

General Information Regarding Registration of Industrial Designs

The Patent Office (Design Wing)

What is a Design? A Design refers to the features of shape, configuration, pattern, ornamentation or composition of lines or colours applied to any article, whether in two or three dimensional (or both) forms. This may be applied by any industrial process or means (manual, mechanical or chemical) separately or by a combined process, which in the finished article appeals to and judged solely by the eye. Design does not include any mode or principle of construction or anything which is a mere mechanical device. It also does not include any trade mark or any artistic work.

Benefits of Design Registration

The registration of a design confers upon the registered proprietor the exclusive right to apply a design to the article in the class in which the design has been registered.

A registered proprietor of the design is entitled for protection of his intellectual property. He can take step against infringement, if his right is infringed by any person. He can license or sell his design as legal property for a consideration or royalty. Registration initially confers this right for ten years from the date of registration. It is renewable for a further period of five years. If the fee for extension is not paid for the further period of registration within the period of initial registration, this right will cease. There is provision for the restoration of a lapsed design if the application for restoration is filed within one year from the date of cessation in the prescribed manner.

Essential requirements for registration

A design should:

- Be new or original
- Not been disclosed to the public anywhere 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.
- Be significantly distinguishable from known designs or combination of known designs.
- Not comprise or contain scandalous or obscene matter.
- Not be a mere mechanical contrivance.
- Be applied to an article and should appeal to the eye.
- Not be contrary to public order or morality.
- Not be prejudicial to the security of India

Exclusion from scope of design.

Designs that are primarily literary or artistic character are not protected under the Designs Act. These will include :

- books, calendars, certificates, forms and other documents, dressmaking patterns, greeting cards, leaflets, maps and plan cards, postcards, stamps, medals.
- labels, tokens, cards, cartoons.
- any principle or mode of construction of an article.
- mere mechanical contrivance.
- buildings and structures.
- parts of articles not manufactured and sold separately.
- variations commonly used in the trade.
- mere workshop alterations of components of an assembly.

- mere change in size of article.
- flags, emblems or signs of any country.
- layout designs of integrated circuits.

Who can apply for registration of a Design ?

Any person or the legal representative or the assignee can apply separately or jointly for the registration of a design. The term "person" includes firm, partnership, small entity and a body corporate. An application may also be filed through an agent in which case a power of attorney is required to be filed.

Who can assist in registration of Design?

The Design Wing of the Patent Office may be approached for finding out whether a design has been previously registered or not, on prescribed form. An Application for registration of design may be prepared either by the applicant or with the professional help of attorneys. A list of patent agents is available in the Register of Patent agents maintained by the Patent Office and also available in www.ipindia.nic.in.

Finding out whether any registration already exists.

The Design Wing of the Patent Office can assist if an application for search is made or an applicant can inspect the Register of Designs. To request for a search by the Design Wing of the Patent Office, the following documents should be filed to find out whether any registration exists in respect of any design :

- a. If the registration number is known, Form No. 6 along with the prescribed fees.
- b. If the representation of the article or the specimen of the article is filed (in duplicate), Form No. 7 along with the prescribed fees.

Note: Before filing an application, the applicant can also obtain information whether the design has already been registered or not, by filing a request on Form 7.

Priority Date in case of Convention Application.

Any person who has applied for protection for any design in the convention countries or group of intergovernmental organizations, or his legal representative or assignee, either alone or jointly with any other person, is entitled to claim registration of the said design citing a priority date in India. This date is the date of filing of the application in any of the countries mentioned above. However, the application should be made in India within six months from the date of the earliest application for registration in those countries.

Cancellation

of Registration Of Design

Any interested person can file a petition to the Controller seeking the cancellation of a registered design at any time after the registration of the design. An application for cancellation is admissible on the following grounds:

- that the design has been previously registered in India ; or
- that it has been published in India or in any other country prior to the date of registration; or
- that the design is not a new or original design ; or
- that the design is not registrable under this Act; or
- It is not a design as defined under section 2(d).

Statutory time for the acceptance of an application ?

The time period for removal of objection, pursuant to examination report, is six months from the date of application which may be extended up to further three months on a request made in F-18 with the prescribed fee before expiry of the stipulated period of six months. An application which owing to any neglect or default of the applicant has not been completed within stipulated time shall be deemed to be abandoned.

Register of Design

Information relevant to any registered designs are entered in Register of Designs kept in Patent Office. The register is prima facie evidence of any matter to be entered therein. Any person can inspect the Register of Designs upon request to the Controller with prescribed fees.

Application Procedure

Any person who desires to register a design is required to submit the following documents to the Design Wing of the Patent Office at "Intellectual Property Office", CP-2, Sector V, Salt Lake, Kolkata - 700 091 or any of the Branch Offices of the Patent Office at Delhi, Mumbai and Chennai. The applications received by the Branch Offices shall be transmitted to Patent Office, Kolkata for processing and prosecuting.

- (i) Application duly filed in on the prescribed form (Form-1) along with the prescribed fees, stating name in full, address and nationality, name of the article, class number and address for service in India. The application shall also be signed either by the applicant or by his authorized agent. For small entity, Form 24 & documentary evidences thereof has to be submitted along with Form 1 and representations.
- (ii) Representation (in quadruplicate on durable paper of size 210mm x 296.9 mm with a suitable margin) of the article where drawings, photographs, tracings or other representations including computer graphics should clearly show the features of the design from different views.
- (iii) A statement of novelty and disclaimer (if any) in respect of mechanical action, trademark, work, letter, numerals should be endorsed on each representation sheet which should be duly signed and dated.

(Please see guidelines for preparation of representation sheet in

subsequent sections)

- (iv) Power of attorney (if necessary).
- (v) Priority documents (if any) in case of convention application claimed under Section 44 of the Designs Act, 2000

The list of contracting countries under Paris Convention and WTO can be seen through the

following urls :

http://www.wipo.int/treaties/en/ShowResults.jsp?treaty_id=2

https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

Registration of designs

Every application for registration of design In India undergoes examination the Act and Rules as amended time to time. The applications are examined in order in which the application is filed under Section 5 and 44 of the Act.

Defects or objections in the application, if any, noticed during examination of the application are communicated to the applicant or to his agent at the address for service. The time period for removal of objection, pursuant to examination report, is six months from the date of application which may be extended up to further three months on a request made with the prescribed fee before expiry of the stipulated period of six months. An application which owing to any neglect or default of the applicant has not been completed within stipulated time shall be deemed to be abandoned.

Acceptance & Notification:- An application is accepted when all the shortcomings have been rectified. It is then notified in the Patent Office journal which is published on every Friday.

Refusal:- In case the defects as required by the Controller are not rectified, a hearing will be provided to the applicant. After hearing the controller shall decide whether the application should be accepted or not.

The decision of the Controller will be communicated in writing to the applicant or his agent stating the reasons for the decision.

Appeal :- Any person aggrieved by the decision of the Controller refusing to register a design may appeal to the High Court. The appeal should be made within three months from the date of the Controller's decision.

Abandonment :- An application which owing to any neglect or default on the part of the applicant has not been completed so as to enable registration to be effected within six months or within extended period will be treated as abandoned.

Standard Form of the statement of novelty

- a. The novelty resides in the shape and configuration of the bookshelf as illustrated.
- c. The novelty resides in the shape and configuration particularly in the portion (A) and (B) of the Bookshelf as illustrated.
- d. The novelty resides in the ornamental surface pattern of the football as illustrated.
- e. Novelty resides in the floral ornamentation of tea-pot as illustrated.

Where Trade Marks, words, letters or numerals are not the essence of the design, they shall be removed from the representations or specimens. Where they are essence of the design, a disclaimer shall be given in the representation sheet disclaiming any right to their exclusive use.

Form of

Disclaimers

- a. No claim is made by virtue of this registration of respect of any mechanical or other action of any mechanism whether or in respect of any mode or principle of construction of the article.
- b. No claim is made by virtue of this registration to any right to the exclusive use of trade marks, words or letters and numerals appearing in the design of the article.
- c. No claim is made by virtue of this registration to any right to the exclusive use of colour or colour combination appearing in the design of the article.
- d. No claim is made by virtue of this registration to any right to the exclusive use of any extraneous matter like xxxxxxxxx etc. appearing in the representation sheets.

Representation Sheet

A representation sheet of an article is an important document required to be filed along with the application for registration.

- a. The representation sheet of an article needs to be prepared diligently and shall be filed along with the application. The Designs Rules require that four copies of the representation shall be filed along with the application. However, as the records are digitised and processed electronically, two copies of the representation will suffice.
- b. Representation means the exact representation of the article for which registration is sought. A representation may contain more than one page.
- c. Representation shall be exactly similar drawings, photographs, tracings including computer graphics or specimens of the design. The Controller may require a specimen of the article to be submitted at the time of examination, in rare cases.
- d. Photographs should be pasted on the representation sheets with the help of adhesive and not by other means like stapler, pin and cello tape. While using photographs in representation sheets, one of the copies of representation sheet shall not be covered by cellophane or tracing paper so as to enable digitization.
- e. Representation shall be prepared on white A4 size paper (210 mm X 296.9 mm) of durable quality, but not on card board, and only on one side of the paper.
- f. The figure(s) shall be placed in an upright position on the sheet. Each figure shall be designated clearly (e.g. perspective view, front view, side view).
- g. If design is to be applied to a set, the representation shall depict various arrangements in which the design is to be applied to articles in the set.
- h. Where an application is for a design as applied to a set, whether the given articles constitute a set or not, shall be determined by the Controller.
- i. In case, name or representation of living persons appear on a design, consent of such persons may be submitted along with the application. In case of a deceased person, the consent of legal representative may be submitted. It may be noted that non-submission of such consent may result in office

objections and resultant delay in registration. In case, the representation contains the image or name of an imaginary person, such fact may be mentioned in the declaration on the representation sheet.

j. A statement of novelty and disclaimer (if any) in respect of mechanical action, trademark, word, letter, numerals should be endorsed on each representation sheet.

k. Representation, which consists of a repeating surface pattern, shall show the complete pattern, and a sufficient portion of the repeating pattern in length and width, and shall not be less than 15.00 centimeters by 10.00 centimeters in size.

L. The name of applicant shall be mentioned in left hand top corner of the representation sheet.

m. Total number of sheets and sheet number shall be mentioned in the right hand top corner of the representation sheet in Arabic numerals. .

n. The representation sheet shall be signed and dated by the applicant/agent.

o. No descriptive matter or matter denoting the components by reference letters/numerals shall be included.

p. No sectional views shall be incorporated in the representation sheet.

q. Dimensions or engineering symbols etc. shall not be used in the representation sheet. The representation is not to be regarded as engineering drawing of the article. The relevant parameter is the shape and not the size of the article.

r. Where Trade Marks, words, letters or numerals are not the essence of the design, they shall be removed from the representations or specimens. Where they are essence of the design, a disclaimer shall be given in the representation sheet disclaiming any right to their exclusive use.

s. No extraneous matter or background shall appear in the representation sheet. A background is considered neutral as long as the design is clearly visible in it.

t. When colour combination is the essence of a design as applied to an article, the same shall be clearly depicted in the representation.

Classification of designs in classes

Designs are required to categorize in separate classes in order to provide for systematic registration. An International classification of Industrial Designs according to the Locarno Agreement has been introduced in the Design Rules 2001 & as in (Amendment) Rules 2008. The classification of goods is based upon the function of the classification of goods is applied. There are classes and most *of the* classes are further divided into sub-classes.

Normally, the name of the article should be such that is common / familiar in the trade

or Industries. The name of the article as mentioned in the application form should correspond with the representation of the article as filed.

Example: If the article relates to 'chair' or sofa-cum-bed', the name should be provided accordingly and should be classified under Class 06 and sub-class -01 where it is stated as BEDS AND SEATS since it is classified in function\purpose oriented manner.

[Details of Classification of goods may be seen at http://www.ipindia.nic.in/ipr/design/DesignRules_28Jul2008.pdf].

(SPECIMEN OF REPRESENTATION SHEETS)

Name of the Applicant
XYZ PVT.LTD. CO.

No. of Sheets-1
SHEET No. -1



TOP VIEW

The novelty resides in the surface ornamentation of the "DISH" as illustrated.

No claim is made by virtue of this registration in respect of any mechanical or other action of the mechanism whatever or in respect of any mode or principle of construction of the article.

No claim is made by virtue of the registration to any right to the exclusive use of the words, letters, numbers, colour, combination or Trade Marks as appearing in the representation.

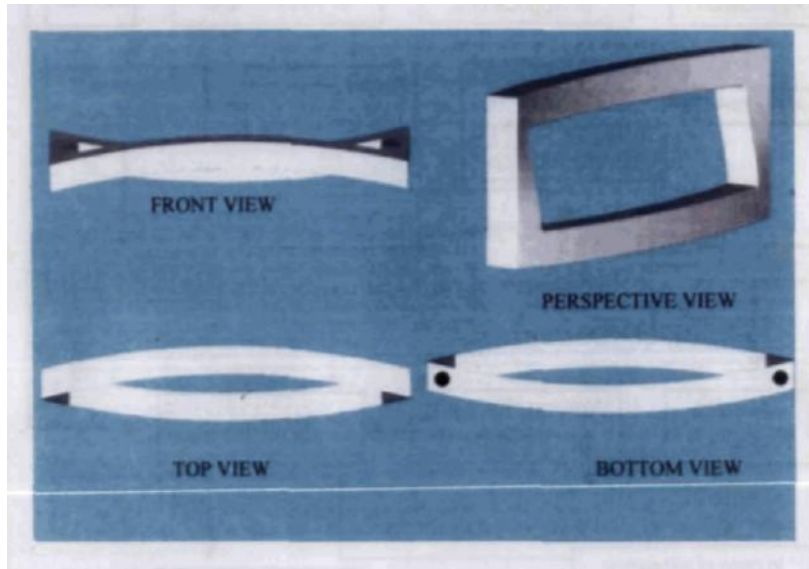
Date:

Signature of the Applicant / Agent
(Name of the Signatory)

(SPECIMEN OF REPRESENTATION SHEETS)

Name of the Applicant
XYZ PVT.LTD. CO.

No. of Sheets-1
SHEET No. -1



The novelty resides in the Shape & configuration of the "HANDLE" as illustrated

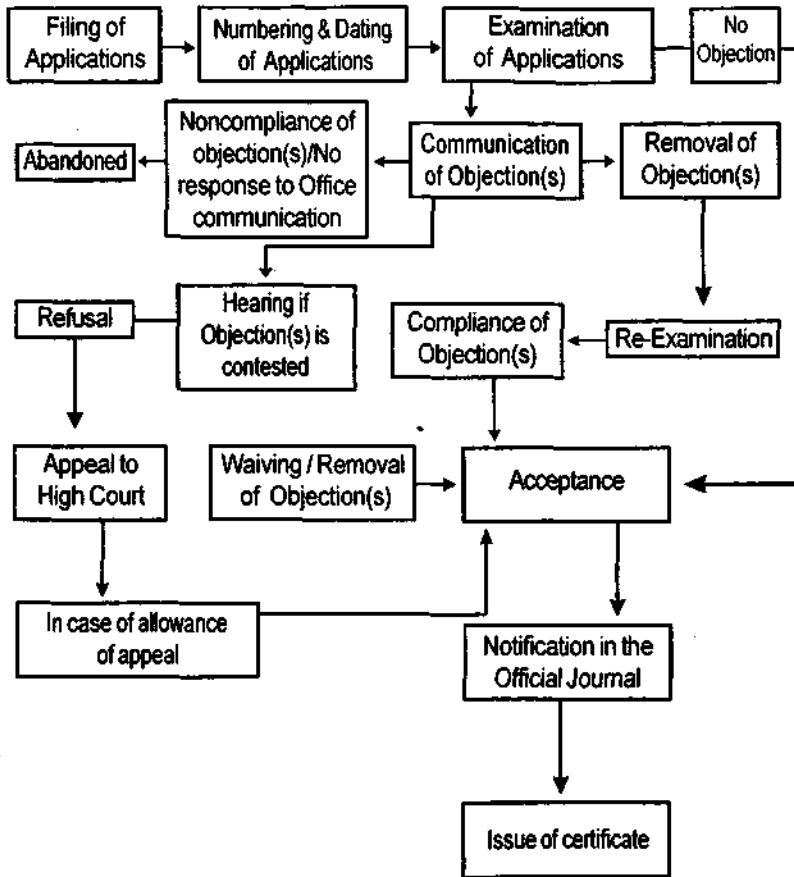
No claim is made by virtue of this registration in respect of any mechanical or other action of the mechanism whatever or in respect of any mode or principle of construction of the article.

No claim is made by virtue of the registration to any right to the exclusive use of the words, letters, numbers, colour, combination or Trade Marks as appearing in the representation.

Date:

Signature of the Applicant / Agent
(Name of the Signatory)

FLOW CHART OF DESIGN APPLICATION UPTO ACCEPTANCE



Prescribed times under the Designs Act, 2000 and Rules, 2001

Sl. No.		Section/Rules	Form	Prescribed time
01.	(a) Application for registration of Design claiming priority date under Paris Convention / WTO	Section 44(1)(a)	Form 1	Within 6 months from date of earliest filing in the country (s) under Paris Convention /WTO
	(b) Application for extension of time for filing.	Rule 15(2) 44(1)(a)	Form 18	Alongwith application or within 3 months from the day of filing
02.	Application for registration of assignment or of instrument for change of ownership	Section 430(3)	Form 10	Within 6 months from the date of execution of assignment/instrument. Further extension of 6 months available.
03.	Compliance of all requirements for making application in order for acceptance	Rule 18(1)	--	Within 6 months or within extended period upto 3 months from the date of filing.
04.	Application for extension of period of copyright for 5 years	Section 11(2)	Form 3	Before the expiry of initial period of 10 years
05.	Application for restoration of lapsed design due to non payment of fee for extension of copyright	Section	Form 4	Within one year from date of cessation.
06.	(a) Petition for cancellation for the registration	Rule 29	Form 8	Any time during existence of copyright.
	(b) Appeal/reference to High Court against the order of the Controller.	Section 19(1)		Any time during existence of copyright.
07.	Application for registration of design after first exhibiting the design.	Section 21(b)	--	Within 6 months from the date of exhibition.
08.	Appeal to High Court against the decision of Controller regarding	Section 21(b)	--	Within 3 months from the date of decision of the Controller.
09.	Substitution of applicants before registration.	Section 8(1)	--	During the period before registration

The Patent Office (Design Wing)

Sl. No.		Section/Rules	Form	Prescribed time
10.	Filing of original documents where the corresponding document already sent by e-mail/Telefax.	Rule 3(1)		Within 15 days from date of Telefax/e-mail.
11.	Request for alteration of name, address and address for service in the register of Designs.	Rule 31	Form 22	No time has been prescribed.
12.	Petition for enlargement of time as prescribed under the Rules.	Rule 47		

No time limit has been prescribed for the following procedures :

- (1) Application for inspection of Registered Design / Register of Designs
- (2) Application for certified copy of any document required for legal purpose.
- (3) Request for information for conduct of search.

Details of Fees

No. of Entry	On what payable	No. of Form	Fees (in Rupees)		
			For Natural Person	For other than Natural Person (s) either alone or jointly with natural person	
				For Small Entity	For others except small entity
1	On application for registration of design under sections 5 and 44.	1	1000	2000	4000
2	On claim under section 8 (1) and (5) to proceed as an applicant or joint applicant.	2	500	1000	2000
3	On application for extension of copyright under section 11(2).	3	2000	4000	8000
4	On application for restoration of lapsed design under section 12(2).	4	1000	2000	4000
5	Additional fee for restoration.	-	1000	2000	4000
6	Inspection of registered design under section 17(1).	5	500	1000	2000
7	On request for information of design when registration No. given under section 18.	6	500	1000	2000
8	On request for information of design when registration No. not given.	7	1000	2000	4000
9	On petition for cancellation of design under section 19	8	1500	3000	6000
10	Notice of intended exhibition or publication of an unregistered design under section 21.	9	500	1000	2000
11	Application for registration of a document in Register of Design under section 30(3),-	10			
	In respect of one design		500	1000	2000
	For each additional design		200	400	800
12	On application for entry of name of proprietor or part proprietor in Register of Design under section 30,-	11			
	In respect of one design		500	1000	2000
	For each additional design		200	400	800
13	On application for entry of mortgage or license.	12			
	In respect of one design		500	1000	2000
	For each additional design		200	400	800
14	Application for entry of notification of a document in the Register of Design under section 30 and rule 37,-	13			
	In respect of one design		500	1000	2000
	For each additional design		200	400	800
15	On request for correction of clerical error under section 29.	14	500	1000	2000
16	On request for certification under section 26 and rule 41.	15	500	1000	2000
17	On application for certified copy of registered design under section 17(2).	16	500	1000	2000
18	On application for rectification of Register of Design under section 31.	17	500	1000	2000
19	On application for extension of time for	18	200 (per	400 (per	800 (per

	filling priority document under rule 15 & rule 18.		month)	month)	month)
20	On notice of opposition under rule 40.	19	100	200	400
21	Notice of intention to attend hearing under rule 29 and 40.	20	500	1000	2000
22	Form for authorization of agent or other person	21	-	-	-
23	On request to alter names or address or address for service in the Register of Design under rule 31.	22	200	400	800
24	On request for entries of two address in the Register of Design.	23	200	400	800
25	On petition under rule 46 for amendment of any document.	-	500	1000	2000
26	On petition under rules 29, 40, 47 for enlargement of time.	-	500	1000	2000
27	Inspection of Register of Design under rule 38 (in respect of each design).	-	250	500	1000
28	On petition not otherwise provided for.		1000	2000	4000
29	To be submitted for claiming the status of a small entity	24	No fee	No fee	No fee

LIST OF CLASSES (Third Schedule))

- Class 1 FOODSTUFFS
- Class 2 ARTICLES OF CLOTHING AND HABERDASHERY
- Class 3 TRAVEL GOODS, CASES, PARASOLS AND
PERSONAL BELONGINGS, NOT ELSEWHERE SPECIFIED
- Class 4 BRUSH WARE
- Class 5 TEXTILE PIECEGOODS, ARTIFICIAL AND NATURAL
SHEET MATERIAL
- Class 6 FURNISHING
- Class 7 HOUSEHOLD GOODS, NOT ELSEWHERE SPECIFIED
- Class 8 TOOLS & HARDWARE
- Class 9 PACKAGES AND CONTAINERS FOR THE
TRANSPORT OR HANDLING OF GOODS
- Class 10 CLOCKS AND WATCHES AND OTHER MEASURING INSTRUMENTS, CHECKING
AND SIGNALLING INSTRUMENTS
- Class 11 ARTICLES OF ADORNMENT
- Class 12 MEANS OF TRANSPORT OR HOISTING
- Class 13 EQUIPMENT FOR PRODUCTION, DISTRIBUTION OR TRANSFORMATION OF
ELECTRICITY
- Class 14 RECORDING, COMMUNICATION OR INFORMATION RETRIEVAL EQUIPMENT
- Class 15 MACHINES, NOT ELSEWHERE SPECIFIED
- Class 16 PHOTOGRAPHIC CINEMATOGRAPHIC AND OPTICAL APPARATUS
- Class 17 MUSICAL INSTRUMENTS

- Class 18 PRINTING AND OFFICE MACHINERY
- Class 19 STATIONERY AND OFFICE EQUIPMENT, ARTISTS' AND TEACHING MATERIALS
- Class 20 SALES AND ADVERTISING EQUIPMENT. SIGNS
- Class 21 GAMES, TOYS. TENTS AND SPORTS GOODS
- Class 22 ARMS, PYROTECHNIC ARTICLES. ARTICLES FOR HUNTING. FISHING AND PEST KILLING
- Class 23 FLUID DISTRIBUTION EQUIPMENTS, SANITARY. HEATING. VENTILATION AND AIR-CONDITIONING EQUIPMENT. SOLID FUEL
- Class 24 MEDICAL AND LABORATORY EQUIPMENTS
- Class 25 BUILDING UNITS AND CONSTRUCTION ELEMENTS
- Class 26 LIGHTING APPARATUS
- Class 27 TOBACCO AND SMOKERS' SUPPLIERS

- Class 28 PHARMACEUTICAL AND COSMETIC PRODUCTS, TOILET AND APPARATUS
- Class 29 DEVICES AND EQUIPMENT AGAINST FIRE HAZARDS. FOR ACCIDENT PREVENTION AND FOR RESCUE
- Class 30 ARTICLES FOR THE CARE AND HANDLING OF ANIMALS
- Class 31 MACHINES AND APPLIANCES FOR PREPARING FOOD OR DRINK NOT ELSEWHERE SPECIFIED

- Class 99 MISCELLANEOUS

FORM 1
¹[THE DESIGNS ACT, 2000]
APPLICATION FOR REGISTRATION OF DESIGNS
(See sections 5 and 44)

²[For Fee see First Schedule]

You are requested to register the accompanying in Class No.^A.....in the name of^B.....

^AInsert number of class

^BInsert (in full) the name address and nationality

.....
.....
.....who claim(s) to be the proprietor(s) thereof.

^CState whether drawings, photographs, tracings or specimens.

Four exactly similar^C..... of the design accompanying this request.

^DInsert name of article or articles to which the design is to be applied or state trade description of each of the articles contained in the set

The design is to be applied to^D.....
.....
.....

^EStrike out these words if previous registration has been effected.

^EThe design has been previously registered in class(es)under No.....

Details of first application in UK or convention country or group of countries or inter-governmental organisation.

- ^F[(i) Name of the country/inter-governmental organization,
- (ii) Date of filing,
- (iii) Application number,
- (iv) Name of the applicant]

Address for service^F in India is—

^FUnless an address for service in India is given, the request may not be considered.

.....
.....

Declaration:

The applicant claims to be the proprietors of the design and that to the best of his knowledge and belief the design is new or original.

Dated this.....day of.....20.....

(Signed)^G.....

^GTo be signed by the applicant or by authorised agent.

To
The Controller of Designs,
The Patent Office,

"FORM-24
(DESIGNS ACT, 2000)
(See rules 2 and 5)

TO BE SUBMITTED FOR CLAIMING THE STATUS OF A SMALL ENTITY

1. Insert (in full) Name,

I/We.....

Address and nationality

.....

.....

Hereby declare in respect of
the Design Application No.
_____ / registered
Design No _____ that
I/we am/are a small
entity in accordance with
rule 2 (ea) of the
Designs Rules, 2001 and
submit the following
document(s) as proof:

4. Name of the natural person who
has signed.

Name

5. Designation and official seal, if any,

of the person who has signed

Designation

To
The Controller of Designs,
The Patent Office

FORM 3
[THE DESIGNS ACT, 2000]
APPLICATION TO EXTEND COPYRIGHT
(See section 11)

²[For Fee see First Schedule]

^AInsert number of design.

^BInsert class.

You are requested by the undersigned who is/are the registered proprietor(s) of the Design No.^A..... registered in Class^B..... to extend the period of copyright for a period of five years.

Address for service in India is—

.....
.....

Dated this..... day of
.....20.....

^CTo be signed by the applicant or authorised agent.

(Signed)^C.....

To
The Controller of Designs,
The Patent Office,

Note