



Basics of Designs

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Intellectual Property Practice

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What is a Design?

A Design refers to the features of **Shape, Configuration, Pattern, Ornamentation or Composition of lines or Colors** applied to any article, in two or three dimensional (or both) forms. This may be applied to any Industrial Process or means (manual, mechanical or Chemical) or by a combined process, **which in the finished article appeals to and judged solely by the eyes.**

Design does not include any mode or principle of construction or anything which is mere mechanical device. It does not include any trademark or any artistic work.



Benefits of Design Registration

- Exclusive right to apply a Design to the article in the class in which the design has been registered.
- Proprietor of Design can sue for infringement, if his right is infringed by any person.
- He can License or sell his Design as legal property for a consideration or Royalty.
- Initially Rights are for 10 years from the date of registration, it can be renewed for further period of 5 years.



Essential Requirements for Registration

A Design should:

- Be new or original.
- Not be disclosed to the public anywhere by publication.
- Be significantly distinguishable from known design or a combination of known design.
- It should appeal to the eyes.
- It should not be mere mechanical Device.



Who can apply for Registration of Design

Any person or the legal representative or the assignee can apply separately or jointly for the Registration of Design.

“Person” includes a firm, a partnership and a body corporate. An application may also be filed through an agent in which case a POA shall be filed.

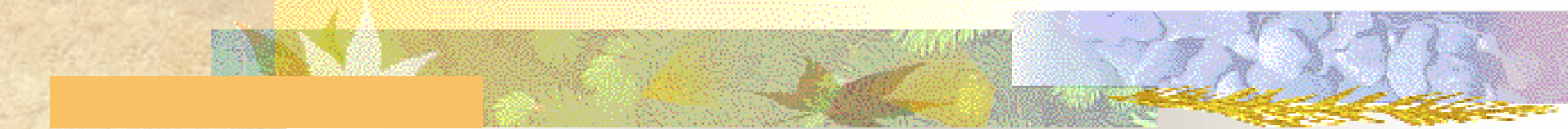


Application Procedure

The application for Design Registration is required to be submitted at the Designs Office, Kolkata. The application received by the Branch Offices shall be transmitted to the Head Office for processing.

Procedural Requirements

- Application duly filed in on the prescribed form (Form-1) along with the prescribed fees, stating name in full address, nationality, name of the article, class number, address for service in India. The application shall also be signed either by the applicant or by his authorized agent.
- Representation of the article in quadruplicate, stating the view e.g. front view, etc.



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

- Power of Attorney.

- Alongwith the application:

Priority documents (if any) in case of convention application claimed under Section 44 of the Designs Act, 2000.

To be filed within 3 months from the date of filing of the application by taking extension of time [Form 18] for filing the priority document.

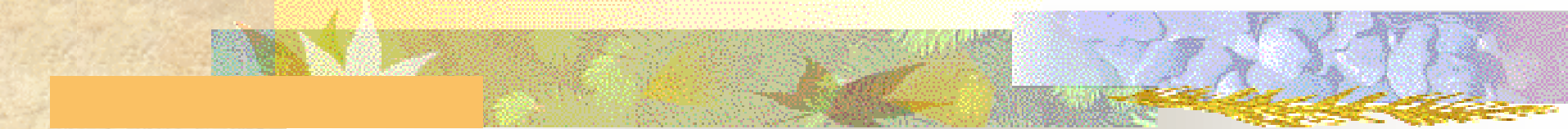


Procedure for Design Registration

Application Number: Upon filing the application, the filing receipt is issued indicating the Application No. and date of lodgment and the application is taken up for Examination.

Examination: Defects in the application [procedural as well as substantive], if any noticed on examination of the application are communicated to the applicant or to his agent at the address for service. The defects should be corrected and the application needs to be resubmitted to the Design Office for acceptance **within six months** from the date of filing the application.

Acceptance & Notification: An application is accepted when all the shortcomings have been rectified. It is then notified in the Official Gazette for objections, if any, from interested persons.



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

Appeals: 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 will be treated as abandoned. Such an application cannot be revived and no further action will be taken on it by the Design office.



Applicant's Name

Total No. of sheets :

Sheet No. 1 of --

FRONT PERSPECTIVE VIEW

Novelty resides in the shape and configuration of the __ as illustrated.

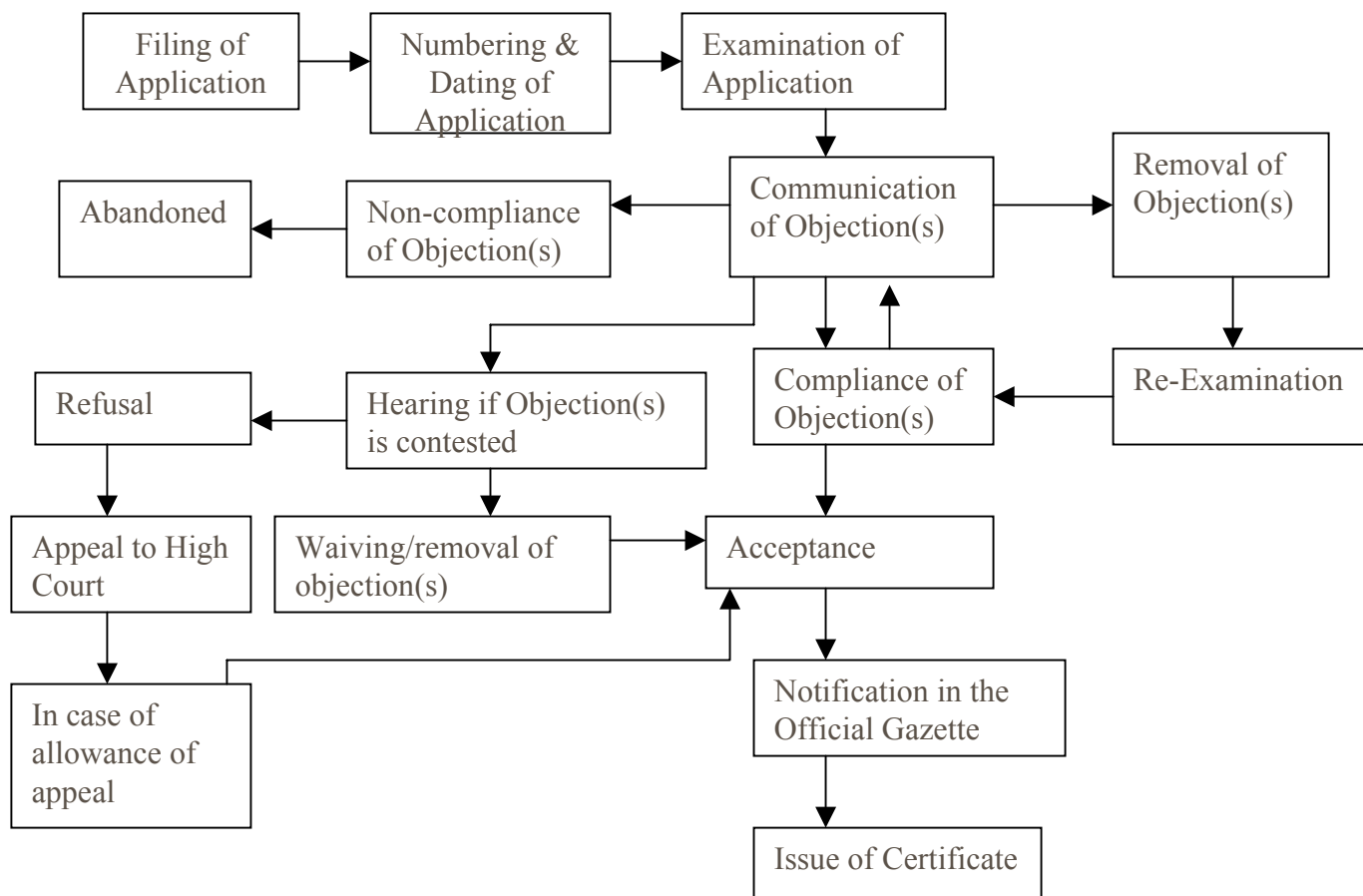
No claim is made by virtue of this registration in respect of any mechanical or other action of the mechanism or in respect of any mode or principle of construction of the ___.

No claim is made by virtue of this registration to any right to the exclusive use of any trade marks, words, letters, markings, numerals, colour or colour combinations appearing in the representations.

Dated this the __th Day of __ 2004

Agent for the Applicant

Flow Chart of Design Application up to Acceptance





THANK YOU