

### **Essential Requirements of Registration**

A design in order to be eligible for registration, should fulfil the following conditions:

- (i) Novelty and originality-**A design can be registered only when it is new and original with respect to class of article to which it has been applied. A combination of previously known design can be registered if the combination produces new visual appeal. The novelty or originality is to be judged on the evidence of expert in the trade. In *Hello Mineral Water Pvt. Ltd. v. Tehermoking California Pure*, a design of water dispenser in a cylindrical shape was not considered as new on the ground that mere novelty of form or shape is not sufficient. It should involve presence of some element or new position of an old element in combination, different from anything found in any prior structure.
- (ii) No prior publication of design-**The design should not have been published anywhere in India or in any other country by publication in tangible form or in any other way prior to the filing of application. Display of designs in fashion show would amount to publication. However the exhibition of design in an industrial or other exhibition, notified by the Central government, would not amount to publication of the design provided the prior notice is given to Controller of Patents and Designs and an application for registration is made within six months of the date of first exhibition. Similarly, private or secret use or an experimental use of design will not amount to publication. In *Kemp and Company v. Prima Plastics Ltd.* it was held that disclosure of design by proprietor to any other person in good faith is not deemed publication.
- (iii) Application of Design to Article-**The design should be made applicable to article itself in the form of shape or configuration in three dimensional form, i.e., an ornament, a toy, a bottle or a flower vase or in two dimensional form, i.e., a design on wall paper, bed sheet or garment which attract and appeal to the eyes of a customer.