

Introduction

Products which are artistically designed immediately attract the attention of customers. A design gives aesthetic sense and appearance to the product. When people go for selecting goods for their purchase may it be textile, electronic items, utensils, cosmetic items, jewellery etc., they get attracted by the shape and designs of goods or its container. Therefore, to attract customers the manufacturers give much attention to the design of the products. The creative originality of a design needs legal protection against copying. Therefore the Law provides for registration of original design and prohibit its copy by others.

Development of Design Law in India

In India, the first law on designs enacted during British regime was Patents and Designs Act, 1872. Later the Inventions and Designs Act 1888 was enacted to protect invention and designs. Thereafter, following the British Patent and Design Act, 1907 the Indian Patent and Designs Act 1911 was enacted. When a separate Patent Act was enacted in 1970 the provisions relating to patents were repealed from Patent and Designs Act, 1911 and the Act was renamed as Designs Act, 1911. This Act continued to deal with designs till the new Designs Act was enacted in the year 2000.

Salient features of Designs Act, 2000

Since the enactment of Design Act, 1911 considerable progress has been made in the field of science and technology. It was felt that legal system of protection of industrial designs required more effective protection. The Act not only promotes creation of new and original designs for products but also aims to balance the competing interests by granting time-bound monopoly right to use

registered industrial design by owner. The salient features of the Designs Act of 2000 may be summarized hereunder:

- (a) It enlarges the scope of definition of "article" and "design" and introduces definition of "original".
- (b) It amplifies the scope of "prior publication".
- (c) It incorporates the provisions for delegation of powers of the Controller to other officers and duties of examiners.
- (d) It contains provisions for identification of non-registrable designs.
- (e) It contains provisions for substitution of application before registration of a design.
- (f) It introduces internationally followed system of classification in the place of Indian classification.
- (g) It contains provisions for maintaining the Register of designs on computer.
- (h) It contains provisions for restoration of lapsed designs.
- (i) It contains provision for appeal against the order of the Controller before the High Court instead of Central Government as existing.
- (j) It revokes the period of secrecy of two years of a registered design.
- (k) It provides for compulsory registration of any document for transfer of right in the registered design.
- (l) It introduces additional grounds in cancellation proceedings and makes provision for initiating the cancellation proceedings before the Controller in place of High Court.
- (m) It enhances the quantum of penalty imposed for infringement of registered design.
- (n) It contains provisions for grounds of cancellation to be taken as defence in the infringement proceedings to be initiated in any Court not below the Court of the District Judge.

- (o) It enhances initial period of registration from 5 to 10 years, to be followed by a further extension of a period of 5 years.
- (p) It contains provisions for allowing of priority to other convention countries and countries belonging to the group of countries or inter-governmental organizations apart from United Kingdom and other Commonwealth countries.
- (q) It contains provisions for avoidance of certain restrictive conditions for the control of anticompetitive practices in contractual licenses.
- (r) It contains specific provisions to protect the security of India.

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