

How extensive is industrial design protection?

Generally, industrial design protection is limited to the country in which protection is granted. Under the Hague Agreement Concerning the International Deposit of Industrial Designs, a treaty administered by the World Intellectual Property Organization (WIPO), a procedure for an international registration is offered.

An applicant can file a single international deposit either with WIPO or the national office of a country which is party to the treaty. The design will then be protected in as many member countries of the treaty as the applicant wishes.

ARIPO

The African Regional Intellectual Property Organization (ARIPO) is mandated to register designs on behalf of the Harare Protocol contracting states in accordance with the provisions of the Harare Protocol on Patents and Industrial Designs. States currently party to the protocol are: *Botswana, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.*

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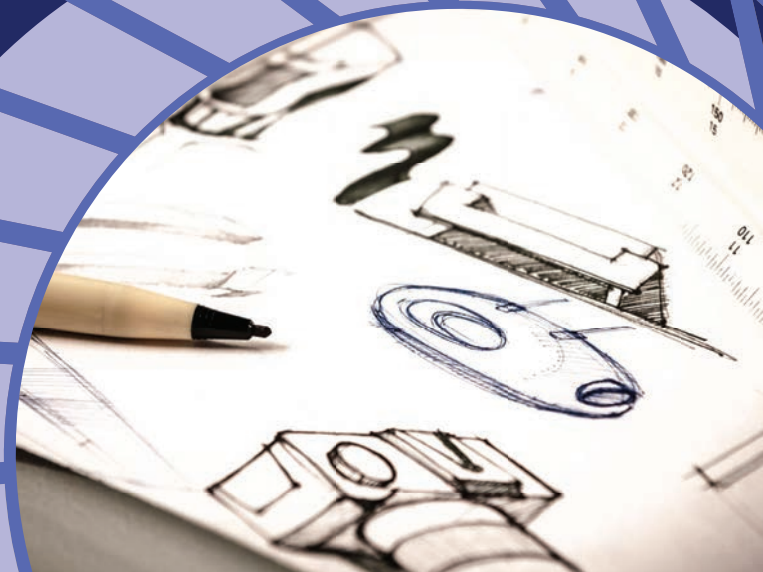
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INDUSTRIAL DESIGNS



What is an industrial design?

It is the ornamental aesthetic aspect of a useful article, e.g. paper staples.

Why protect industrial designs?

Industrial designs are what make an article attractive and appealing, hence, they add to the commercial value of a product and increase its marketability. When an industrial design is protected, the owner - the person or entity that has registered the design - is assured an exclusive right against unauthorized copying or imitation of the design by third parties.

This helps to ensure a fair return on investment. An effective system of protection also benefits consumers and the public at large, by promoting fair competition and honest trade practices, encouraging creativity, and promoting more aesthetically attractive products.



Protecting industrial designs helps economic development by encouraging creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts. They contribute to the expansion of commercial activities and the export of national products. Industrial designs can be relatively simple and inexpensive to develop and protect.

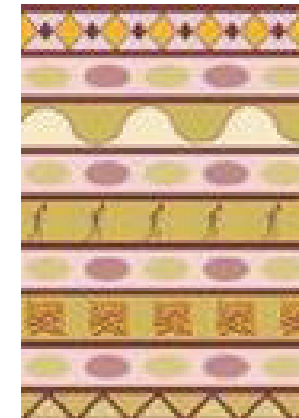
They are reasonably accessible to small and medium-sized enterprises as well as to individual artists and craftsmen, in both industrialized and developing countries.



How can industrial designs be protected?

In most countries, an industrial design must be registered in order to be protected under industrial design law. As a general rule, to be registrable, the design must be "new" or "original". Different countries have varying definitions of such terms, as well as variations in the registration process itself. Generally, "new" means that no identical or very similar design is known to have existed before. Once a design is registered, a registration certificate is issued. Following that, the term of protection is generally five years, with the possibility of further periods of renewal up to, in most cases, 15 years.

Depending on the particular national law and the kind of design, an industrial design may also be protected as a work of art under copyright law. In some countries, industrial design and copyright protection can exist concurrently. In other countries, they are mutually exclusive: once the owner chooses one kind of protection, he can no longer invoke the other. Under certain circumstances, an industrial design may also be protectable under unfair competition law although the conditions of protection and the rights and remedies ensured can be significantly different.



African Textile Design

