proceedings** against any infringement.

(e) Infringement (Section 22)

Infringement occurs when:

- A person uses a registered GI **without authorization**.
- The product is **misrepresented** as originating from a registered region.
- The GI is used in a **misleading or deceptive** manner.

(f) Penalties (Chapter IX)

- Using a false GI or misleading the public can lead to:
 - **Imprisonment** up to 3 years, and/or
 - **Fine** up to ₹2,00,000 or more.

5. Geographical Indications of Goods (Registration and Protection) Rules, 2002

The **GI Rules, 2002** provide **procedural guidelines** for implementing the Act.

Key Provisions:

- Format and procedure for **filing applications**.
- Requirements for **renewal, rectification, and cancellation**.
- Maintenance of the **GI Register**.
- Procedures for **opposition, appeal, and authorized user registration**.
- Prescribed **forms and fees** for various actions (e.g., GI-1 to GI-9 forms).

Amendments:

- The Rules were amended in **2004, 2013, 2014, and 2019** to simplify registration and promote efficiency.

6. International Agreements Related to GIs

India is also a member of several **international treaties** that deal with protection of GIs globally:

Agreement / Convention	Purpose
Paris Convention for the Protection of Industrial Property (1883)	Provides protection against unfair competition and misuse of geographical names.
TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights), 1995	Sets minimum standards for GI protection for all WTO members.
Lisbon Agreement (1958)	Provides international registration of appellations of origin (India is not yet a member).

Under the **TRIPS Agreement**, member countries must:

- Protect GIs identifying goods as originating from a specific region.
- Provide **stronger protection** for wines and spirits.

7. Benefits of the GI Act and Rules

- **Protects authenticity** of regional products.
- **Boosts trade** and help in export promotion.
- **Improves livelihood** of local artisans and farmers.
- **Enhances global recognition** of Indian products.
- **Prevents misuse** and ensures product credibility.

8. Examples of GIs Registered Under the Act

Product	State / Region
Darjeeling Tea	West Bengal
Mysore Silk	Karnataka
Kanchipuram Saree	Tamil Nadu
Banarasi Brocade	Uttar Pradesh
Kashmir Saffron	Jammu & Kashmir
Pochampally Ikat	Telangana
Aranmula Mirror	Kerala
Nagpur Orange	Maharashtra

Summary

Aspect	Details
Governing Act	Geographical Indications of Goods (Registration and Protection) Act, 1999
Rules	GI Rules, 2002 (amended in 2004, 2013, 2014, 2019)
Effective Date	15th September 2003

Aspect	Details
Administered By	Controller General of Patents, Designs and Trademarks (CGPDTM)
Registry Office	Chennai, Tamil Nadu
Protection Term	10 years (renewable indefinitely)
International Basis	TRIPS Agreement (1995), Paris Convention (1883)