

Industrial Design

An industrial design relates to the features of shape, configuration, pattern or ornament or any combination of the above that are applied to a finished article. It may be the shape of a table or ornamentation on something else. The article may be made by hand, tool or machine.

The following cannot be protected: designs that have no fixed appearance, designs that are not clearly visible, a method of construction, an idea, materials used in the construction of an article, or the colour of something.

If your design was created as a work of art, it was automatically copyrighted. Once you use it, or intend to use it (to produce more than 50 articles or sets of articles) it must be registered as an industrial design.

Only registration gives you exclusive rights to the design. It enables you to prevent others from making, using or selling your design in Canada for up to 10 years. Unless you register your design, you can make no legal claim of ownership and have no legal protection from imitation. You must register in each country that you want to be protected in. You are responsible to determine if your industrial design has been infringed upon.

When you apply, you need to include a description of the industrial design. It does not have to detail every aspect of the design, but it must state clearly what the design is and what its original features are. You should describe the visual aspects of the design only. Do not refer to how the article functions or performs.

If your registration request is approved, marking of the design is not required. However, it will be helpful in a court case. The proper mark is a capital D in a circle and the name or initials of the design's owner on the article, label or packaging.

For More Information and a Registration Application:

Internet: http://strategis.ic.gc.ca/sc_mrksv/cipo/help/faq_id-e.html

www.sb.gov.bc.ca/smallbus/workshop/protect/design.html