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THE DESIGNS ACT, 2000

No. 16 of 2000

[25th May, 2000]

An Act to consolidate and amend the law relating to protection of designs.

BE it enacted by Parliament in the Fifty first Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Design Act, 2000.

Short title, extent and
Commencement

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless there is anything repugnant in the subject or context.

Definition

(a) "article" means any article of manufacture and any substance, artificial, or partly artificial and partly natural and includes any part of an article capable of being made and sold separately;

(b) "Controller" means the Controller-General of Patents, Designs and Trade Marks referred to in Section 3;

(c) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered;

d) "design" means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in clause (v) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958 or property mark as defined in section 479 of the Indian Penal Code or any artistic work as defined in clause (c) of section 2 of the Copyright Act, 1957

43 of 1958
45 of 1860
14 of 1957

(e) "High Court" shall have the same meaning as assigned to it in clause (i) of sub-section (I) of section 2 of the Patents Act, 1970;

39 of 1970

(f) "legal representative" means a person who in law represents the estate of a deceased person;

(g) "original", in relation to a design, means originating from the author of such design and includes the cases which though old in themselves yet are new in their application;

39 of 1970

(h) "Patent Office" means the patent office referred to in section 74 of the Patents Act, 1970.

(i) "prescribed" means prescribed by rules under this Act; and

(j) “proprietor of a new or original design”,-

(i) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed;

(ii) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(iii) in any other case, means the author of the design; and where the property in or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

CHAPTER II

REGISTRATION OF DESIGNS

3. (1) The Controller General of Patents, Designs and Trade Marks appointed under sub-section (1) of section 4 of the Trade and Merchandise Marks Act, 1958 shall be the Controller of Designs for the purposes of this Act.

Controller and other officers

43 of 1958

(2) For the purposes of this Act, the Central Government may appoint as many examiners and other officers and with such designations, as it thinks fit.

(3) Subject to the provisions of this Act, the officers appointed under sub-section (2) shall discharge under the superintendence and directions of the Controller such functions of the Controller under this Act as he may, from time to time by general or special order in writing, authorise them to discharge.

(4) Without prejudice to the generality of the provisions of sub-section (3), the Controller may by order in writing and for reasons to be recorded therein, withdraw any matter pending before an officer appointed under sub-section (2) and deal with such matter himself either *de novo* or from the stage it was so withdrawn or transfer the same to another officer appointed under sub-section (2) who may, subject to special directions in the order of transfer, proceed with the matter either *de novo* or from the stage it was so transferred.

4. A design which

(a) is not new or original; or

b) has been disclosed to the public anywhere 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

Prohibition of registration of certain designs.

(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.

5. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in any country and which is not contrary to public order or morality, register the design under this Act.

Application registration of designs

Provided that the Controller shall before such registration refer the application for examination, by an examiner appointed under sub-section (2) of section 3, as to whether such design is capable of being registered under this Act and the rules made thereunder and consider the report of the examiner on such reference.

(2) Every application under Sub-Section (1) shall be in the prescribed form and shall be filed in the Patent Office in the prescribed manner and shall be accompanied by the prescribed fee.

(3) A design may be registered in not more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person, person aggrieved by any such refusal may appeal to the High Court.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

6. (1) A design may be registered in respect of any or all of the articles comprised in a prescribed class of articles.

(2) Any question arising as to the class within which any article falls shall be determined by the Controller whose decision in the matter shall be final.

(3) Where a design has been registered in respect of any article comprised in a class of article, the application of the proprietor of the design to register it in respect of some one or more other articles comprised in that class of articles shall not be refused, nor shall the registration thereof be invalidated.

(a) on the ground of the design not being a new or original design, by reason only that it was so previously registered; or

(b) on the ground of the design having been previously published in India or in any other country, by reason only that it has been applied to article in respect of which it was previously registered:

Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.

4) Where any person makes an application for the registration of a design in respect of any article and either-

(a) that design has been previously registered by another person in respect of some other article; or

(b) the design to which the application relates consists of a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, then, if at any time while the application is pending the applicant becomes the registered proprietor of the design previously registered, the foregoing provisions of the section shall apply as if at the time of making the application the applicant had been the registered proprietor of that design.

7. The Controller shall, as soon as may be after the registration of a design, cause publication of the prescribed particulars of the design to be published in such manner as may be prescribed and thereafter the design shall be open to public inspection

8. (1) If the Controller is satisfied on a claim made in the prescribed manner at any time before a design has been registered that by virtue of any assignment or agreement in writing made by the applicant or one of the applicants for registration of the design or by operation of law, the claimant would, if the design were then registered, be entitled thereto or to the interest of the

Registration on to be in respect of particular article.

Publication of particulars of registered Design

Power of Controller to make orders regarding substitution of application etc.

applicant therein, or to an undivided share of the design or of that interest, the Controller may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimants and the applicant or the other joint applicant or applicants, accordingly

as the case may require.

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one two or more joint applicants for registration of a design except with the consent of the other joint applicant or applicants.

3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the benefit of a design unless-

(a) the design is identified therein by reference to the number of the application for the registration; or

(b) there is produced to the Controller an acknowledgement by the person by whom the assignment or agreement was made that the assignment or agreement relates to the design in respect of which that application is made; or

(c) the rights of the claimant in respect of the design have been finally established by the decision of a court; or

(d) the Controller gives directions for enabling the application to proceed or for regulating the manner in which it should be proceeded with under sub-section (5).

(4) Where one of two or more joint applicants for registration of a design dies at any time before the design has been registered, the Controller may, upon a request in that behalf made by the survivor or survivors, and with the consent of the legal representative of the deceased, direct that the application shall proceed in the name of the survivor or survivors alone.

(5) If any dispute arises between joint applicants for registration of a design whether or in what manner the application should be proceeded with, the Controller may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it should be proceeded with, or for both those purposes, as the case may require.

9. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered

Certificate of registration

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

10. (1) There shall be kept at the Patent Office a book called the register of designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matter as may be prescribed and such register may be maintained wholly or partly on computer, floppies or diskettes, subject to such safeguards as may be prescribed.

Register of designs

(2) Where the register is maintained wholly or partly on computer floppies and diskettes under sub-section (1), any reference in this Act to any entry in the register shall be construed as the reference to entry so maintained on computer, floppies or diskettes.

(3) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs

under this Act.

(4) The register of designs shall be *prima facie* evidence of any matter by this Act directed or authorized to be entered therein.

CHAPTER III

COPYRIGHT IN REGISTERED DESIGNS

11. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during ten years from the date of registration.

Copyright on registration

(2) If, before the expiration of the said ten years, application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copy-right for a second period of five years from the expiration of the original period of ten years.

12. (1) Where a design has ceased to have effect by reason of failure to pay the fee for the extension of copyright under sub-section (2) of section 11, the proprietor of such design or his legal representative and where the design was held by two or more persons jointly, then, with the leave of the Controller one or more of them without jointing the others, may, within one year from the date on which the design ceased to have effect, make an application for the restoration of the design in the prescribed manner on payment of such fee as may be prescribed.

Restoration of lapsed designs.

(2) An application under this section shall contain a statement, verified in the prescribed manner, fully setting out the circumstances which led to the failure to pay the prescribed fee, and the Controller may require from the applicant such further evidence as he may think necessary.

13. (1) If, after hearing the applicant in cases where the applicant so desires or the Controller thinks fit, the Controller is satisfied that the failure to pay the fee for extension of the period of copyright was unintentional and that there has been no undue delay in the making of the application, the Controller shall upon payment of any unpaid fee for extension of the period of copyright together with prescribed additional fee restore the registration of design.

Procedure for disposal of applications for restoration of lapsed designs.

(2) The Controller may, if he thinks fit as a condition of restoring the design, require that any entry shall be made in the register of any document or matter which under the provision of this Act, has to be entered in the register but which has not been so entered.

14. (1) Where the registration of a design is restored, the rights of the registered proprietor shall be subject to such provisions as may be prescribed and to such other provisions as the Controller thinks fit to impose for the protection or compensation of persons who may have begun to avail themselves of, or have taken definite steps by contract or otherwise to avail themselves of, the benefit of applying the design between the date when the registration of the design ceased to have effect and the date of restoration of the

Rights of proprietor of lapsed design which have been restored.

registration of the design.

(2) No suit or other proceeding shall be commenced in respect of piracy of a registered design or infringement of the copyright in such design committed between the date on which the registration of the design ceased to have effect and the date of the restoration of the design.

15. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall-

Requirements before delivery on sales.

(a) (if exact representations or specimens were not finished on the application for registration) furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may, after giving notice thereof to the proprietor, erase his name from the register and thereupon the copyright in the design shall cease; and

(b) causes each such article to be marked with the prescribed mark, or with the prescribed words or figures denoting that the design is registered; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Central Government by or on behalf of any trade or industry that in the interest of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Central Government may, if it thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as it thinks fit.

16. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person, other than the proprietor of the design, and the acceptance of a first and confidential order for articles bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Effect of disclosure on copyright.

17. (1) During the existence of copyright in a design, any person on furnishing such information as may enable the Controller to identify the design and on payment of the prescribed fee may inspect the design in the prescribed manner.

Inspection of registered designs

(2) Any person may, on application to the Controller and on payment of such fee as may be prescribed, obtain a certified copy of any registered design.

18. On the request of any person furnishing such information

Information as to

as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of articles, and shall state the date of registration, and the name and address of the registered proprietor.

existence of copyright.

19. (1) Any person interested may present a petition for the cancellation of the registration of a design at any time after the registration of the design, to the Controller on any of the following grounds, namely:-

Cancellation of registration.

(a) that the design has been previously registered in India; or

(b) that it has been published in India or in any other country prior to the date of registration; or

(c) that the design is not a new or original design; or

(d) that the design is not registrable under this Act; or

(e) it is not a design as defined under clause (d) of section 2.

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

20. A registered design shall have to all intents the like effect as against the Government as it has against any person and the provisions of Chapter XVII of the Patents Act, 1970 shall apply to registered designs as they apply to patents.

Designs to bind Government. 30 of 1970.

CHAPTER IV

INDUSTRIAL AND INTERNATIONAL EXHIBITIONS

21. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the Official Gazette, or the publication of a description of the design, during or after the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person else-where during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provisions as to exhibitions.

Provided that-

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in

the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

CHAPTER V

LEGAL PROCEEDINGS

22. (1) During the existence of copyright in any design it shall not be lawful for any person-

Piracy of registered design.

(a) for the purpose of sale to apply or cause to be applied to any article in any class of articles in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or

(b) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof, or

(c) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of articles in which the design is registered without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

2. (1) If any person acts in contravention of this section, he shall be liable for every contravention-

(a) to pay to the registered proprietor of the design a sum not exceeding twenty-five thousand rupees recoverable as a contract debt, or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed fifty thousand rupees:

Provided further that no suit or any other proceeding for relief under this subsection shall be instituted in any court below the court of District Judge.

(3) In any suit or any other proceeding for relief under subsection (2), every ground on which the registration of a design may be cancelled under section 19 shall be available as a ground of defence.

(4) Notwithstanding anything contained in the second proviso to sub-Section (2), where any ground on which the registration of a design may be cancelled under section 19 has been availed of as a ground of defence and sub-section (3) in any suit or other proceeding for relief under sub-section (2), the suit or such other proceedings shall be transferred by the Court in which the suit or such other proceeding is pending, to the High Court for decision.

(5) When the court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

23. The provisions of the Patents Act, 1970 with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for reference to a patent, and of references to the proprietor of a design for references to patentee, and of references to the design for references to the invention.

Application of certain of the provisions the Act as to the patents to designs.

CHAPTER VI

GENERAL

Fees

24. (1) There shall be paid in respect of the registration of designs and applications therefor and in respect of other matters relating to designs under this Act such fees may be prescribed.

Fees

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

Provisions as to Registers and other Documents in the Patent Office.

25. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust expressed, implied or constructive.

Notice of trust not to be entered in registers.

26. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee:

Inspection of and extracts from registers.

Provided that where such register is maintained wholly or partly on computer, the inspection of such register under this section shall be made by inspecting the computer print out of the relevant entry in the register so maintained on computer.

27. Reports of or to the Controller made under this Act other than the report referred to in section 45 shall not in any case be published

Privilege of reports of Controller

or be open to public inspection.

28. Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

Prohibition and publication of specification, drawings, etc where application abandoned, etc.

29. The Controller may, on request in writing accompanied by the prescribed fee correct any clerical error in the representation of a design or in the name or address of the proprietor of any design, or in any other matter, which is entered upon the register of designs.

Power for Controller to Correct Clerical errors.

30. (1) Where a person becomes entitled by assignments, transmission or other operation of law to the copyright in a registered design, he may make application in the prescribed form to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

Entry of assignment and transmissions in registers.

(2) Where any person becomes entitled as mortgage, licensee or otherwise to any interest in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of designs, with particulars of the instrument, if any, creating such interest.

(3) For the purposes of sub-section (1) or sub-section (2) an assignment of a design or of a share in a design, a mortgage, licence or the creation of any other interest in a design shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of an instrument embodying all the terms and conditions governing their rights and obligation and the application for registration of title under such instrument is filed in the prescribed manner with the Controller within six months from the execution of the instrument or within such further period not exceeding six months in the aggregate as the Controller on application made in the prescribed manner allows:

Provided that the instrument shall, on entry of its particulars in the register under sub-section (1) or sub-section (2), have the effect from the date of its execution.

(4) The person registered as the proprietor of a design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the design and to give effectual receipts for any consideration for any such assignment,

licence or dealing:

Provided that any equities in respect of the design may be enforced in like manner as in respect of any other moveable property.

(5) Except in the case of an application made under section 31, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any court in proof of the title to copyright in a design or to any interest therein, unless the court, for reasons to be recorded in writing, otherwise directs.

31. (1) The Controller may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of designs of any entry, or by any entry made in such register without sufficient cause, or by any entry wrongly remaining on such register, or by an error or defect in any entry in such register, make such order for making, expunging or varying such entry as he thinks fit and rectify the register accordingly.

Rectification of
Register

(2) The Controller may in any proceeding under this section, decide any question that may be necessary or expedient to decide in connection with the rectification of a register.

(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner who shall upon the receipt of such notice rectify the register accordingly.

(5) Nothing in this section, shall be deemed to empower the Controller to make any such order canceling the registration of a design as is provided for in section 19.

CHAPTER VII

POWER AND DUTIES OF CONTROLLER

32. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a civil court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of under documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court.

Powers of Controller
in Proceedings under
Act.

33. Where any discretionary power is by or under this Act given to Controller, he shall not exercise that power adversely to the

Exercise of the
discretionary power by

applicant for registration of a design without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Controller.

34. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Central Government for directions in the matter.

Power of Controller to take directions of the Central Government.

35. (1) The Controller may refuse to register a design of which the use would, in his opinion, be contrary to public order or morality.

Refusal to register a design in certain cases.

(2) An appeal shall lie to the High Court from an order of the Controller under this section.

36. (1) Where an appeal is declared by this Act to lie from the Controller to the High Court, the appeal shall be made within three months of the date of the order passed by the Controller.

Appeals to the High Court

(2) In calculating the said period of three months, the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The High Court may, if it thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the High Court shall be final.

(4) The High Court may make rules consistent with this Act as to the conduct and procedure of all proceedings under this Act before it.

CHAPTER VIII

EVIDENCE, ETC.

37. Subject to any rules made under section 44, in any proceeding under this before the Controller, the evidence shall be given by affidavit in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence viva voce in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit.

Evidence before the Controller.

38. A certificate purporting to be under the hand of the Controller as to entry, matter or thing which he is authorised by this Act, or any rules made thereunder to make or do, shall be prima-facie evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Controller to be evidence.

39. Printed or written copies or extracts, purporting to be certified by Controller and sealed with the seal of the Patent Office, of documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in India, and in all proceedings, Office without further proof for production of the originals:

Evidence of documents in patent office.

Provided that a court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary.

40. Any application, notice or other document authorized or

Application & notices by

required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post.

post.

41. (1) If any person, is by reason of infancy, Lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

Declaration by
infant, lunatic,
etc.

(2) An appointment may be made by the court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any person interested in the making of the statement or the doing of the thing.

42. (1) It shall not be lawful to insert-

Avoidance of
certain restrictive
conditions.

(i) in any contract for or in relation to the sale or lease of an article in respect of which a design is registered; or

(ii) in a licence to manufacture or use an article in respect of which a design is registered; or

(iii) in a licence to package the article in respect of which a design is registered, a condition the effect of which may be-

(a) to require the purchaser, lessee, or licensee to acquire from the vendor, lessor, or licensor or his nominees, or to prohibit him from acquiring or to restrict in any manner or to any extent his right to acquire from any person or to prohibit him from acquiring except from the vendor, lessor, or licensor or his nominees any article other than the article in respect of which a design is registered; or

(b) to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee, to use an article other than the article in respect of which a design is registered which is not supplied by the vendor, lessor or licensor or his nominee,

and any such condition shall be void.

(2) A condition of the nature referred to in clause (a) or clause (b) of sub-section (1) shall not cease to be a condition failing within that sub-section merely by reason of the fact that the agreement containing it has been entered into separately, whether before or after the contract relating to the sale, lease or licence of the article in respect of which a design is registered.

(3) In proceeding against any person for any act in contravention of section 22, it shall be a defence to prove that at the time of such contravention there was in force a contract relating to the registered design and containing a condition declared unlawful by this section:

Provided that this sub-section shall not apply if the plaintiff is not a party to the contract and proves to the satisfaction of the court that the restrictive condition was inserted in the contract without his knowledge and consent, express or implied.

(4) Nothing in this section shall-

(a) affect a condition in a contract by which a person is prohibited from selling goods other than those of particular person;

(b) validate a contract which, but for this section, would be invalid;

(c) affect a condition in a contract for the lease of, or licence to use, an article in respect of which a design is registered, by which the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the article, in respect of which a design is registered, as may be required or to put or keep it in repair;

(5) The provisions of this section shall also apply to contracts made before the commencement of this Act if, and in so far as, any restrictive conditions declared unlawful by this section continue in force after the expiration of one year from such commencement

CHAPTER IX

AGENCY

43. (1) All applications and communications to the Controller under this Act may be signed by , and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent whose name and address has been entered in the register of patent agents maintained under section 125 of the Patents Act, 1970.

39 of 1970

(2) The Controller may, if he sees fit, require -

(a) any such agent to be resident in India;

(b) any person not residing in India either to employ an agent residing in India;

(c) the personal signature or presence of any applicant or other person.

CHAPTER X

POWERS ETC. OF CENTRAL GOVERNMENT

44. (1) Any person who has applied for protection for any design in the United Kingdom or any of other convention countries or group of countries or countries which are members of inter-governmental organisations, or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the registration of the said design under this Act shall be in priority to other applicants and shall have the same date as the date of the application in the United

Reciprocal arrangement with the United Kingdom and other convention countries or group of countries of intergovernmental

Kingdom or any of such other convention countries or group of countries or countries which are members of inter-governmental organisations, as the case may be:

organisations.

Provided that-

(a) the application is made within six months from the application for protection in the United Kingdom or any of such other convention Countries or group of countries or countries which are members of inter-governmental organisations, as the case may be; and

(b) nothing in this section shall entitle the proprietor of the design to recover damages for piracy of design, design happening prior to the actual date on which the design is registered in India.

(2) The registration of a design shall not be invalidated by reason only of the exhibition or use of or the publication of a description or representation of the design in India during the period specified in this section as that within which the application may be made;

(3) The application for registration of a design of a design under this section must be made in the same manner as an ordinary application under this Act.

(4) Where it is made to appear to the Central Government that the legislature of the United Kingdom or any such other convention country or a country which is member of any group of countries or inter-governmental organisation as may be notified by the Central Government in this behalf has made satisfactory provision for the protection of designs registered in India, the Central Government may, by notification in the Official Gazette, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of designs registered in the United Kingdom or that other convention country or such country which is member of any group of countries or inter-governmental organisation, as the case may be.

Explanation- (1) For the purposes of this section, the expression “convention countries”, “group of countries” or “inter-governmental organisation” means, respectively, such countries, group of countries or inter-governmental organisation to which the Paris Convention for Protection of Industrial Property, 1883 as revised at Stockholm in 1967 and as amended in 1979 or the Final Act, embodying the results of the Uruguay Round of Multilateral Trade Negotiations, provided for the establishment of World Trade Organisation applies.

Explanation- (2) Where more than one application for protection referred to in sub-section (1) have been made for similar protections in the United Kingdom or one or more convention countries, group of countries or countries which are members of inter-governmental organisations, the period of six months referred to in clause (a) of that sub-section, shall be reckoned from the date of which the earlier or the earliest application , as the case may be, of such applications has been made.

45. The Central Government shall cause to be placed before both House of Parliament once a year a report respecting the execution of this Act by or under the Controller.

Report of the Controller to be placed before Parliament.

46. Notwithstanding anything contained in this Act, the Controller shall-

Protection of security of India.

(a) Not disclose any information relating to the registration of a design or any application relating to the registration of a design under this Act, which he considers prejudicial to the interest of the security of India; and

(b) take any action regarding the cancellation of registration of such designs registered under this Act which the Central Government may, by notification in the Official Gazette, specify in the interest of the interest of the security of India.

Explanation: - For the purposes of this section, the expression “security of India” means any action necessary for the security of Indian which relates to the application of any design registered under this Act to any article used for war or applied directly or indirectly for the purposes of military establishment or for the purposes of war or other emergency in international relations.

47. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules

(2) In particular, and without prejudice to the generally of the forgoing power, such rules may provide for all or any of the following matters, namely:-

(a) the form of application, the manner of filing it at the Patent Office and the fee to be accompanied with it, under sub-section (2) of section 5;

(b) the time within which the registration is to be effected under sub-section (5) of section 5;

(c) the classification of articles for registration under sub-section (1) of section 6;

(d) the particulars of design to be published and the manner of their publication under section 7;

(e) the manner of making claim under sub-section (1) of section 8;

(f) the manner of making application to the Controller under sub-section (5) of section 8;

(g) the additional matters required to be entered in the register of design and safeguard to be made in maintaining such register in computer floppies or diskettes under sub-section (1) of section 10.

- (h) the manner of making application and fee to be paid for extension of the period of copy right and the fee payable thereto, under sub-section (2) of section 11;
- (i) the manner of making application for restoration of design and the fee to be paid with it under sub-section (1) of section 12;
- (j) the manner of verification of statement contained in an application under sub-section (2) of section 12;
- (k) the additional fee to be paid for restoration of the registration of design under sub-section (1) of section 13;
- (l) the provisions subject to which the right of the registered proprietor shall be under sub-section (1) of section 14;
- (m) the number of exact representation or specimen of the design to be furnished to the Controller under clause (a) of sub-section (1) of section 15;
- (n) the mark, words or figures with which the article is to be marked denoting that the design is registered under clause (b) of sub-section (1) of section 15;
- (o) the rules to dispense with or modify as regards any class or description of articles any of the requirements of section 15 as to marking under sub-section (2) of that section;
- (p) the fee to be paid for and the manner of inspection under sub-section (1) of section 17;
- (q) the fee to be paid to obtain a certified copy of any design under sub-section (2) of section 17;
- (r) the fee on payment of which the Controller shall inform under section 18;
- (s) the form for giving notice to the Controller under clause (a) of the proviso to section 21;
- (t) the fee to be paid in respect of the registration of designs, and application therefor, and in respect of other matters relating to designs under sub-section (1) of section 24;
- (u) the fee to be paid for giving certified copy of any entry in the register under section 26;
- (v) the fee to be accompanied with request in writing for correcting any clerical error under section 29;
- (w) the form in which an application for registration as proprietor shall be made and the manner in which the Controller shall cause an entry to be made in the register of the assignment, transmission or

other instruments effecting the title under sub-section (1) of section 30;

(x) the form in which an application for title shall be made and the manner in which the Controller shall cause notice of the interest to be entered in the register of designs with particulars of the instrument, if any, creating such interest under sub-section (2) of section 30;

(y) the manner of filing an application for registration and for making application for extension of time as referred to in sub-section (3) of section 30;

(z) the manner of making application to the Controller for rectification of register under sub-section (1) of section 31;

(za) the manner in which the notice of rectification shall be served on the Controller under sub-section (4) of section 31;

(zb) the rules regulating the proceedings before the Controller under section 32;

(zc) the time which shall be granted to the applicants for being heard by the Controller under section 33;

(zd) the fee to be accompanied with an appeal under sub-section (1) of section 36;

(ze) any other matter which is required to be, or may be, prescribed.

(3) The power to make rules under this section shall be subject to the conditions of the rules being made after previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Act.

CHAPTER XI

REPEAL AND SAVING

48. (1) The Designs Act, 1911 is hereby repealed.

2 of 1911
Repeal and savings.

(2) Without prejudice to the provisions contained in the General 10 of 1897.

Clauses Act, 1897 with respect to repeals, any notification, rule, order, requirement, registration, certificate, notice, decision, determination, direction, approval, authorisation, consent, application, request or thing made, issued, given or done under the Designs Act, 1911, shall, in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

2 of 1911

(3) The provisions of this Act shall apply to any application for registration of design pending at the commencement of this Act and to any proceedings consequent thereon and to any registration granted in pursuance thereof.

(4) Notwithstanding anything contained in this Act, any proceeding pending in any court at the commencement of this Act may be continued in that court as if this Act has not been passed.

(5) Notwithstanding anything contained in sub-section (2), the date of expiration of the copyright in the design registered before the commencement of this Act shall, subject to the provisions of this Act, be the date immediately after the period of five years for which it was registered or the date immediately after the period of five years for which the extension of the period of copyright for a second period from the expiration of the original period has been made.

MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION)

NOTIFICATION

New Delhi, Dated: The 11th May, 2001

S.O. 414 (E)..... In exercise of the powers conferred by sub-section (3) of section 1 of the Design Act, 2000 (16 of 2000), the Central Government hereby appoints the 11th day of May, 2001 as the date on which the said Act shall come into force.

S.O.(E)..... whereas a draft of Design Rules was published as required by sub-section (3) of section 47 of the Design Act, 2000 (16 of 2000), by the notification of the Government of India, Ministry of Commerce and Industry No.S.O.1069 (E) dated 29th November, 2000 at pages 56 to 115 of the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) dated the 29th November, 2000;

And whereas, objections and suggestions were invited till the 4th January, 2001 from all persons likely to be affected thereby;

And whereas, the draft of the Design Rules was made available to the public on the 4th December, 2000 through the said Gazette dated November 29, 2000;

And whereas, the objections and suggestions received from the public with respect to the said draft Rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 47 of the Design Act, 2000 (16 of 2000), the Central Government hereby makes the following rules, namely:-

THE DESIGNS RULES, 2001

PRELIMINARY

- 1. Short title and commencement:-** (1) These rules may be called the Designs Rules, 2001.
(2) They shall come into force on the date of their publication in the Official Gazette.
- 2. Definitions -** In these rules, unless there is anything repugnant in the subject or context,-
 - (a) "Act" means the Designs Act, 2000
 - (b) "Application in United Kingdom or convention country or group of countries or inter-governmental organisation" means an application made by any person in any part of United Kingdom or convention country or group of countries or inter-governmental organisation, of a design for the protection in India under the provisions of section 44 of the Act.
 - (c) "Office" means the Patent Office referred to in section 74 of the Patent Act, 1970 (39 of 1970)
 - (d) "Reciprocity Application" means an application in India under section 44 of the Act.
 - (e) "Set" means a number of articles of the same general character ordinarily sold together or intended to be used together, all bearing the same design, with or without modification not sufficient to alter the character or substantially to affect the identity thereof.
- 3. Leaving and serving documents. -** (1) Any application, notice or other document authorised or required to be filed, left, made or given at the Office, or to the Controller or to any other person under the Act or these rules, may be sent by hand or by a prepaid letter through the post or registered post or speed post or courier service, and, if sent by a prepaid letter or registered post or speed post or courier service, shall be deemed to have been filed, left, made or given at the time when the letter containing

the same would be delivered in the ordinary course of mail, and in proving such sending, it shall be sufficient to prove that the letter was properly addressed and mailed. If the documents sent through tele-fax/e-mail, are clear and fully legible, they shall also be accepted provided that original documents corresponding to the one sent by tele-fax/e-mail is submitted to the office within fifteen days from the date of receipt of the documents so faxed/e-mailed.

- (2) Any written communication addressed to a registered proprietor of a design at his address as it appears on the Register of Designs, or at his address for service, or to any applicant or opponent in any proceedings under the Act or these rules, at the address appearing on the application or notice of opposition, or given for service, as hereinafter provided, shall be deemed to be properly addressed.
- (3) Any application for registration of design, application for extension of copyright, petition for cancellation of registration of design and application for rectification of Register of Design along with the prescribed fees authorized or required may be filed, left, made or given to the branch offices also by the applicant.
- (4) The branch offices shall transmit such applications or documents along with the fees to the Head Office of the Patent Office for processing and prosecuting the same.

4. **Address for Service.** - Every applicant or opponent in any proceeding under the Act or these rules, and every person who shall hereafter become a registered proprietor of a design, shall give an address for service in India and such address may be treated, for all purpose connected with the design as the actual address of such applicant, opponent, registered proprietor. Unless such an address is given, the Controller shall be under no obligation either to proceed with the application or the opposition, or to send any notice that may be required by the Act or rules framed there under:

Provided that such address for service may include e-mail or digital address of the agent/applicant.

5. **Fees.**- (1) The fees to be paid in respect of the registration of designs, and application therefor, and in respect of other matters, with relation to Designs Act and rules framed there under, shall be those as specified in the First Schedule of the rules.
 - (2) (a) Fees may be paid in cash at the office, or the same may be paid by Cheque or Demand Draft on a scheduled bank payable to the Controller at Calcutta and if sent through the post or registered post or speed post or courier service shall be deemed to have been paid at the time when properly addressed and prepaid letter containing the cheque would be delivered in the ordinary course of mail.
 - (b) Cheques or Demand Drafts not carrying the correct amount of commission, and cheques or demand drafts on which the full value specified therein cannot be collected in cash within the time allowed for payment of the fee, shall be accepted only at the discretion of the Controller.
 - (c) Stamps and Indian postal order shall not be accepted in payment of fees.

- (d) Subject to the approval of the competent authority any applicant or an agent may deposit money in advance once in a financial year and request the Controller to realise any fee payable by him from the said deposit and in such case date of the receipt of the request to realise the fee or the date on which the request to realise the fee is deemed to have been received, whichever is earlier, shall be taken as date of payment of fee:

Provided that the requisite amount of money is available at the credit of the person making the request.

- 6. Forms.** - (1) The forms set forth in the Second Schedule, with such variations, as the circumstances of each case require, shall be used for the purposes mentioned therein.

(2) When no form is so specified for any purpose, the applicant may adopt any form specified in the Second Schedule with such modification and variation as the controller may permit.

- 7. Size, etc., of documents.** - (1) All documents and copies of documents except drawings or representation, sent to or filed, left at the Office or otherwise furnished to the Controller shall be written, typewritten, lithographed, or printed in the English/Hindi language (unless otherwise directed), in large and legible character with deep permanent ink upon one side only of strong white paper of A4 size with a margin of at least one inch and a half or four centimeters on the left hand part thereof. Signatures thereto shall be written in a large and legible hand and any signature which is not legible or which is written in a script other than English shall be accompanied by a transcription of the name in English in block letters.

(2) Additional copies of documents shall be filed at the Office, if at any time required by the Controller.

(3) Names and addresses of applicants and other persons shall be given in full together with their nationality and such other particulars, if any, as are necessary for identification.

- 8. Signature and verification of documents specified in sections 5, 12, 19 and 37.** The documents specified in sections 5,12,19 and 37 of the Act shall be dated and signed at the foot, and shall contain a statement that the facts and matters stated therein are true to the best of the knowledge, information and belief of the person signing them.

- 9. Agency.** -For all matters falling under the provisions of section 43 of the Act, applicant may, unless otherwise directed by the Controller, authorize under his personal signature, any person specified in section 43 to act as his agent and to receive all notices, requisitions and communications. The authority may be given in Form- 21.

- 10. Classification of Goods.**- (1) For the purposes of the registration of designs and of these rules, article shall be classified as specified in the Third Schedule hereto.

(2) If any doubt arises as to the class to which any particular description of article belongs, it shall be determined by the Controller in consultation with the applicant wherever required.

Application for Registration

- 11. Application.** - (1) An application under section 5 of the Act for the registration of a design shall be accompanied by four copies of the representation of the design and the application and each of copy of the representation of the design shall be dated and signed by the applicant or his agent.
- (2) The application shall state the class in which the design is to be registered, and the article or articles to which the design is to be applied.
- (3) If it is desired to register the same design in more than one class of article, a separate application shall be made in each class of article and the application shall contain the number or numbers of the registration or registrations already effected.
- (4) If so required by the Controller, the applicant shall state purpose for which the article is used.
- 12. Statement of novelty.** - The applicant may, and shall, if required by the Controller in any case so to do, endorse on the application and each of the representation a brief statement of the novelty he claims for his design.
- 13. Additional copies of representation or specimens.** - If the controller in any case so requires, the applicant shall supply one or more representations or specimens of the design in addition to those supplied with the application.
- 14. Representation.** - (1)The four copies of the design required by rule 11 shall be exactly similar drawings, photographs, tracings or other representations of the design or shall be specimens of the design.
- (2) When a design is to be applied to a set, each representation accompanying the application shall show all the various arrangements in which it is proposed to apply the design to the articles included in the set.
- (3) Each representation of the design whether to be applied to a single article or to a set, shall be on durable paper of A4 size (and not on cardboard) and shall appear on one side only of the paper. The figure or figures shall be placed in an upright position on the sheet. When more figures than one are shown, these shall , where possible, be on one and the same sheet, and each shall be designated (e.g. perspective view; front view, side view).
- (4) When a design is to be applied to a set, any doubt whether the given articles do or do not constitute a set shall be determined by the controller.
- (5) If the specimens are not, in the opinion of the Controller, suitable for record in the office they shall be replaced by representations.
- (6) Where words, letters or numerals are not of the essence of the design, they shall be removed from the representations or specimens; where they are of the essence of the design, the Controller may require the insertion of a disclaimer of any right to their exclusive use.
- (7) Each representation of a design, which consists of a repeating surface pattern, shall show the complete pattern and a sufficient portion of the repeat in length and width, and shall not be of less size than 5 by 4 inches or 13.00 centimeters by 10.00 centimeters.
- (8) If the name or representations of living persons appear on a design the Controller shall, if he so requires, be furnished with consents from such persons before proceeding to register the design. In the case of deceased person, the Controller may call for consent from the legal representative before proceeding with registration of the design on which the names or representations appear.
- 15. Reciprocity application for the registration of a design.** - (1) Every reciprocity application for the registration of a design shall contain a statement that an application in United Kingdom or

convention country or group of countries or inter-governmental organisation has been made for the protection of the design to which such reciprocity application relates and shall specify convention country or group of countries or inter-governmental organisation in which any such application has been made and the official date or dates thereof respectively. The application shall be made within six months from the date of the first application in United Kingdom or convention country or group of countries or inter-governmental organisation by the person by whom such application in United Kingdom or convention country or group of countries or inter-governmental organisation was made, or by the legal representative or assignee of the person either alone or jointly with any other person.

- (2) In addition to the four copies of the representations of the design filed or left with every reciprocity application for the registration of a design, a copy of the design filed or deposited by the applicant or his predecessor in title as the case may be, in respect of the first application in United Kingdom or convention country or group of countries or inter-governmental organization, duly certified by the Official Chief or Head of the organization in which it was filed, or deposited or otherwise verified to the satisfaction of the Controller, shall be filed or left at the office at the same time as the reciprocity application or within such further time not exceeding three months as the Controller may allow.
- (3) Save as aforesaid and as provided by rule 30 all proceedings in connection with a reciprocity application shall be taken within the time and in the manner required by the Act or prescribed by these rules for ordinary application.

16. Manner in which a claim under sub-section (1) of section 8(1) shall be made.- (1) A claim under sub-section (1) of section 8 shall be made in Form-2.

- (2) The original assignment or agreement or other document affecting right, title or interest in the application or an official or notarially certified copy thereof shall also be furnished for the Controller's inspection and the Controller may call for such other proof of title or written consent as he may require.

17. Acceptance.- Upon receipt of an application for registration, the Controller may accept it, if he considers that there is no lawful objection in the report of examiner to the design being registered.

18. Objections.- (1) If on consideration of the report of the examiner on the application referred under sub-section (1) of section 5, any objection appear to the Controller is adverse to the applicant or requires any amendment of the application, a statement of such objections shall be sent to the applicant or his agent in writing, and unless within three months from the date of official communication of objection the applicant or his agent removes the objection or applies for hearing, the applicant shall be deemed to have withdrawn his application:

Provided that the period for removal of the objection shall not exceed the time period of six months from the date of filing of the application.

- (2) If the applicant or his agent applies for a hearing under sub-rule (1) within a period of three months from the date of communication of the statement of objections or if the Controller considers it desirable to do so, whether or not the applicant has refiled his application, fix a date for hearing having regard to the time remaining for completion of the application as provided under rule 21.
- (3) When a hearing has been fixed under sub-rule (2) the applicant shall be given at least 10 days notice of such fixation or such shorter notice as appears to the Controller to be reasonable in the circumstances of the case and applicant shall as soon as possible notify the Controller whether he shall attend the hearing.
- (4) Hearing, as required under sub-rules (1), (2) and (3) may be allowed whenever possible on phone followed by detailed submission on tele-fax/e-mail.
- (5) After hearing the applicant or without a hearing if the applicant has not attended or has notified that he does not desire to be heard, the Controller may register or refuse to register the design as he thinks fit.

19. Decision of Controller. - The decision of the Controller containing the grounds and materials used by him in arriving at the decision at such hearing as aforesaid shall be communicated in writing to the applicant or his agent

20. Date for appeal. - The date on which the decision of the Controller is dispatched shall be deemed to be the date of the Controller's decision for the purpose of appeal.

21. Non-completion within six months. - An application which owing to any neglect or default of the applicant, has not been completed so as to enable registration to be effected within six months from the date of application, shall be deemed to be abandoned.

22. Publication of the particulars of registered design under section 7. - On acceptance of the design filed in respect of an application, the Controller shall direct the registration and publication of the particulars of the application and the representation of the article to which the design has been applied, in the Official Gazette. When publishing in the Gazette, the Controller may select one or more views of the representation of the design, which, in his opinion, would depict the design best

23. Manner of making an application under sub-section (2) of section 11. - An application under sub-section (2) of section 11 shall be made in Form -3.

24. Restoration of Designs.- (1) An application for the restoration of a design under section 12 shall be made in Form - 4.

- (2) Upon consideration of the application and the evidence adduced by the proprietor of the design, if any, if the Controller is satisfied that a *prima facie* case for the restoration of the design has not

been made out he shall intimate the proprietor of the design accordingly, and unless within one month from the date of such intimation the proprietor requests to be heard in the matter, the Controller shall refuse the application.

- (3) If the registered proprietor requests for hearing within the time allowed and the Controller after giving the register proprietor such a hearing, is prima facie satisfied that the failure to pay the fee for extension of copy right was unintentional, he shall allow the application for restoration.

25. Payment of unpaid extension fee. - (1) If the Controller decides in favour of the registered proprietor of the design, the proprietor shall pay the unpaid fees for the extension of copyright and additional fee specified in the First Schedule, within a month from the date of the order of the Controller allowing the proprietor for restoration of the deisign.

- (2) The Controller shall advertise in the Official Gazette his decision on the application for restoration.

Marking of Articles

26. Marking of articles before delivery on sale. - Before delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall cause each such article to be marked with the word **REGISTERED** or with the abbreviation **REGD.**, or with the abbreviation **RD**, as he may choose, and also (except in the case of articles made of soft or brittle in nature to which have been applied designs registered in different classes of articles) with the number appearing on the certificate of registration:

Provided that the requirements of this rule and clause (b) of sub-section (1) of section 15 of the Act shall be dispensed with as regards-

- (i) textile goods in which the design is printed or woven, other than handkerchiefs; and
- (ii) articles made of charcoal dust, which are brittle and which are not sold in single pieces.

Inspections and Searches

27. Inspection of designs. - Registered designs shall be open to public inspection after the notification of the said design in Official Gazette and the application together with representation of the design may be inspected on a request made in Form - 5.

28. Search under section 18. - (1) Request for information as specified in section 18 of the Act may be made by any person in Form 6 with the fee as specified in the Schedule of fees and shall contain the registration number of the design for which information is required.

(2) If the applicant is unable to furnish the registration number of the design, he shall lodge with the Controller, in Form 7 together with such information as is in his possession, and the Controller shall thereupon cause search to be made in the class indicated therein as much as be possible on the information supplied, and shall furnish such information as may be obtainable. Where Form 7 is accompanied by a representation or specimen of the design, such representation or specimen shall be furnished in duplicate.

Cancellation

29. Cancellation of registration of designs under section 19. - (1) A petition to the Controller for the cancellation of the registration of a design shall be made in duplicate in Form - 8 and shall be accompanied by a statement in duplicate setting out the nature of the applicant's interest and the facts upon which he bases his application.

- (2) If the petition for the cancellation of the registration of a design is made by person who is not the registered proprietor, a copy of the petition along with the statement shall be transmitted by the Controller to the registered proprietor.
- (3) If the registered proprietor intends to oppose the application he shall within a time to be specified by the Controller, leave at the office a counter statement setting out the grounds on which he intends to oppose the application and shall, within the same time, deliver to the applicant a copy of the counter-statement.
- (4) The applicant may, after delivery to him of the copy of the registered proprietor's counter-statement, leave at the office, evidence by way of affidavits in support of his case and shall also deliver to the registered proprietor a copy thereof.
- (5) The registered proprietor may, after delivery to him of the applicant's evidence, leave at the office evidence by way of affidavits in support of his case and shall also deliver to the applicant a copy thereof.
- (6) The applicant may, after delivery to him of a copy of the registered proprietor's evidence, leave at the Office evidence in reply by way of affidavits and shall also deliver to the registered proprietor a copy of such evidence.
- (7) No further statement of evidence shall be left by either party except by leave of or on requisition by the Controller.
- (8) Where a document is in a language other than English and is referred to in any statement or evidence filed in connection with an petition under section 19 or opposition thereto, an attested translation thereof in English shall be furnished in duplicate.
- 9) The time allowed for filling the counter-statement or for leaving evidence shall ordinarily be one month which may be extended only by a special order of the Controller given on a petition made by party seeking extension of time:

Provided that the extension so granted shall in no case exceed three months in aggregate.

- (10) On completion of the filing of the statement and the evidence referred to sub-rules (3) to (8) or at such other time as he may decide, the Controller shall appoint a hearing of the petition for cancellation and shall give the parties not less than ten days' notice of such hearing.

- (11) If either party desires to be heard, he shall give to the Controller a notice in Form 20 of his intention to attend the hearing.
- (12) If, at the hearing, either party intends to refer to any publication, he shall give to the Controller and to the other party not less than five days' notice of such intention, together with the details of the publication to which he intends to refer.
- (13) After hearing the party or parties desirous of being heard or without a hearing, if neither party desires to be heard or attends the hearing, the Controller shall decide on the petition and the opposition, if any, and notify his decision to the parties.

GENERAL

Register of Designs

30. Registering designs.- (1) When a design is accepted, there shall be entered in the Register of Design, in addition to the particulars required by the Act, the number of the design, the class in which it is registered, the date of filling the application for registration in this country, the reciprocity date, if any, claim for the registration, and such other matters as would effect the validity or proprietorship of the design.

(2) When such Register of Design is maintained wholly or partly on computer under floppies or diskettes, such computer floppies or diskettes shall be maintained under superintendence and control of Controller and in case of any dispute or doubt with regard to information of designs, the information as contained in the backup file or master file shall be final.

(3) Where the accepted design is one in respect of which a reciprocity date has been allowed, the registration, the extension or the expiration of the copyright in the said design shall be reckoned from such reciprocity date.

31. Alteration of address.- A proprietor of a registered design may make a request in Form 22 to the Controller for alteration of his name, or address, or addresses for service, in the Register of Design. The Controller may require such proof of alteration so requested as he may think fit before acting on the request and on satisfaction, the Controller shall cause the Register to be altered accordingly.

32. Registration of documents under sub-section (3) of section 30.- An application referred to in sub-section (3) of section 30 shall be made in Form- 10.

33. Application for entry of subsequent proprietorship.- An application referred to in sub-section (1) or (2) of the section 30 shall be made to the Controller in Form 11 or 12 or 13 as the case may be.

34. Particulars in applications.- An application under rule 33 shall contain the name, address and nationality of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims.

35. Production of documents of title and other proof.- Every assignment, and every other document containing, giving effect to or being evidence of the transmission of copyright in a registered design or affecting the proprietorship thereof or creating an interest therein as claimed in application under rule 33 shall unless the Controller otherwise directs, be presented to him either in original, or notarially certified true copy together with the application and he may call for such other proof of title or written consent as he may require for his satisfaction:

Provided that in the case of a document which is a public document, an official or certified copy thereof may be presented.

36. Form of entry.- The entry to be made in the Register on request under rule 34 shall be in the following form :-

“In pursuance of an application received on the

[.....]

Registered as Proprietors
 Licensees
 Mortgagees
 etc.

By virtue of Assignment
 Licence
 Mortgage deed
 etc.

dated _____ and made between _____

of the one part and _____

of the other part.

37. Entry of notification of documents.- An application for entry in the Register of Design of notification of any document (not already provided for), purporting to affect the proprietorship of a registered design, shall be accompanied by an attested copy of the document, the accuracy of such copy being certified as the Controller may direct, and the original or notarially certified true copy of the document shall at the same time be produced and left at the Office if required for further verification.

38. Hours of inspection of Register.- The Register of Designs shall be open to the inspection of the public at all times on which the Office is open to the public, except at times when they are required for actual official use.

39. Rectification of Register.- If an application is made for the rectification of the Register of Design under section 31 of the Act, the Controller shall notify all persons whose names, at the time of the application are entered on the Register as claiming an interest in the design, and shall advertise the application in the Official Gazette.

40. Opposition to rectification.- (1) Notice of opposition to any rectification of the Register of Design may be given within three months of the advertisement of the application for rectification.

- (2) The opponent shall, within fourteen days of giving notice of opposition, leave at the office his written statement in duplicate setting out the nature of his interest, the facts upon which he bases his opposition and the relief, which he seeks.
- (3) The Controller shall furnish the applicant with a copy each of the notice of opposition and the written statement.
- (4) The procedure specified in sub-rules (4) to (13) for rule 29 relating to leaving evidence and hearing shall, so far as may be, apply to the hearing of the application under section 31 as they apply to the hearing of a petition under section 19.

CERTIFICATES

41. Certified copies of documents. - Certified copies of an entry in the Register of Design or certified copies of, or extracts from disclaimers, affidavits, declarations and other public documents in the Office, or from Register and other records, shall be furnished by the Controller on payment of the prescribed fee.

42. Form etc. of affidavits. - (1) The affidavits required by the Act and these rules, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate, shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered; and each paragraph shall, as far as possible, be confined to one subject. Every affidavit shall state the description and true place of abode of the person making the same, shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

(2) Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.

(3) Affidavits shall be sworn to as follows :-

(a) In India, before any court or person having by law authority to receive evidence, or before any officer empowered by such court or person as aforesaid to administer oaths or to take affidavits;

(b) In any country or place outside India, – before a diplomatic or consular office, within the meaning of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948) in such country or place or before a notary of the country or place, recognized by the Central Government under section 14 of the Notaries Act, 1952 (53 of 1952), or before a judge or magistrate of the country of place.

(4) The person before whom an affidavit is sworn shall state the date on which and the place where the same is sworn to and shall affix thereto his seal, if any, or the seal of the court if the affidavit is sworn to before the court or an officer empowered by

that court and signed his name and state his designation and address at the end thereof.

- (5) Any affidavit purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorized under sub-rule (3), in testimony of the affidavit having been sworn to before him, may be admitted by the Controller without proof the genuineness of the seal or signature, or of the official position of that person.
- (6) Alterations and interlineations shall, before an affidavit is sworn to or affirmed be authenticated by the initials of the person before whom the affidavit is sworn to.
- (7) Where the deponent is illiterate, blind or unacquainted with the language in which the affidavit is written, a certificate by the person before whom the affidavit is sworn to, the effect that the affidavit was read, translated or explained in his presence to the deponent, and the deponent seemed perfectly to understand it and has signed the affidavit or affixed his mark in his presence, shall be attached at the end of the affidavit.
- (8) Every affidavit filed before the Controller in connection with any proceeding under the Act or these rules shall be duly stamped under the provision of any law for that time being in force.

AWARD OF COST BY CONTROLLER

- 43. Scale of Costs.** - In all proceedings before the Controller, the Controller may, save as otherwise expressly provided by the Act or these rules, award such costs as he considers reasonable, having regard to all circumstances of the case provided that the amount of costs awarded in respect of any matters set forth in the Fourth Schedule to these rules shall not exceed the amount therein specified.

MISCELLANEOUS POWERS OF CONTROLLER

- 44. Exercise of discretionary power of Controller, miscellaneous power of Controller.** - The time within which a person entitled under section 33 of the Act, to an opportunity of being heard shall exercise his option of requiring to be heard shall be one month from the date of a notice which the Controller shall give to such person or his agent before determining the matter with reference to which such person is entitled to be heard. If within that month such person or his agent requires to be heard, the Controller shall appoint a date for the hearing and shall give ten days notice thereof:

Provided that if the giving of ten day's notice would cause an application for the registration of design to be deemed to have been abandoned before the hearing, the Controller may curtail the period of notice.

45. Controller may require statement. - Whether an applicant or agent desires to be heard or not, the Controller may at any time require him to submit a statement in writing within a time to be notified by the Controller, or to attend before him and make explanations with respect to such matters as the Controller may require.

General Power of amendment. - Any document for the amending of which no special provision is made by the Act may be amended, and any irregularity in procedure which, in the opinion of the Controller, may be obviated without detriment to the interest of any person, may be corrected if the Controller thinks fit, and upon such terms as he may direct.

47. General Power to enlarge time. - The time prescribed by these rules for doing any act or taking any proceeding thereunder maybe enlarged by the Controller, if he thinks fit, and upon such terms as he may direct.

REPEAL

48. Repeal. - The Designs Rules, 1933 are hereby repealed:

Provided that any application or other matter pending under those rules on the date of the coming into force of these rules shall be disposed of under those rules.

THE FIRST SCHEDULE

See rule 5 FEES			
No. of Entry	on what payable	No. of form	Fee (Rs.)
1.	On application for registration of design under sections 5 and 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 copy right 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. given under Section 18.	6	500.00
8.	On request for information of design when registration no. not given.	7	1000.00
9.	On petition 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 Design under section 30(3), - in respect of one design.	10	500.00
	for each additional design.		200.00
12.	On application for entry of name of proprietor or part proprietor in Register of Design under section 30,- in respect of one design.	11	500.00
	for each additional design.		200.00
			Contd...

No. of Entry	on what payable	No. of form	Fee
13.	On application for entry of mortgage or licence in Register of design under section 30 in respect of one design. for each additional design.	12	500.00 200.00
14.	Application for entry of notification of a document in the Register of Design under section 30 and rule 37,- in respect of one design. 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 41.	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.	19	100.00
21.	Notice of intention to attend hearing under rules 29 and 40.	20	500.00
22.	Form for authorisation 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 enlargement of time.	—	500.00
27.	Inspection of Register of Design under rule 38 (in respect of each design).	—	250.00

THE SECOND SCHEDULE

(See rule 6)
List of forms

Form No.	Section or Rule	Title
1	Sections 5 and 44	Application for registration of design/Application under reciprocal arrangement.
2	Section 8(1)	Claim to proceed as an applicant or joint applicant.
3	Section 11(2)	Application for Extension of copyright.
4	Section 12(2)	Application for Restoration of lapsed design
5	Section 17(1)	Inspection of registered design

6	Section 18	Request for information when registration number is given.
7	Section 18	Request for information when registration number is not given.
8	Section 19	Petition to cancel registration of design.
9	Section 21	Notice of intended exhibition or publication of unregistered design.
10.	Section 30(3)	Application for registration of a document in the Register Design.
11	Section 30	Application for entry of name of proprietor or part proprietor in the Register
12	Section 30	Application for entry of mortgage or licence in the Register.
13.	Section 30 and rule 37	Application for entry of notification of a document in the Register.
14	Section 29	Request for correction of clerical error.
15	Section 26 and rule 41	Request for certificate.
16	Section 17(2)	Application for certified copy of registered design.
17	Section 31	Application for rectification of Register.
18	rule 15	Application for extension of time for filing document. priority
19	rule 40	Notice of opposition.
20	rules 29 and 40	Notice of intention to attend hearing.
21	Section 43	Power of authority to agents.
22	rule 31	Request to alter name or address or address for service in Register
23	Section 10	Request for entries of two addresses in the Register

THE THIRD SCHEDULE

Classification of Good

(See rule 10)

List of Classes and Subclasses, with Explanatory Notes

CLASS 01

Foodstuffs

Note: (a) Includes foodstuffs for human beings, foodstuffs for animal and dietetic foods.

(b) Not including packages (Cl. 09).

01-01 BAKERS' PRODUCTS, BISCUITS, PASTRY, MACARONI AND OTHER CEREAL PRODUCTS. CHOCOLATES, CONFECTIONERY, ICES

01-02 FRUIT AND VEGETABLES

01-03 CHEESES, BUTTER AND BUTTER SUBSTITUTES, OTHER DAIRY PRODUCE

01-04 BUTCHER'S MEAT (INCLUDING PORK PRODUCTS), FISH

01-05 [vacant]

01-06 ANIMAL FOODSTUFFS

01-99 MISCELLANEOUS

CLASS 02

Articles of clothing and haberdashery

Note: Not including articles of clothing for dolls (Cl. 21-01), special equipment for protection against fire hazards, for accident prevention and for rescue (Cl. 29), and animal clothing (Cl. 30-01).

02-01 UNDERGARMENTS, LINGERIE, CORSETS, BRASSIERES, NIGHTWEAR

Note: (a) Including orthopedic corsets and body linen.
(b) Not including household linen (Cl. 06-13).

02-02 GARMENTS

Note: (a) Includes all sorts of garments, including furs, bathing costumes, sports clothing and orthopedic garments, subject to the exceptions indicated under (b).
(b) Not including undergarments (Cl. 02-01), or garments to be placed in Classes 02-03; 02-04; 02-05 or 02-06.

02-03 HEADWEAR

Note: Includes all kinds of headwear for men, women and children.

02-04 FOOTWEAR, SOCKS AND STOCKINGS

Note: Including special boots for sports such as football, skiing and ice hockey, orthopedic footwear and socks, as well as tights, gaiters and other legwear.

02-05 NECKTIES, SCARVES, NECKERCHIEFS AND HANDKERCHIEFS

Note: Includes all "flat" clothing accessories.

02-06 GLOVES

Note: Includes surgical gloves and rubber or plastic protective gloves for household use or for various occupations or sports.

02-07 HABERDASHERY AND CLOTHING ACCESSORIES

Note: (a) Including buttons, clasps for garments, for headwear and for footwear, laces, pins, hand sewing, knitting and embroidery equipment and clothing accessories such as bells, suspenders, braces.
(b) Not including yarns or other threads (Cl. 05-01), decorative trimmings (Cl. 05-04), sewing, knitting and embroidery machines (Cl. 15-06) or sewing kits (containers) (Cl. 03-01).

02-99 MISCELLANEOUS

CLASS 03

Travel goods, cases, parasols and personal belongings, not elsewhere specified

03-01 TRUNKS, SUITCASES, BRIEFCASES, HANDBAGS, KEYHOLDERS, CASES
SPECIALLY DESIGNED FOR THEIR CONTENTS, WALLETS AND SIMILAR
ARTICLES

Note: Not including articles for the transport of goods (Cl. 09) or cigar cases and cigarette cases (Cl. 27-06).

03-02 [vacant]

03-03 UMBRELLAS, PARASOLS, SUNSHADES AND WALKING STICKS

03-04 FANS

03-99 MISCELLANEOUS

CLASS 04

Brushware

04-01 BRUSHES AND BROOMS FOR CLEANING

Note: Not including clothes brushes (Cl. 04-02).

04-02 TOILET BRUSHES, CLOTHES BRUSHES AND SHOE BRUSHES

Note: "Toilet brushes" means brushes for corporal use; for example, for the hair, nails or teeth.

04-03 BRUSHES FOR MACHINES

Note: "Brushes for machines" means brushes incorporated in machines or in special vehicles.

04-04 PAINTBRUSHES, BRUSHES FOR USE IN COOKING

04-99 MISCELLANEOUS

CLASS 05

Textile piecegoods, artificial and natural sheet material

Note: (a) Includes all textile or similar articles, sold by the yard and not made up.

(b) Not including ready-made articles (Cl. 02 or 06).

05-01 SPUN ARTICLES

Note: (a) Including yarn and thread.

(b) Not including, for instance, rope wire, string, twine (Cl. 09-06).

05-02 LACE

05-03 EMBROIDERY

05-04 RIBBONS, BRAIDS AND OTHER DECORATIVE TRIMMINGS

05-05 TEXTILE FABRICS

Note: (a) Including textile fabrics, woven, knitted or otherwise manufactured, tarpaulins, felt and loden.

05-06 ARTIFICIAL OR NATURAL SHEET MATERIAL

Note: (a) Includes sheets whose only characteristic features are their surface ornamentation or their texture; in particular, covering sheets such as wallpaper, linoleum, self-adhesive plastic sheets, wrapping sheets and rolls of paper, subject to the exceptions indicated under (b).

(b) Not including writing paper, even in rolls (Cl. 19-01), or sheets used as building components such as wall panels and wainscoting (Cl. 25-01).

05-99 MISCELLANEOUS

CLASS 06

Furnishing

Note: (a) Composite furniture articles embodying components included in several subclasses are classified in Class 06-05.

(b) Sets of furniture, as far as they can be looked upon as one design, are classified in Class 06-05.

(c) Not including textile piecegoods (Cl. 05)

06-01 BEDS AND SEATS

Note: Including mattress supports and vehicle seats.

- 06-02 [vacant]
06-03 TABLES AND SIMILAR FURNITURE
06-04 STORAGE FURNITURE
Note: Including cupboards, furniture with drawers or compartments, and shelves.
06-05 COMPOSITE FURNITURE
06-06 OTHER FURNITURE AND FURNITURE PARTS
06-07 MIRRORS AND FRAMES
Note: Not including mirrors included in other classes (see Alphabetical List).
06-08 CLOTHES HANGERS
N.B.: The French text contains a note which does not concern the English text.
06-09 MATTRESSES AND CUSHIONS
06-10 CURTAINS AND INDOOR BLINDS
06-11 CARPETS, MATS AND RUGS
06-12 TAPESTRIES
06-13 BLANKETS AND OTHER COVERING MATERIALS, HOUSEHOLD LINEN AND
NAPERY
Note: Including furniture covers, bedspreads and table covers.
06-99 MISCELLANEOUS

CLASS 07

Household good, not elsewhere specified

- Note: (a) Including household appliances and utensils operated by hand, even if motor driven.
(b) Not including machines and appliances for preparing food and drink (Cl. 31).
- 07-01 CHINA, GLASSWARE, DISHES AND OTHER ARTICLES OF A SIMILAR NATURE
Note: (a) Includes dishes and crockery in all materials; in particular, paper and cardboard dishes.
(b) Not including cooking utensils and containers, such as glass and earthenware pots (Cl. 07-02), or flower vases, flower pots and china glassware of a purely ornamental nature (Cl. 11-02).
- 07-02 COOKING APPLIANCES, UTENSILS AND CONTAINERS
07-03 TABLE KNIVES, FORKS AND SPOONS
07-04 APPLIANCES AND UTENSILS, HAND-MANIPULATED, FOR PREPARING FOOD OR DRINK
Note: Not including appliances and utensils classified in Class 07-02 and in Class 31.
- 07-05 FLATIRONS AND WASHING, CLEANING AND DRYING EQUIPMENT
Note: Not including electric household appliances for washing, cleaning or drying (Cl. 15-05).
- 07-06 OTHER TABLE UTENSILS
07-07 OTHER HOUSEHOLD RECEPTACLES
07-08 FIREPLACE IMPLEMENTS
07-99 MISCELLANEOUS

CLASS 08

Tools and hardware

- Note: (a) Includes hand-operated tools, even if mechanical power takes the place of muscular force, or example, electric saws and drills.
(b) Not including machines or machine tools (Cl. 15 or 31).
- 08-01 TOOLS AND IMPLEMENTS FOR DRILLING, MILLING OR DIGGING
- 08-02 HAMMERS AND OTHER SIMILAR TOOLS AND IMPLEMENTS
- 08-03 CUTTING TOOLS AND IMPLEMENTS
- Note: (a) Including tools and instruments for sawing.
(b) Not including table knives (Cl. 07-03), cutting tools and implements for kitchen use (Cl. 31), or knives used in surgery (Cl. 24-02).
- 08-04 SCREWDRIVERS AND OTHER SIMILAR TOOLS AND IMPLEMENTS
- 08-05 OTHER TOOLS AND IMPLEMENTS
- Note: Includes tools which are not classified, or not to be placed, in other subclasses or classes.
- 08-06 HANDLES, KNOBS AND HINGES
- 08-07 LOCKING FOR CLOSING DEVICES
- 08-08 FASTENING, SUPPORTING OR MOUNTING DEVICES NOT INCLUDED IN OTHER CLASSES
- Note: (a) Including nails, screws, nuts and bolts.
(b) Not including fastening devices for clothing (Cl. 02-07), for adornment (Cl. 11-01), or for office use (Cl. 19-02).
- 08-09 METAL FITTINGS AND MOUNTINGS FOR DOORS, WINDOWS AND FURNITURE, AND SIMILAR ARTICLES
- 08-10 BICYCLE RACKS
- 08-99 MISCELLANEOUS
- Note: Including non-electric cables, regardless of the material of which they are made.

CLASS 09

Packages and containers for the transport or handling of goods

- 09-01 BOTTLES, FLASKS, POTS, CARBOYS, DEMIJOHNS, AND CONTAINERS WITH DYNAMIC DISPENSING MEANS
- Note: (a) "Pots" means those serving as containers.
(b) Not including pots regarded as crockery (Cl. 07-01), or flower pots (Cl. 11-02).
- 09-02 STORAGE CANS, DRUMS AND CASKS
- 09-03 BOXES, CASES, CONTAINERS, (PRESERVE) TINS OR CANS
- Note: Including freight containers.
- 09-04 HAMPERS, CRATS AND BASKETS
- 09-05 BAGS, SACHETS, TUBES AND CAPSULES
- Note: (a) Including plastic bags or sachets, with or without handle or means of closing.
(b) "Capsules" means those used for packaging.
- 09-06 ROPES AND HOOPING MATERIALS
- 09-07 CLOSING MEANS AND ATTACHMENTS
- Note: (a) Includes only closing means for packages.
(b) "Attachments" means, for example, dispensing and dosing devices incorporated in containers and detachable atomizers.

- 09-08 PALLETS AND PLATFORMS FOR FORKLIFTS
- 09-09 REFUSE AND TRASH CONTAINERS AND STANDS THEREFOR
- 09-99 MISCELLANEOUS

CLASS 10

Clocks and watches and other measuring instruments, checking and signalling instruments

Note: Including electrically-driven instruments.

10-01 CLOCK AND ALARM CLOCKS

10-02 WATCHES AND WRIST WATCHES

10-03 OTHER TIME-MEASURING INSTRUMENTS

Note: Including time-measuring apparatus such as parking meters, timers for kitchen use and similar instruments.

10-04 OTHER MEASURING INSTRUMENTS, APPARATUS AND DEVICES

Note: (a) Including instruments, apparatus and devices for measuring temperature, pressure, weight, length, volume and electricity.

(b) Not including exposure meters (Cl. 16-05).

10-05 INSTRUMENTS, APPARATUS AND DEVICES FOR CHECKING, SECURITY OR TESTING

Note: Including fire and burglar alarms, and detectors of various types.

10-06 SIGNALLING APPARATUS AND DEVICES

Note: Not including lighting or signalling devices for vehicles (Cl. 26-06).

10-07 CASINGS DIALS, HANDS AND ALL OTHER PARTS AND ACCESSORIES OF INSTRUMENTS FOR MEASURING, CHECKING AND SIGNALLING

Note: "Casings" means watch and clock casings and all casings being integral parts of instruments of which they protect the mechanism, with the exception of cases specify designed for their contents (Cl. 03-01) or for packaging (Cl. 09-03).

10-99 MISCELLANEOUS

CLASS 11

Articles of adornment

11-01 JEWELLERY

Note: (a) Including fancy and imitation jewellery.

(b) Not including watches (Cl. 10-02).

11-02 TRINKETS, TABLE, MANTEL AND WALL ORNAMENTS, FLOWER VASES AND POTS

Note: Including sculptures, mobiles and statues.

11-03 MEDALS AND BADGES

11-04 ARTIFICIAL FLOWERS, FRUIT AND PLANTS

11-05 FLAGS, FESTIVE DECORATIONS

Note: (a) Including garlands, streamers and Christmas tree decorations.

(b) Not including candles (Cl. 26-04).

11-99 MISCELLANEOUS

CLASS 12

Means of transport or hoisting

Note: (a) Includes all vehicles, land, sea, air, space and others.

(b) Including parts, components and accessories which exist only in connection with a and vehicle cannot be placed in another class; these parts, components and accessories of vehicles are to be placed in the subclass of the vehicle in question, or in Class 12-16 if they are common to several vehicles included in different subclasses.

(c) Not including, in principle, parts, components and accessories of vehicles which can be placed another class; these parts, components and accessories are to be placed in the same class as articles of the same type, in other words, having the same function. Thus, carpets or mats for automobiles are to be placed with carpets (Cl. 06-11); electric motors for vehicles are to be placed in Class 13-01, and non-electric motors for vehicles in Class 15-01 (the same applies to the components of such motors); automobile headlamps are to be placed with lighting apparatus (Cl. 26-06).

(d) Not including scale models of vehicles (Cl. 21-01).

12-01 VEHICLES DRAWN BY ANIMALS

12-02 HANDCARTS, WHEELBARROWS

12-03 LOCOMOTIVES AND ROLLING STOCK FOR RAILWAYS AND OTHER RAIL
VEHICLES

12-04 TELPHER CARRIERS, CHAIR LIFTS AND SKILIFTS

12-05 ELEVATORS AND HOISTS FOR LOADING OR CONVEYING

Note: Including passenger lifts, goods lifts, cranes, forklift trucks and conveyor belts.

12-06 SHIPS AND BOATS

12-07 AIRCRAFTS AND SPACE VEHICLES

12-08 MOTOR CARS, BUSES AND LORRIES

Note: Including ambulances and refrigerator vans (road).

12-09 TRACTORS

12-10 ROAD VEHICLE TRAILERS

Note: Including caravans.

12-11 CYCLES AND MOTORCYCLES

12-12 PERAMBULATORS, INVALID CHAIRS, STRETCHERS

Note: (a) :Perambulators” means hand carriage for infants.

(b) Not including toy perambulators (Cl. 21-01).

12-13 SPECIAL-PURPOSE VEHICLES

Note: (a) Includes only vehicles not specially intended for transport, such as street - cleaning vehicles, watering lorries, fire engines, snow ploughs and breakdown lorries.

(b) Not including mixed-purpose agricultural machines (Cl. 15-03), or self-propelled machines for use in construction and civil engineering (Cl. 15-04).

12-14 OTHER VEHICLES

Note: Including sleighs and air-cushion vehicles.

12-15 TYRES AND ANTI-SKID CHAINS FOR VEHICLES

12-16 PARTS, EQUIPMENT AND ACCESSORIES FOR VEHICLES, NOT INCLUDED IN
OTHER CLASSES OR SUBCLASSES

12-99 MISCELLANEOUS

CLASS 13

Equipment for production, distribution or transformation of electricity

- Note : (a) Includes only apparatus which produces, distributes or transforms electric current.
(b) Including electric motors, however.
(c) Not Including electrically-driven apparatus, such as electric watches (Cl. 10-02), or apparatus for the measurement of electric current (Cl. 10-04).

13-01 GENERATORS AND MOTORS

Note: including electric motors for vehicles.

13-02 POWER TRANSFORMERS, RECTIFIERS, BATTERIES AND ACCUMULATORS

13-03 EQUIPMENT FOR DISTRIBUTION OR CONTROL OF ELECTRIC POWER

Note: Including conductors, switches and switchboards.

13-99 MISCELLANEOUS

CLASS 14

Recording, communication or information retrieval equipment

14-01 EQUIPMENT FOR THE RECORDING OR REPRODUCING OR REPRODUCTION OF SOUNDS OR PICTURES

Note: Not including photographic or cinematographic apparatus (Cl. 16).

14-02 DATA PROCESSING EQUIPMENT AS WELL AS PERIPHERAL APPARATUS AND DEVICES

14-03 COMMUNICATIONS EQUIPMENT, WIRELESS REMOTE CONTROLS AND RADIO AMPLIFIERS

Note: Including telegraphic, telephone and television apparatus, as well as wireless apparatus and teleprinters.

14-99 MISCELLANEOUS

CLASS 15

Machines, not elsewhere specified

15-01 ENGINES

Note: (a) Including non-electric engines for vehicles.
(b) Not including electric motors (Cl. 13).

15-02 PUMPS AND COMPRESSORS

Note: Not including hand or foot pumps (Cl. 08-05), or fire extinguishing pumps. (Cl. 29-01).

15-03 AGRICULTURAL MACHINERY

Note: (a) Including ploughs and combined machinery, i.e. , both machines and vehicles, for examples, reaping and binding machines.
(b) Not including hand tools (Cl. 08).

15-04 CONSTRUCTION MACHINERY

Note: (a) Including machines used in civil engineering and self propelled machines such as excavators, concrete mixer and dredgers.
(b) Not including hoists and cranes (Cl. 12-05).

15-05 WASHING CLEANING AND DRYING MACHINES.

Note: Including:

(a) appliances and machines for treating lines and clothes, such as ironing machines and wringers.

(b) dishwashing machines and industrial drying equipment.

15-06 TEXTILE, SEWING, KNITTING AND EMBROIDERING MACHINES INCLUDING THEIR INTEGRAL PARTS

15-07 REFRIGERATION MACHINERY AND APPARATUS

Note: (a) Including household refrigeration apparatus.

(c) Not including refrigerator wagons (rail) (Cl. 12-03) or refrigerator vans (road) (Cl. 12-08).

15-08 [vacant]

15-09 MACHINE TOOLS, ABRADING AND FOUNDRY MACHINERY

Note: Not including earth working machinery and material separators (Cl. 15-99).

15-99 MISCELLANEOUS

CLASS 16

Photographic, cinematographic and optical apparatus

Note: Not including lamps for photography or filming (Cl. 26-05).

16-01 PHOTOGRAPHIC CAMERAS AND FILM CAMERAS

16-02 PROJECTORS AND VIEWERS

16-03 PHOTOCOOPYING APPARATUS AND ENLARGERS

Note: Including microfilming equipment and apparatus for viewing microfilms, as well as office machines known as "photocopying" apparatus which use other than photographic processes (in particular, thermal or magnetic processes).

16-04 DEVELOPING APPARATUS AND EQUIPMENT

16-05 ACCESSORIES

Note: Including filters for photographic cameras, exposure meters, tripods and photographic flashlight apparatus.

16-06 OPTICAL ARTICLES

Note: (a) Including spectacles and microscopes.

(b) Not including measuring instruments embodying optical devices (Cl. 10-04).

16-99 MISCELLANEOUS

CLASS 17

Musical instruments

Note: Not including cases for musical instruments (Cl. 03-01), or equipment for the recording or reproduction of sounds (Cl. 14-01).

17-01 KEYBOARD INSTRUMENTS

Note: Including electronic and other organs, accordions, and mechanical and other pianos.

17-02 WIND INSTRUMENTS

Note: Not including organs, harmoniums and accordions, and mechanical and other pianos.

17-03 STRINGED INSTRUMENTS

17-04 PERCUSSION INSTRUMENTS

17-05 MECHANICAL INSTRUMENTS

Note: (a) Including music boxes.

(b) Not including mechanical keyboard instruments (Cl. 17-01).

17-99 MISCELLANEOUS

CLASS 18

Printing and office machinery

18-01 TYPEWRITERS AND CALCULATING MACHINES

Note: Not including computers and other apparatus to be placed in Class 14-02

18-02 PRINTING MACHINES

Note: (a) Including typesetting machines, stereotype machines and apparatus, typographic machines and other reproducing machines such as duplicators and offset equipment, as well as addressing machines, franking and cancelling machines.

(b) Not including photocopying machinery (Cl. 16-03).

18-03 TYPE AND TYPE FACES

18-04 BOOKBINDING MACHINES, PRINTERS' STAPLING MACHINES, GUILLOTINES AND TRIMMERS (FOR BOOKBINDING)

Note: Including machines and similar devices for cutting paper, analogous to guillotines and trimmers.

18-99 MISCELLANEOUS

CLASS 19

Stationery and office equipment, artists' and teaching materials

19-01 WRITING PAPER, CARDS FOR CORRESPONDENCE AND ANNOUNCEMENTS

Note: Includes all paper, in the widest sense of the term, which is used for writing, drawing, painting or printing, such as tracing paper, carbon paper, newsprint, envelopes, greetings cards and illustrated postcards, even if they embody a sound recording.

19-02 OFFICE EQUIPMENT

Note: (a) Including equipment used at cash desks, such as change sorters.

(b) Some office equipment is to be placed in other subclasses or classes; for example, office furniture in Class 06, office machines and equipment in Class 14-02; 16-03; 18-01; 18-02 or 18-04, and writing materials in Class 19-01 or 19-06 (see alphabetical List).

19-03 CALENDERS

Note: Not including diaries (Cl. 19-04).

19-04 BOOKS AND OTHER OBJECTS OF SIMILAR OUTWARD APPEARANCE

Note: Including covers of books, binding, albums, diaries and similar objects.

19-05 [vacant]

19-06 MATERIALS AND INSTRUMENTS FOR WRITING BY HAND, FOR DRAWING, FOR PAINTING, FOR SCULPTURE, FOR ENGRAVING AND FOR OTHER ARTISTIC TECHNIQUES

Note: Not including paintbrushes (Cl. 04-04), drawing tables and attached equipment (Cl. 06-03), or writing paper (Cl. 19-01).

19-07 TEACHING MATERIALS

Note: (a) Including maps of all kinds, globes and planetariums.
(b) Not including audio-visual teaching aids (Cl. 14-01).

19-08 OTHER PRINTED MATTER

Note: Including printed advertising materials.

19-99 MISCELLANEOUS

CLASS 20

Sales and advertising equipment, signs

20-01 AUTOMATIC VENDING MACHINE

20-02 DISPLAY AND SALES EQUIPMENT

Note: Not including articles of furniture (Cl. 06).

20-03 SIGNS, SIGNBOARDS AND ADVERTISING DEVICES

Note: (a) Including luminous advertising devices and mobile advertising devices.
(b) Not including packages (Cl. 09), or signalling devices (Cl. 10-06).

20-99 MISCELLANEOUS

CLASS 21

Games, toys, tents and sports goods

21-01 GAMES AND TOYS

Note: (a) Including scale models.
(b) Not including toys for animals (Cl. 30-99).

21-02 GYMNASTIC AND SPORTS APPARATUS AND EQUIPMENT

Note: (a) Includes, as sports equipment: apparatus and equipment necessary for the various sports which have no other specific purpose, such as footballs, skis and tennis rackets, to the exclusion of all other objects which may also be used in practicing a given sport.

(b) Including subject to the reservation mentioned under (a), training equipment and apparatus and equipment necessary for outdoor games.

(c) Not including sports clothing (Cl. 02), toboggans or sleighs (Cl. 12-14).

21-03 OTHER AMUSEMENT AND ENTERTAINMENT ARTICLES

Note: (a) Including fairground roundabouts and automatic machines for games of chance.

(b) Not including games and toys (Cl. 21-01), or other articles to be placed in Class 21-01 or 21-02.

21-04 TENTS AND ACCESSORIES THEREOF

Note: (a) Including poles, pegs and other similar articles.

(c) Not including other camping articles to be placed in other classes according to their nature, such as chairs (Cl. 06-01), tables (Cl. 06-03), plates (Cl. 07-01), and caravans (Cl. 12-10).

21-99 MISCELLANEOUS

CLASS 22

Arms, pyrotechnic articles, articles for hunting, fishing and pest killing

22-01 PROJECTILE WEAPONS

22-02 OTHER WEAPONS

22-03 AMMUNITION, ROCKETS AND PYROTECHING ARTICLES

22-04 TARGETS AND ACCESSORIES

Note: Including the special device for actuating mobile targets.

22-05 HUNTING AND FISHING EQUIPMENT

Note: Not including articles of clothing (Cl. 02), or weapons (Cl. 22-01 or 22-02).

22-06 TRAPS, ARTICLES FOR PEST KILLING

22-99 MISCELLANEOUS

CLASS 23

Fluid distribution equipment, sanitary, heating, ventilation and air-conditioning equipment, solid fuel

23-01 FLUID DISTRIBUTION EQUIPMENT

Note: Including pipes and pipe fittings.

23-02 SANITARY APPLIANCES

Note: (a) Including baths, showers, washbasins, saunas, waterclosets, sanitary units and sanitary accessories not included in other classes.

(b) Not including pipes or pipe fittings (Cl. 23-01).

23-03 HEATING EQUIPMENT

23-04 VENTILATION AND AIR-CONDITIONING EQUIPMENT

23-05 SOLID FUEL

23-99 MISCELLANEOUS

CLASS 24

Medical and laboratory equipment

Note: The term "medical equipment" covers also surgical, dental and veterinary equipment.

24-01 APPARATUS EQUIPMENT FOR DOCTORS, HOSPITALS AND LABORATORIES

24-02 MEDICAL INSTRUMENTS, INSTRUMENTS AND TOOLS FOR LABORATORY
USE

Note: Includes only hand-operated instruments.

24-03 PROSTHETIC ARTICLES

24-04 MATERIALS FOR DRESSING WOUNDS, NURSING AND MEDICAL CARE

24-99 MISCELLANEOUS

CLASS 25

Building units and construction elements

25-01 BUILDING MATERIALS

Note: Including bricks, beams, pre-shaped strips, tiles, slates and panels.

25-02 PREFABRICATED OR PRE-ASSEMBLED BUILDING PARTS

Note: (a) Including windows, doors, outdoors shutters, partition walls and gratings.
(b) Not including staircases (Cl. 25-04).

25-03 HOUSES, GARAGES AND OTHER BUILDINGS

25-04 STEPS, LADDERS AND SCAFFOLDS

25-99 MISCELLANEOUS

CLASS 26

Lighting apparatus

26-01 CANDLESTICKS AND CANDELABRA

26-02 TORCHES AND HAND LAMPS AND LANTERNS

26-03 PUBLIC LIGHTING FIXTURES

Note: Including outside lamps, stage lighting and searchlight projectors.

26-04 LUMINOUS SOURCES, ELECTRICAL OR NOT

Note: Including bulbs for electric lamps, luminous plaques and tubes, and candles.

26-05 LAMPS, STANDARD LAMPS, CHANDELIERS, WALL AND CEILING FIXTURES,
LAMP SHADES, REFLECTORS, PHOTOGRAPHIC AND CINEMATOGRAPHIC
PROJECTOR LAMPS

26-06 LUMINOUS DEVICES FOR VEHICLES

26-99 MISCELLANEOUS

CLASS 27

Tobacco and smokers' supplies

27-01 TOBACCO, CIGARS AND CIGARETTES

27-02 PIPES, CIGAR AND CIGARETTE HOLDERS

27-03 ASHTRAYS

27-04 MATCHES

27-05 LIGHTERS

27-06 CIGAR CASES, CIGARETTE CASES, TOBACCO JARS AND POUCHES

Note: Not including packages (Cl. 09).

27-99 MISCELLANEOUS

CLASS 28

Pharmaceutical and cosmetic products, toilet articles and apparatus

28-01 PHARMACEUTICAL PRODUCTS

Note: (a) Including for animals.
(b) Not including materials for dressing wounds and nursing (Cl. 24-04).
(c) Including chemicals in cachet, capsule, lozenge, pill and tablet forms.

28-02 COSMETIC PRODUCTS

Note: Including for animals.

28-03 TOILET ARTICLES AND BEAUTY PARLOR EQUIPMENT

Note (a) Including razors, apparants and appliances for hair removing or hair dressing.
(b) Not including toilet and make-up brushes (Cl. 04-02), or articles and equipment for animals (Cl. 30-99)

28-04 WIGS, FALSE HAIRPIECES

28-99 MISCELLANEOUS

CLASS 29

Devices and equipment against fire hazards, for accident prevention and for rescue

29-01 DEVICES AND EQUIPMENT AGAINST FIRE HAZARDS

Note : (a) Including fire extinguishers.
(b) Not including fire engines (vehicles) (Cl. 12-13), free-hoses and nozzles for fire-hoses (Cl. 23-01).

29-02 DEVICES AND EQUIPMENT AGAINST FOR ACCIDENT PREVENTION AND FOR RESCUE, NOT ELSEWHERE SPECIFIED

Note: (a) Including devices and equipment for animals.

(b) Not including helmets (Cl. 02-03) and garments for protection against accidents (Cl. 02-02; 02-04 or 02-06).

29-99 MISCELLANEOUS

CLASS 30

Articles for the care and handling of animals

Note: Not including animal foodstuffs (Cl. 01), or pharmaceutical and cosmetic products for animals (Cl. 28-01 or 28-02).

30-01 ANIMAL CLOTHING

30-02 PENS, CAGES, KENNELS AND SIMILAR SHELTERS

Note: Not including buildings (Cl. 25)

30-03 FEEDERS AND WATERERS

30-04 SADDLERY

Note: Including collars for animals.

30-05 WHIPS AND PRODS

30-06 BEDS AND NESTS

30-07 PERCHES AND OTHER CAGE ATTACHMENTS

30-08 MARKERS, MARLS AND SHACKLES

30-09 HITCHING POSTS

30-99 MISCELLANEOUS

CLASS 31

Machines and appliances for preparing food or drink, not elsewhere specified

Note: Not including hand-manipulated utensil, instruments and appliances for serving or preparing food or drink (Cl. 07).

31-00 MACHINES AND APPLIANCES FOR PREPARING FOOD OR DRINK, NOT ELSEWHERE SPECIFIED

CLASS 99

Miscellaneous

Note: Includes all products not included in the preceding classes.

99-00 MISCELLANEOUS

THE FOURTH SCHEDULE
(see rule 43)

Scale of costs allowable in proceedings before the Controller

Entry No.	Matter in respect of which cost is to be awarded.	Amount
1.	For Notice of Opposition under rule 40	Rs. 100.00
2.	For petition for cancellation of the registration of for design under section 19.	Rs.1000.00
3.	For notice of information to attend Hearing.	Rs. 200.00

4.	Stamps for Power of Attorney, where a professional has been appointed.	The amount actually paid.
5.	Stamps fee in respect of relevant Affidavit.	actually paid
6.	For Statement under rules 29(1) and 40(2).	Rs. 200.00
7.	For Counter Statement under rules 29(3) and 40(4)	Rs. 200.00
8.	For each Affidavit, if relevant.	Rs. 100.00
9.	For each Citation, if relevant.	Rs. 100.00
10.	For each unnecessary or irrelevant Affidavit or Citation.	Rs. 100.00
11.	For every day or part of a day of Hearing before the Controller.	Rs. 500.00
