

The Impact of Industrial Designs in present scenario and International Laws relating to Industrial Designs

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Abstract:-

Consumers are influenced by the appearance of the article in their choice. Many people blindly choose the article which catches their eye by appearance. At the time of purchase, people are attracted by a design which has an artistic merit. Some articles with a particular design may attract the public and within a short period, the whole stock may be sold in the market. Hence, design of goods increases profits by attracting customers. Producers hunt for an attractive design which will increase sales.

Some intellectuals do hard work by putting much thought, time and expense to find a design registration is to see that the creator of a profitable design is not deprived of his reward by others applying it to their goods without his permission.

A design is something which is applied to an article and is not the article itself. An article to which the design is to be applied must be something which is to be delivered to the purchaser as a finished good. The buildings and structures are not articles within the definition of design. But portable structures or models which are sold as finished articles may be subject matter for registration of design.

There are four features relevant to an industrial or product design. They are shape, configuration, pattern and ornament. The shape and configuration refer to the form of an article and is usually three dimensional in nature. Pattern and ornament are decorative features ordinarily applied to the surface of the article and they are in the nature of two-dimensional.

The design refers to features of shape which appeal to the eye and should be judged solely by the eye and not by any functional considerations. A design in order to be registered must be both new and original and not previously published.

The words 'new' or original' involves the idea of novelty either in the pattern, shape or ornament itself. In deciding the question of novelty or originality evidence of experts in the trade is admissible. The design for registration should not be published previously.

Publication may be of two types-

Publication in prior documents and

Publication by prior use

If a copy of the publication is available in a public library that may be sufficient to constitute publication.

INTERNATIONAL LAW OF INDUSTRIAL DESIGNS

TRIPS AGREEMENT OF THE WTO AND INDUSTRIAL DESIGNS

PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY,
1967 AND INDUSTRIAL DESIGNS

HAGUE AGREEMENT OF INDUSTRIAL DEPOSIT OF INDUSTRIAL
DESIGNS.1960

LACARNO AGREEMENT OF ESTABLISHING AN INTERNATIONAL
CLASSIFICATION FOR INDUSTRIAL DESIGN,1968

NATIONAL LAW OF INDUSTRIAL DESIGNS

Historical perspective of Designs Law in India:-

With the industrial revolution in Europe, the protection for textile designs attracted the legal protection in the U.K. in 1787, the first enactment was made in the U.K. for the protection of designs. In 1839 and 1842 new acts came for the protection of designs in the U.K. In 1883, the patents, designs and trade marks act, 1883 was made in the U.K. after 1905, with the enactment of separate Trade marks Act of 1905 the patents and designs law remained together.

In British India, the first legislation was made as the Patents and Designs Act 1872.

The Inventions and Designs Act, 1888 was made to give protection to inventions and designs. On the lines of British Patents and Designs Act 1907, the Indian Patents and Designs Act 1911 was enacted. The Patent Act, 1970 repealed the provisions of the patents from the patents and Designs Act 1911. The Designs Act 1911 and Designs rules, 1933 continued in India to deal with designs. The Designs Act, 2000 which has come into force from 11.05.2001 has been enacted by repealing the Designs Act, 1911

The new act contains substantially the similar provisions as were contained in the Designs act, 1911, except some minor changes and contained some provisions basing on the TRIPS Agreement and other International Conventions. Designs Rules, 2001 have been made as per the provisions of the Designs Act, 2000

Case Law of Designs in India

Where the plaintiffs could successfully prove the infringement of the industrial design (cranes) by the defendants owing to the defendants' confidential relationship with the plaintiffs in the past and the rapidity with which the defendants had produced the crane in question a learned single Judge of the Delhi High court held that all the three ingredients for granting the interim injunction namely, prima facie case, balance of convenience and irreparable injury were made out in the case by the plaintiffs and hence granted the interim injunction in favour of the plaintiffs.

Escorts Construction equipment Ltd and other v. Action Construction Equipment pvt Ltd and another AIR 1999

References:

1. The Design of Everyday things by Don Norman
2. The Laws of Simplicity (Simplicity Design Technology, Business life by John
3. The coming Revolution on your desktop from personal computers to personal fabrication.
4. Designing Design
5. Universal principles of Design
6. Cradle to Cradle Remaking the way we make things.