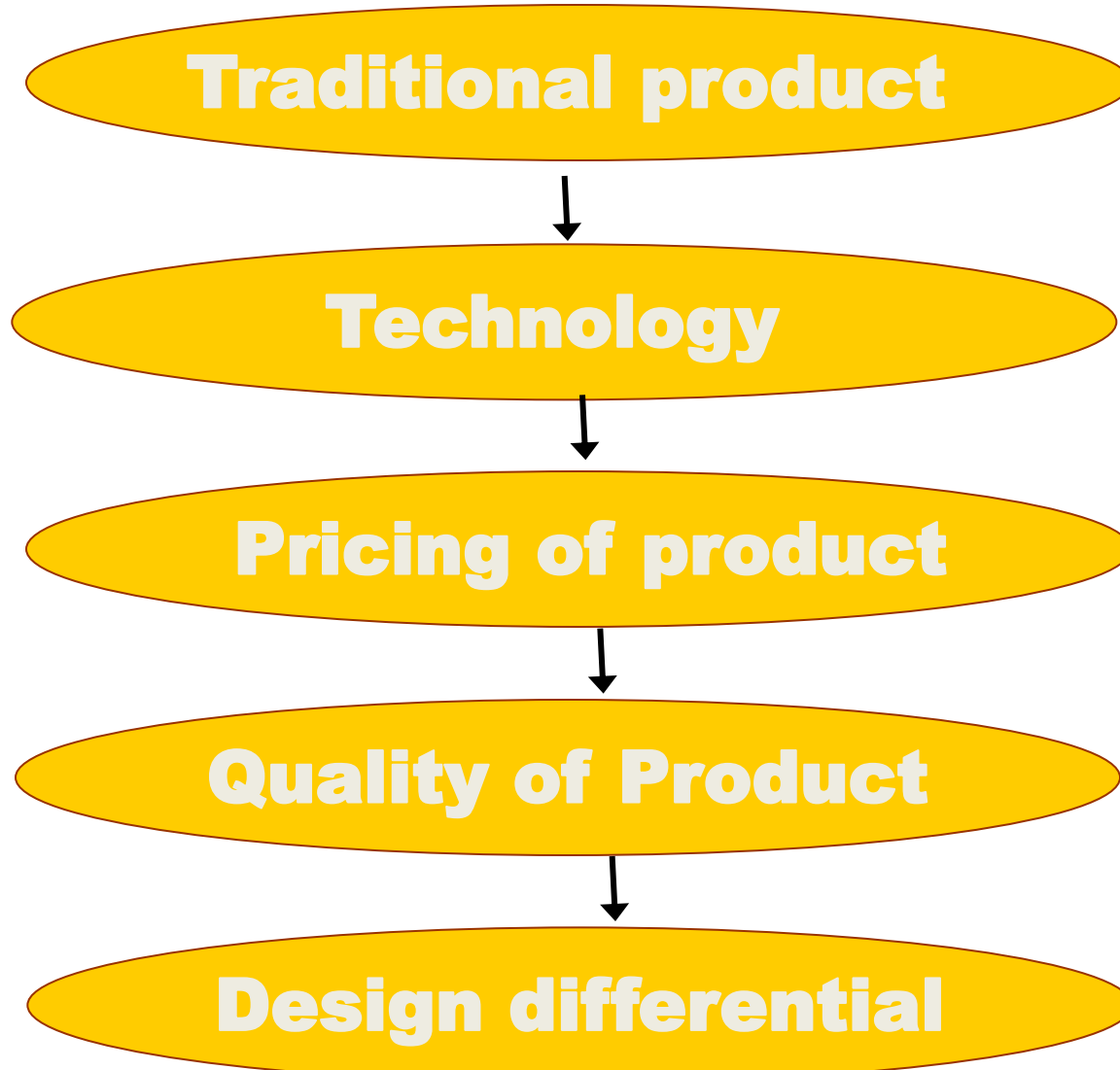


Design Registration

Evolution of competition



“When companies are competing
at equal price
&
functionality

Design is the only differential
that matters”

– *Mark Dziersk*, quoted in

TIME Magazine

What is an industrial Design

It is a new or original idea in relation to the features of shape, configuration, Pattern, Ornament, Composition of lines or colours or combination thereof applied to any article by an industrial process

Shape and configuration

It signifies something
solid (in three dimensions)
where an idea is
incorporated into the
article

Example - feeding bottle

Pattern, Ornament

- It relates to something two dimensional Example- engraving on metal or like ornamentation on carpet by various geometric figures in combination of color etc.
- Mere painting of natural scenes or like on plain paper- is not an industrial design

Benefits of Registration

- Exclusive right to apply design to the article in the class in which design is registered.
- Better protection and can sue for piracy of design.
- Licensing of design as legal property for consideration or royalty.

Designs Act, 2000 - Salient Features

- Scope of definition of terms '*Article*' & '*Design*' enlarged
- Addition of definition of the term '*Original*'
- Introduction of delegation of powers to Examiners & other Officers by Controller
- codification of non- registerable Designs
- Substitution of classification system (Locarno classification)

Designs Act, 2000 - Salient Features

- **Public inspection available after notification**
- **Rights of Registered Proprietor defined**
- **Provision of Restoration of Lapsed Design**
- **Electronic Register of Design**

Designs Act, 2000 - Salient Features

- **Initial term of protection for 10 years, extendable by 5 years on request**
- **Provision for preferring Appeal on the Controller's order before IPAB**
- **Substitution of Applicants before registration of design**
- **Additional grounds for Cancellation of design**

Designs Act, 2000 - Salient Features

- **Registration of assignments/transfer of right made mandatory**
- **Penalty for piracy of registered design enhanced**
- **Inclusion of Paris Convention Countries apart from Commonwealth Countries for priority**

The Designs Act, 2000 - Definitions

Sec 2(d) Design:

Means only features of shape, configuration, pattern, ornament or compositions of lines or colours **applied to any article** whether in two or three dimensional or both by any industrial process or means whether manual, mechanical or chemical, separate or combined,.....

The Designs Act, 2000 - Definitions

sec 2(d) Design:

..... which in the finished article appeal to and **judged solely by eye** but **does not include** any mode or principle of construction and does not include any Trade Mark or Property Mark and **Artistic work** as defined in clause (c) of section 2 of the Copyright Act' 1957.

Sec 2 (c) – Copyright Act

Artistic work means-

- (i) A painting, a sculpture, a drawing (diagram, map, chart or plan) or engraving or photograph.....
- (ii) Any work of architecture and
- (iii) Any other work of artistic craftsmanship.

Such work **is not a subject matter of an industrial design**

The Designs Act, 2000 - Definitions

Sec 2(a) **Article:**

Means any article of manufacture and any substance, artificial or partly artificial and partly natural and includes any part of article capable of being made and sold separately

Prohibition of registration of certain designs

Sec.4 - A design which-

- (a) is **not new or original**; or
- (b) **has been disclosed to the public** any where in India or in any other country 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; or
- (c) is **not significantly distinguishable** from, known designs or combination of known designs; or
- (d) comprises or contains **scandalous or obscene matter**

shall not be registered

Requirements for Registration

A Design should:

- Be New or Original
- Be Distinguishable from known designs
- Be applied to an article
- Not be disclosed to public in any form
- Appeal to eye
- Not to comprise of obscene matter
- Not to be contrary to public order or morality

New or Original

- Novelty is judged solely by eye w.r.t. external appearance of the finished article
- Neither constructional details nor utility of article are relevant for registration
- Novelty may reside in its application to article
- Absolute novelty- i.e. Not publicly known or used in India or elsewhere.

Original

In relation to design means:
originating from the
author of such design and
includes the cases which
though old in themselves
yet are new in their
application [sec 2(g)]

What are not Registrable

- When design applied to the inner portion of the article not visible or noticeable in finished article.
- Principle or mode of construction of the article
- Building and structures
- Sole functional features
- Part of an article not sold separately
- Variation commonly used in trade
- Stamps, Labels, Tokens, Medals, Trade Marks, Property Marks, Cards, Cartoons.
- Mere change in size.
- Designs contrary to public order or morality or scandalous
- Computer chip, Integrated circuit designs

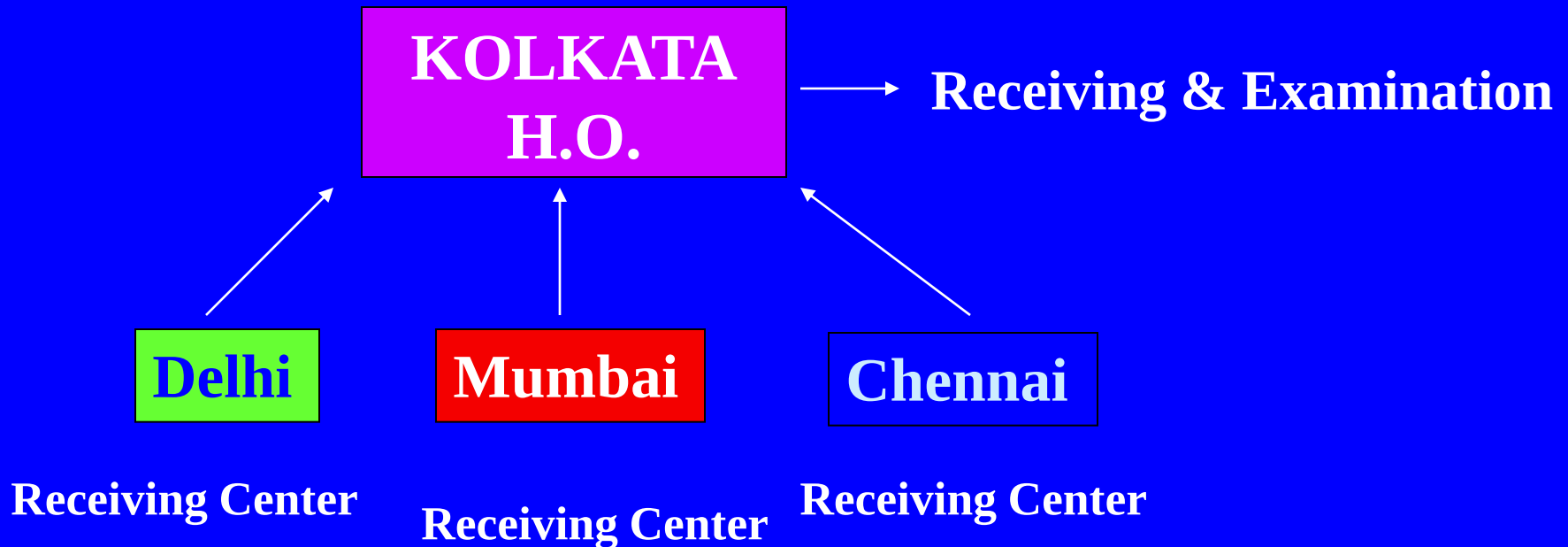
THE FOLLOWING ARTICLES ARE NOT REGISTRABLE

- Calendar, certificates, forms, greeting cards, leaflets, maps, building plan, medals
- Mere mechanical contrivance
- Basic shape, variations commonly used in the trade
- Mere workshop alteration
- Flags, emblems, or signs of any country, computer icons

FILING REQUIREMENTS

- **Applicant :-** Applicant means any individual or legal entity.
- **Application :-** One application in prescribed form for one design in one class with prescribed fee.
- **Representation:-** Four sets of Representation with the different views of the article for clear understanding the nature of article.
- **Declaration :-** Statement of novelty and disclaimers.
- **Power of Attorney :-** (If required).

Filing of Design Application



Particulars required for application

- ❖ **Application form 1 with requisite fee of Rs. 1,000/-**
- ❖ **Four sets of Representation sheets in durable paper of A4 size, pasted with the photographs/drawings of the article from different angles.**
- ❖ **Power of attorney (if required)**
- ❖ **Priority document (for convention Appln.)**

Application for Registration of Designs. Sections 5 and 44

Class No¹..... in the name of.....

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

Four exactly similar ³..... of the design
accompany this request.
The design is to be applied to⁴.....

The design 5 has been previously registered in
Classe(s) _____ Under No _____
Details of first application in UK or convention
country or group of countries or inter-
governmental organization _____
(i) Name of Country _____
(ii) Official date _____
(iii) Official number _____

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

Contd ...

Contd from previous slide...

7) To be signed by the
applicant or by authorised agent

Dated this.....day of.....20
(Signed) 7

**TO
THE CONTROLLER OF DESIGNS,
THE PATENT OFFICE, KOLKATA**

PREPARATION OF THE REPRESENTATION SHEET

- **A4 Size white durable paper**
- **Sheet nos. To be mentioned in each sheet**
- **Photographs/line diagrams/ computer graphics of the article**
- **Name of the views**
- **Statement of novelty**
- **Disclaimer**
- **Signature of the applicant/ agent**
- **DATE**

REPRESENTATION_SHEET

Name of the Applicant

XYZ, PVT.LTD.

Date :-

No. of sheet - 05

Sheet No.- 01

Side view

(1) STATEMENT OF NOVELTY

(2) DISCLAIMER

For Educational Purpose only

Signature of Applicant

Name of Applicant
XYZ PVT.LTD

No. of sheets.
Sheet No.



STATEMENT OF NOVELTY

Novelty resides in the shape and configuration of the “Pressure cooker” as illustrated.

Or

Novelty resides in the shape and configuration particularly in the portions marked ‘A’ & ‘B’ of the “Pressure cooker” as illustrated.

STATEMENT OF DISCLAIMER

- No claim is made by virtue of this registration to any right to the use as a trade mark of what is shown in the representations.
- No claim is made by virtue of the registration in respect of any mechanical or there 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 this registration to any right to the exclusive use of the words, letters, numerals, flags, crowns, etc. appearing in the design.

Example of Representation

(SPECIMEN OF REPRESENTATION SHEETS)

Name of The Applicant
XYZ PVT. LTD. CO.

No of Sheets -2
SHEET NO. -1



FRONT VIEW



FRONT PER-
SPECTIVE VIEW



BACK VIEW



TOP VIEW



BOTTOM
VIEW

The novelty resides in the shape & configuration of the 'CHAIR' as illustrated.

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

No claim is made by virtue of this registration to any right to the exclusive use of the words, letters, numbers, or trade marks appearing in the representation.

Dated:

Signature of the applicant/agent
(Name of the Signatory)

For Educational Purpose only

(SPECIMEN OF REPRESENTATION SHEETS)

Name of the Applicant
XYZ PVT. LTD.CO.

No of Sheets 2
SHEET NO. 2



RIGHT SIDE VIEW



LEFT SIDE VIEW

The novelty resides in the shape & configuration of the 'CHAIR' as illustrated.

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

No claim is made by virtue of this registration to any right to the exclusive use of the words, letters, numbers, or trade marks appearing in the representation.

Dated:

Signature of the applicant/agent
(Name of the Signatory)

For Educational Purpose only

THE FIRST SCHEDULE

FEES

No. of entry	On What possible	Form No.	Fee (Rs.)
1	On application for registration of Design under Section 5 & 44	1	1000.00
2	On claim under Section 8(1) to proceed as an applicant or joint applicant	2	500.00
3	On application for extension of copyright under Section 11(2)	3	2000.00
4	On Application for Restoration of lapsed design under Section 12(2)	4	1000.00
5	Additional fee for Restoration	---	1000.00
6	Inspection of Registered design under Section 17(1)	5	500.00
7	On request for information of design when registration No. is given under Section 18.	6	500.00
8	On request for information of design when registration No. not given .	7	1000.00

THE FIRST SCHEDULE (Contd from previous slide...)

FEES

No. of entry	On What possible	Form No.	Fee (Rs.)
9	On application for cancellation of design under Section 19	8	1500.00
10	Notice of intended exhibition or publication of an unregistered design under Section 21	9	500.00
11	Application for registration of a document in Register of Designs under Section 30(3): (i) In respect of one Design; (ii) For each additional Design	10	500.00 200.00
12	One application for entry of name of proprietor or part proprietor in Register of Designs under Section 30: (i) In respect of one Design; (ii) For each additional Design	11	500.00 200.00
13	On application for entry of mortgage or license in Register of designs under Section 30: (i) In respect of one Design; (ii) For each additional Design	12	500.00 200.00

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THE FIRST SCHEDULE *(Contd from previous slide...)*

FEES

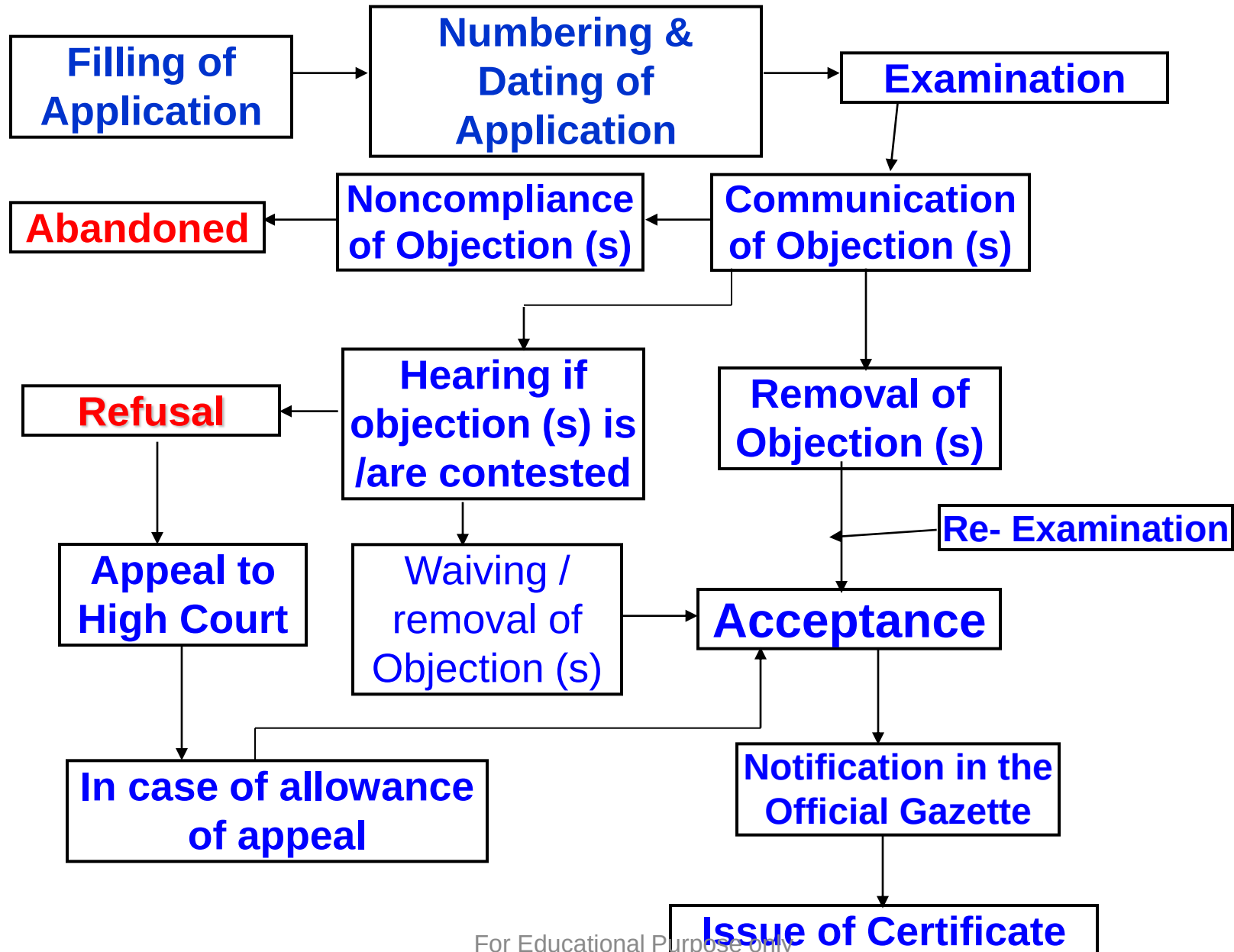
No. of entry	On What possible	Form No.	Fee (Rs.)
14	Application for entry of notification of a document in the Register of designs under Section 30 and Rule 37: (i) In respect of one Design; (ii) For each additional Design	13	500.00 200.00
15	On request for correction of clerical error under Section 29	14	500.00
16	On request for certificate under Section 26 and Rule 42	15	500.00
17	On application for certified copy of Registered design Under Section 17(2)	16	500.00
18	On application for rectification of Register of design Under Section 31	17	500.00
19	On application for extension of time for filing priority Document under Rule 15.	18	200.00 (per month)
20	On Notice of opposition under Rule 40 For Educational Purpose only	19	100.00

THE FIRST SCHEDULE *(Contd from previous slide...)*

FEES

No. of entry	On What possible	Form No.	Fee (Rs.)
21	Notice of intention to attend hearing under Rule 29 and 40	20	500.00
22	Form for authorization of agent or other person.	21	----
23	On request to alter name or address or address for Service in the Register of design under Rule 31.	22	200.00
24	On request for entries of two addresses in the Register of Design.	23	200.00
25	On petition under Rule 46 for amendment of any document	---	500.00
26	On petition under Rule 47 for amendment of any document	---	500.00
27	Inspection of Register of Design under Rule 38 (in respect of each design).	---	250.00

STAGES FROM FILING TO REGISTRATION



Application of Design in Industries

Small Scale Industries:

- ✱ Shoe, Chappal, Pen, Textile Goods, Carpet, Wall Clock, Ceramic Tiles, Plumbing Equipments, Sanitary Goods, Package, Chairs, Tables, Photo - Frame, Tiffin Box, Water Jug, Casserole, Water Bottle, Bags, Suitcase, Flower Vase, Ash-Tray, Tooth-Brush, Toy, Fan etc.

Medium Scale Industries:

- ✱ Washing Machine, Refrigerator, Television, Computer, A.C. Machine, Wrist Watch, Mixer-Grinder, Vacuum Cleaner

More articles

- **Textiles dress materials**
- **,mobiles set,**
- **cycle,**
- **electrical appliances,**
- **containers ,**
- **Sports goods**
- **other appliances**

Consumer Products

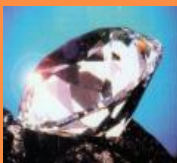


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Pharmaceutical Product



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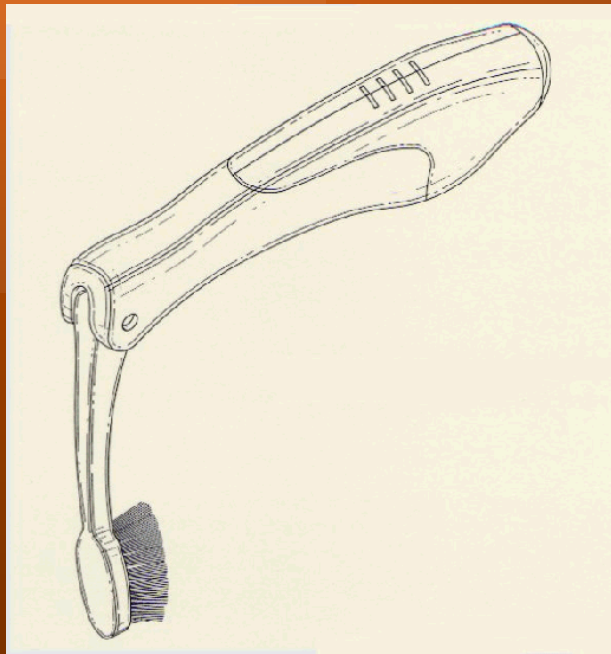
Textile & Jewellery



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Example with a toothbrush

Shape & Configuration signify something solid where an idea has been incorporated into the article.



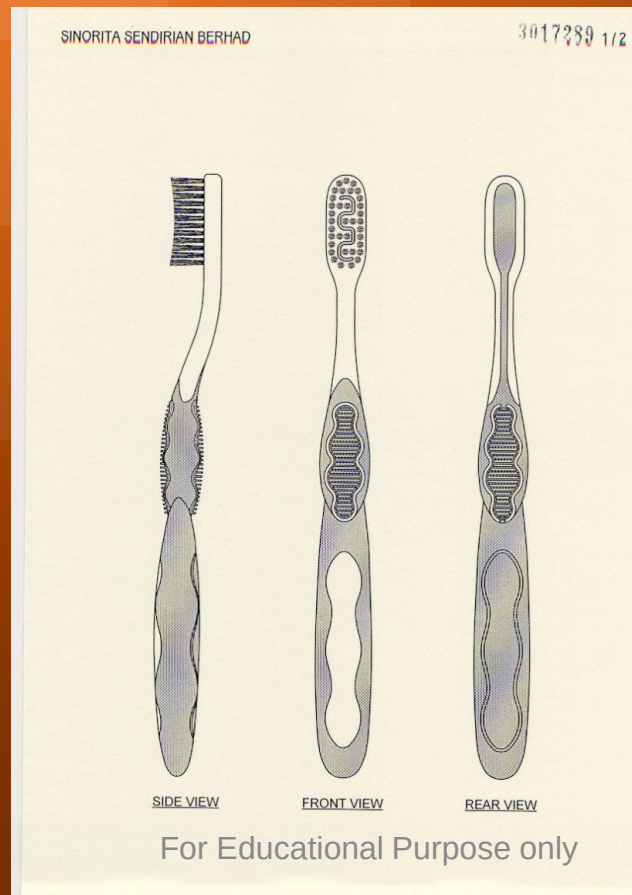
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Contd.

Example with a toothbrush

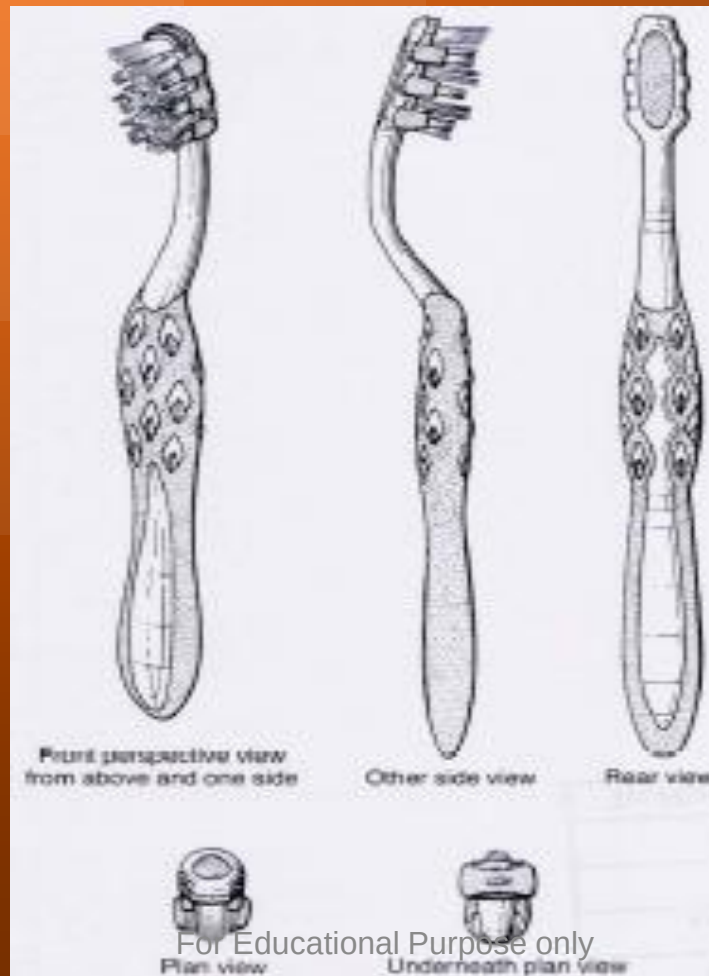
Pattern or ornament or composition of colour / lines relates to something two dimensional.



Contd.

Example with a toothbrush

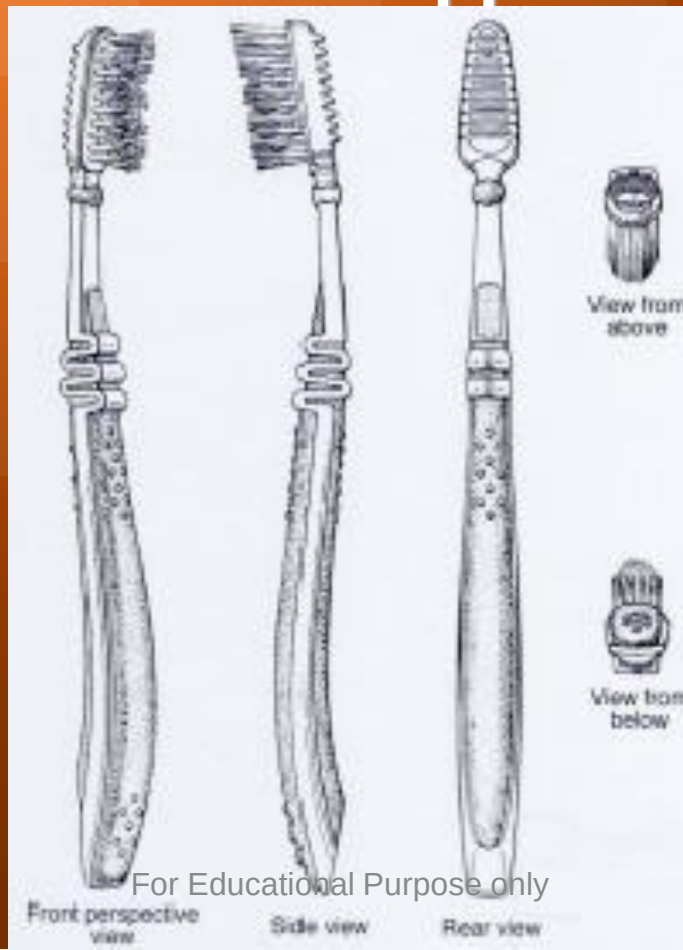
When a figure, showing the feature of the design of an article, is drawn on a paper it will be regarded as if design has been applied to the article sought to be registered.



Contd.

Example with a toothbrush

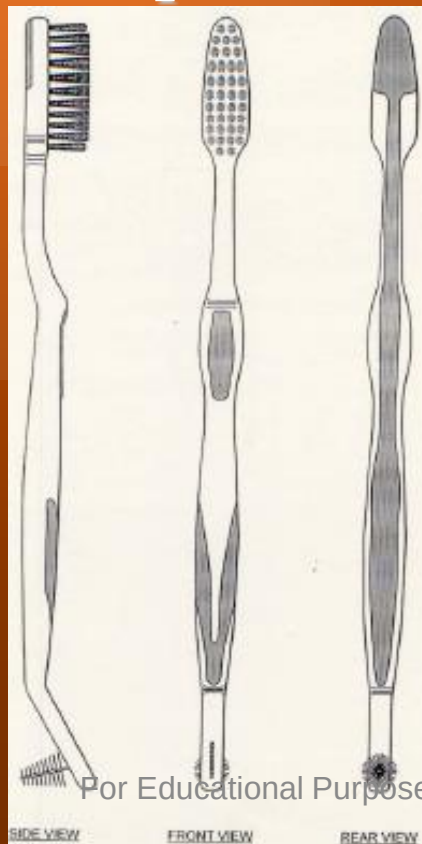
A new shape applied to toothbrush which produces a new visual appearance on the article.



Contd.

Example with a toothbrush

Design means a conception or suggestion or idea of a shape or pattern which can be applied to an article by industrial process or means.



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Contd.

Example with a toothbrush

Any mode or principle of construction or operation or anything which is in substance a mere mechanical device, would not be registrable design.

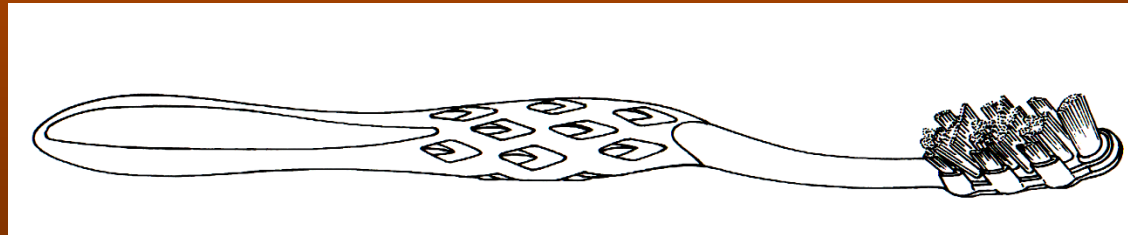
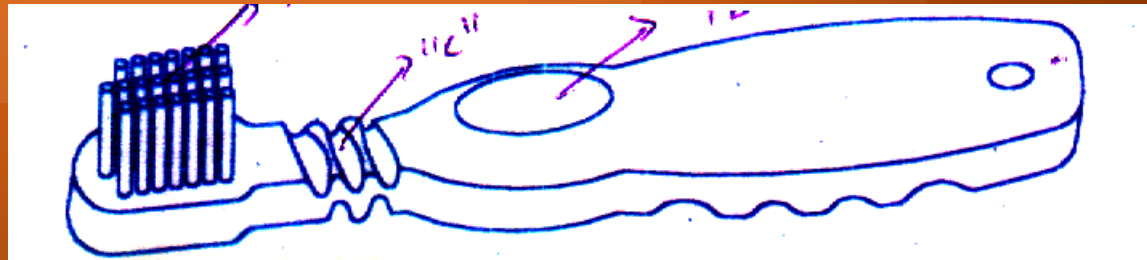


For Educational Purpose only
From perspective view
from above and one side

Contd.

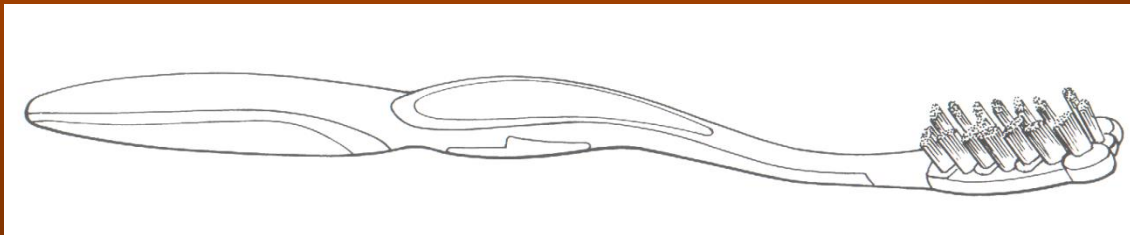
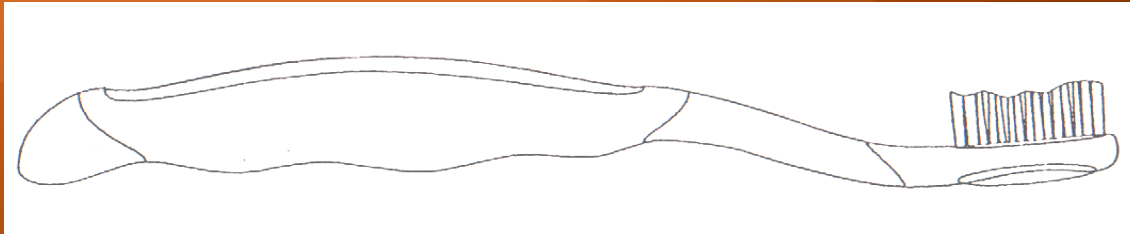
Example with a toothbrush

The features of the design in the finished article should appeal to and are judged solely by the eye.



Example with a toothbrush

The design should be applied or applicable to any article by any industrial process.



Example with a toothbrush

Designs of artistic nature like paintings, sculptures and the like which are not produced in bulk by any industrial process are excluded from registration under the Act.



Compiled by
DPS PARMAR
Former Deputy Controller of Patents
and Designs



Thank you for your attention

P.V.S. Giridhar

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