

Entrepreneurship and IP Strategy
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Lecture 26
Industrial Design - Definition, Concept

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A very warm welcome in the first module of week 6 of the course, Entrepreneurship and IP Strategy. Titled, Industrial Design-Definition, Concept. So, this is the sixth week of the course. And, if you see this diagram, we have seen this earlier in the first week. And what we have seen here, what are the different types of intellectual property are there. And then we know that now when we say intellectual property, it is divided into industrial property and a copyright and related rights and then other types of IPs are there like, protection of plant varieties and farmers' right.

And then maybe traditional knowledge can be considered under IP, that we have seen. And under industrial property we have seen that there are types like, patent, trademark, industrial design, layout of integrated circuit, and then the trade secret. And we have seen little bit information about this when we were dealing with this brief information about these different types of IPs. Then what the thing we have done is like a, in every week we have concentrated on a each type of IP. So, we started with a patent.

Now, in the patent we have seen what is patent, then what are the different, that patent strategies are there, and how exactly patent filing and all the other procedures related to patent will be carried out. And how the registration, and then application, and how that the,

what is patent infringement all these things you have seen when we were dealing with a patent. The next is a trademark.

We have seen the, the details of a trademark, what are the different types of trademark, what is the registration procedure for trademark, what is an infringement of trademark and then we have seen a case study related to that. Then next type that is a copyright and related rights. So, this fifth week we have completely dedicated to copyright. And you have seen that what the subject matter of copyright is there, what is copyright infringement, if you want to do the application for any copyright registration, what is the procedure and where exactly and you can approach and what is the, what are the different kinds of forms and fees all that details you have seen in week 5.

So, patent we have dedicated a week 4 for that, trade mark you have seen in week 3, then in this, this copyright we have seen the details in week 5. Now in this week we are concentrating on a next type that is a industrial design. So, this whole week that next upcoming 5 modules are dedicated to industrial design. Now, in this diagram only if you see in industrial design, we have given a representative examples of that particular type of a IP that where exactly probably this IP may be required.

So for example, if you see patented a technology related thing is shown, if you see the trade mark, trademark of a General Mills is shown. If you see a copyright, we have shown you the, that representation like a cinematographic film that, that representation is there. And if you see the industrial design, we have given you the example of a car design. Now, this car which is a, you are seeing in this diagram it is a very unique actually and this is like a very, a popular design at that time whenever this car was first, introduced into the market.

So, only these four types we are concentrating in this course, we are not going any details about that geographical indication or a layout of semiconductor integrated circuit design, we are not going into the, into the, into the details of that particular thing. Now, moving further, if you, if this types are very clear and you are very clear now about the three types of IPs we will concentrate now the industrial design.

(Refer Slide Time: 04:31)



Now, if you see this particular, the presentation, this presentation if you see there is a different types of a products are there and you can see the packaging kind of thing. Now, when you see this packaging, yes this packaging is a part means, the IP which is involved in this packaging is a industrial design. So, this is like a, if you see that any attractive things in the mall or on the shelf in the mall, something like that.

And shelf management we have, I guess somewhere we have discussed about that particular thing, that shelf management itself is a separate, a separate domain and there only concentration is like that. How the particular products can be presented on the, in the that how or, how they can be displayed so that customers can be attracted towards that product.

Now, if you see this different product designs, you can see the different shapes of that bottle or different colour combination of the packaging or the, the different kinds of materials which are used there. So, all this thing whatever is there that will come under a industrial design. Now, I will show you another example here, so that you can appreciate where exactly industrial design will be applicable.

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Now you can see here chair, or car design, simple a car example or a jewellery. So, these are the representative examples where industrial design will be useful. So, you will say what chair and industrial design, you see, variety of chairs and that designs are there. Now, each design, if you have, if you have developed that particular design for that chair, yes you can protect it by using a industrial design protection.

Or car that is a automobile industry, that is a very good example. And you, you know that automobile industry is like, they themselves means owner themselves or a manufacturer themselves or the, for example, if I take a example of a say Maruti. So, they introduced a series of car designs in the market and they themselves will decide that, okay this particular car design we are going to do the, means stop the production of that particular car design.

So, here what the thing is happening is like this, that they know that customer will be attracted towards a particular type of a car design and they keep on innovating on that car design and then the that car design whatever is there that will be protected by an industrial design or simple a parts of a car. For example, tyre is there, so that tyre designs and that if you see the tyres in the tyre also, if you see that grooves are there, so that grove design that grooves are separate and that also protected by the that manufacturer or who have invented that particular thing.

Then the example of a jewellery. What happened that in US you get a design patent. And jewellery related, for example, I can give you a simple example that one of our clients he was active in that jewellery design. So, what they used to do is that very innovative, innovative

way that diamonds are there, when you cut the diamond that parts of diamonds will be there, that is a, left out from the original work is there.

Now, by using that left out whatever is there they have created a nice designs in the diamond. And you will feel that, that it is not like a, they will place it in such a way that it will give that original look of that big diamond or something like that. And they will make a variety of designs in that particular jewellery. And the, that particular, the design or that particular way of arranging particular types or parts of a diamond will give that wholesome look to that diamond jewellery.

So, that is completely that is a, it is a very skilful task, it is a very innovative way to use that left out material and create a new jewellery, which will have a, the more value. And if you consider that parts and if you consider that a particular presentation in a particular way, definitely there will be like a added value in that particular jewellery. So, if something like that innovations are there, then yes that can be protected by a industrial design protection.

And if you, same thing if you want to protect in a USA, in USA there is a design patent. So, we have to understood or I should clarify a few things here like that. In US jurisdiction, you will get a design patent, you will get a plant patent, you will get a utility patent. All these kinds of patents are not there in India. We do not have utility patent in India, we do not have design patent, instead of that we have a separate Act that is a industrial design. And we are going into details of that industrial design Act in this week, so that is a design protection.

And then plant patent we do not have a plant patent. Section 3 of Indian Patent Act does not allow anybody to protect this, get a plant patent and we have a separate protection of Plant Varieties and Farmers Right Act. So, that complete different dedicated Act is there for a protection of a plant varieties and farmers right. So here, the thing is that now you can appreciate jewellery or car design or chair and then you can imagine various kinds of the products and packaging related things, all this can be protected by using a industrial design.

(Refer Slide Time: 10:45)



Now moving further, this, we will get a little bit idea, industrial design is there. You can see this graph here, and you can see here that how many designs are filed and how many patents are registered in a particular year. So, it is like up to year 2017-18 that data is shown in this graph. And you can see that, that how many patents, how many designs are filed and how many designs are register.

(Refer Slide Time: 11:17)

Year	Filed	Registered
2012-13	8337	7252
2013-14	8533	7178
2014-15	9327	7147
2015-16	11108	7904
2016-17	10213	8276
2017-18	11838	10012

If we go a little bit deeper you can see the, this table and in the table, you can see that in 2012-13 there are 8337 design, industrial design registrations means that applications are filed and the, if you see the registered, total number of registered industrial designs it is 7252. If we see the number in 2013 and 14, it is more or less same like 8500 plus and then 7178

that, that kind of number is there. In 2014-15 that number is little bit increase and it is like something like a 9000 plus and a 7000 plus like filed and registered.

If we see that, that the further trend of that design filing and registration, we can say that it is more or less same. If we see it is in a 2012-13, it is like 8000 plus and yes in 17-18 it gone up to the 11000 plus. So that, that difference is there that we can say that, that increase is there may be due to awareness or maybe due to that more foreign filing because this is not only the Indian residents filing industrial designs there is a that division, that is a foreign filing is also there and there is a Indian filing is also there, that Indian organizations and Indian individuals who are having that who are the residents of India they are filing, so that kind of combination is there.

So, this data is just to give you idea about how, how that industrial design registration is happening in India. And we know the same jurisdiction is there whatever we have seen it in patent that four offices are there. Which are these four offices, the locations, Mumbai, then Delhi, Chennai, and Kolkata, and Kolkata is a head office. So, these four offices are there, yes industrial design registration is happening in **these** particular offices only. Ok Now, you as you got the idea, okay where exactly industrial design can be applied, what is a Indian scenario about a industrial registration or industrial design registration.

(Refer Slide Time: 13:47)



We will move further, and I will give you the few examples of a companies which are very active or a prominent in a industrial design filing. So here, the thing is like that, that Samsung Electronics if we see, that Samsung Electronics is a what we can say number one in that way

to file a industrial design in India, then Scania is there, Phillips is there, LG Electronics is there, Man Truck and Bus is there. So, these are the few examples of a foreign filers and you can see the total number of the industrial designs they have filed here.

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Now, a few examples like India, India that the filing by the Indian organizations or Indian individuals. That, Sabyasachi is there, Siddhi Vinayak Knots and Prints Private Limited, Relaxo Footwear is there, then you can see the name like Mr. Siddharth Bindra, Godrej. So, these are the few examples, and I would, I would give you the example of a one more organization that these examples are there, but I will give one more example here like a Crompton and Greaves.

Now, why I am giving example of a Crompton and Greaves because Crompton and Greaves is one a of the one time it, it was a winner of a (industrial), that highest industrial design filing was done by a Crompton and Greaves, and it is doing that particular activity. It is in a electrical engineering sector if you see and if you see the products of Crompton and Greaves the products are like fans or tube lights, and that bulb all these kind of appliances are there.

And the various designs you can see, means a dedicated design team is there which is working on developing that particular kinds of designs and that designs are registered. And if you see that it was like a number one in a, in electrical engineering sector probably Crompton and Greaves is like a, in India it is a top most industrial design filing organization is, so that is a scenario. Now moving further, what we will do here now that as we, we have received

information like these are the organization, this is the number and these are the particular things which can be protected by industrial design.

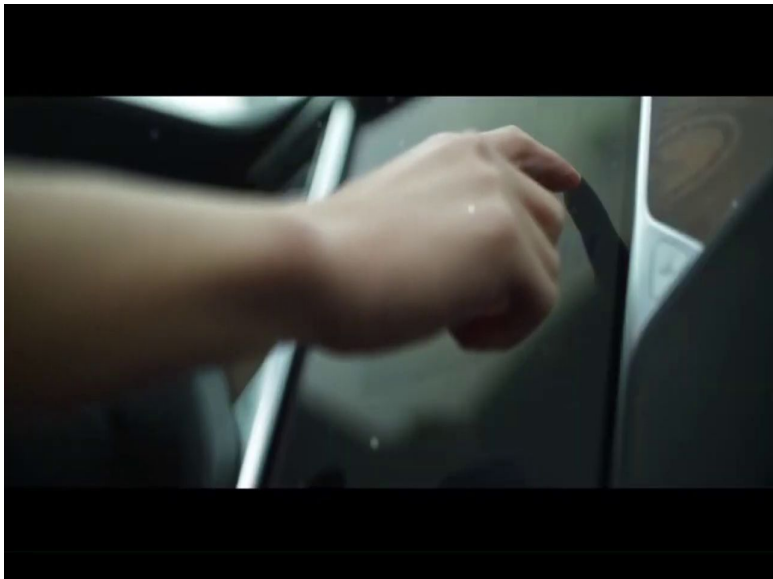
Now we will, we will see the example of a Tesla. And why I am taking example of a Tesla, is like a Tesla is very innovative in a car design, means they are very active in patent (pool) patents, that is a technology development. And it is a automobile, they are working in an automobile sector along with a few other sectors. And if we see the designs which are given or offered by Tesla, they are very innovative and very different.

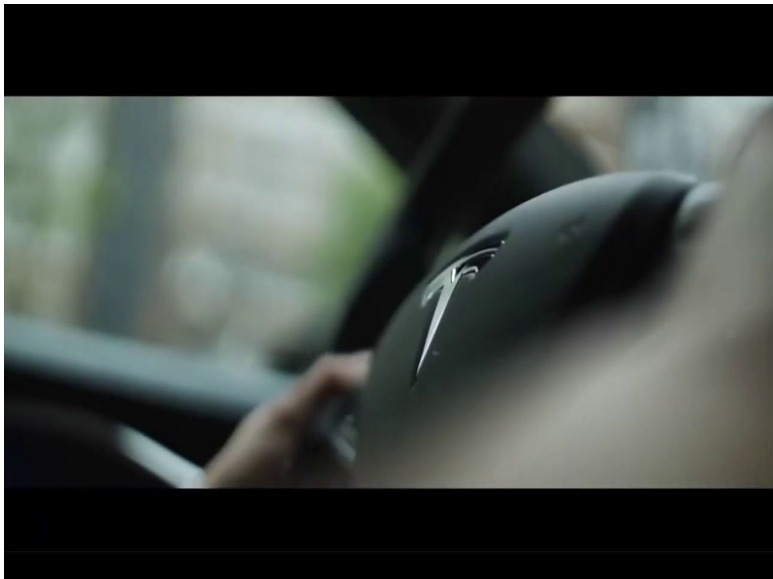
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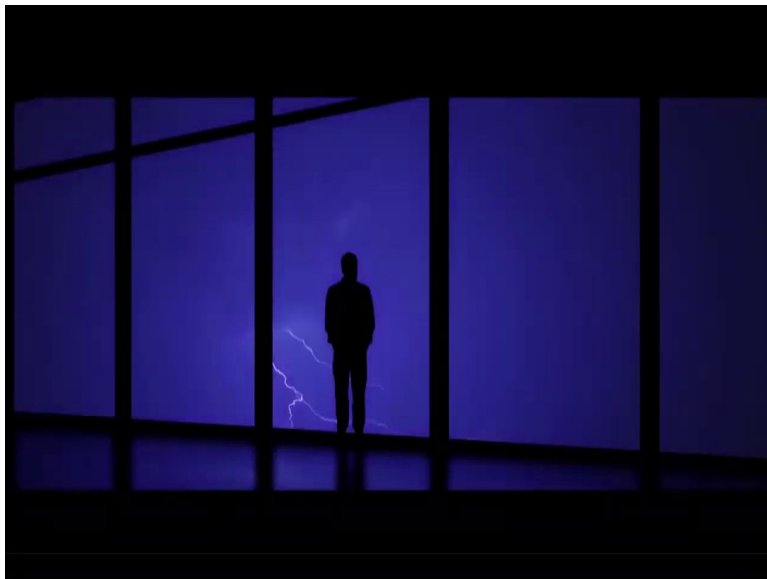


So, let us watch a one advertisement of a Tesla here and you can see that what different designs Tesla is offering in the market. Just watch this video.

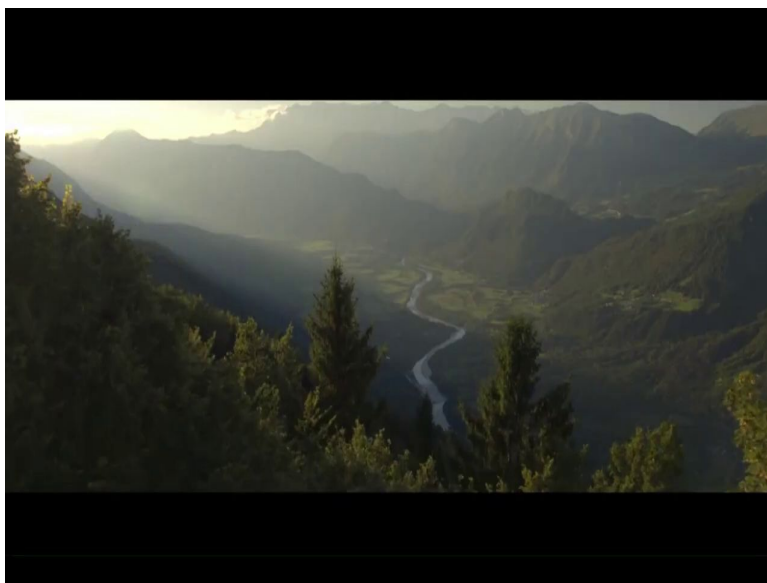
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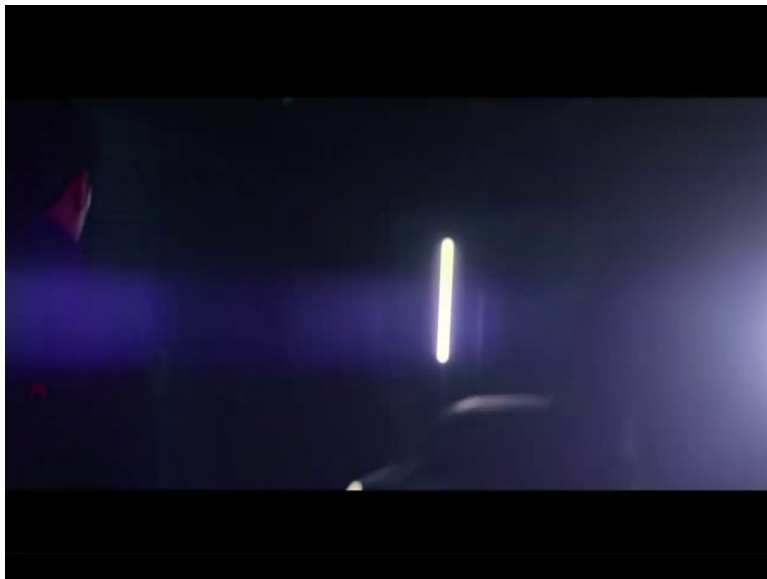






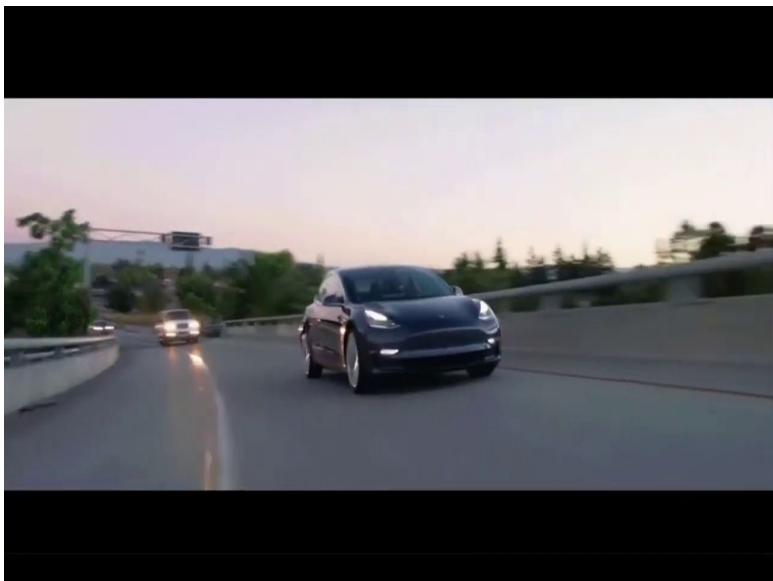
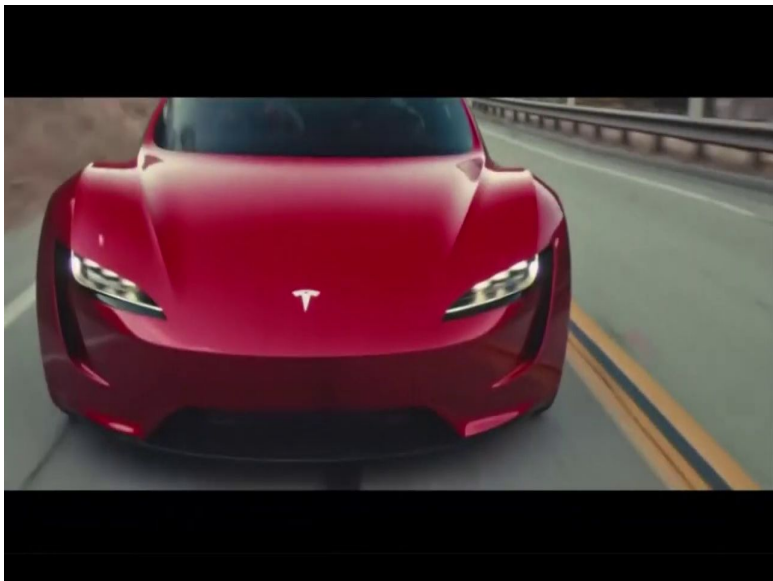














Professor: So, I hope you have enjoyed this video. It is like a, the different car varieties and then the truck variety also they have shown in this video. Now, now as we know that, this is the subject matter or this is something which can be protected by industrial design, this is the filing status and registration status in India. And now we are pretty well, I guess comfortable with where exactly industrial design can be applicable.

(Refer Slide Time: 18:12)



Now, I will, I will quickly give you the examples here like a, that a sector wise. For example, if you are in agriculture then packaging probably will be there, or if you are in a mechanical kind of this thing, devices you are developing, for example generator is there or some other kind of a different any different product you just think, maybe industrial design will apply there so, so that you can make that product.

And if it is FMCG or that beauty products or something like that, definitely cosmetic industry PUC, there you can see the different varieties of bottles or that particular whatever the packaging is there, definitely industrial design is playing an important role. We have seen the automobile sector also. Now, moving we will see further, we will see how where this Act is defining the industrial design. So, as per law how it is defined.

So, you just see, on the screen you can see here that the few points are mentioned here, like features of a shape or configuration or pattern or ornament or composition of lines or colours. But just keep concentration on that, I will just give you the example means give you the definition of a industrial design as per a law. So, what law says it is defined in a Section 2 of a Industrial Design Act. Now, according to that what industrial design is, industrial design means, it is little bit complicated just focus on it. Just listen carefully. I will explain it after going through that definition. So, what that design is, design means, only, that only word is very important here.

So, 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 trademark as defined in Clause 5 of Subsection 1 of Section 2 of the Trademark 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.

So, this is the definition, so such a long and definition is given in Section 2 of Industrial Design Act. Do not get bogged up our bothered up with that definition. We will see what exactly the industrial designing. So, here it is written on the, on the screen you can see here that Section 2 d, yes, it is defining the, giving the definition of industrial design. And it says features of shape, configuration, pattern, ornament, and then the composition of lines or colours.

So, you can easily appreciate that. Here, the thing is happening that features of a shape, so just remain, just try to bring in front of you Coca Cola bottle. So, that Coca Cola bottle is there, that shape, that specific shape is there. Or you just try to bring in front of you Bisleri bottle that particular type of design is there of that Bisleri bottle. And now you apply that

feature of shape, configuration, pattern, ornament or composition of lines or colours applied to any article.

Simple by giving, by using simple lines or colours also, that specific colour combination is there and that also gives like a, that, that will give you the industrial design protection. Now, whether two dimension, or three dimension, or both that is very important. So, you can see here that in the next this thing, that there may be a two dimensional, or a three dimensional, or in a both forms.

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Now you can see on the screen here, moving further that two dimensional or three dimensional or in a both forms. Any industrial design process or means. So here, what the thing is happening it is like that, that here the thing which is happening is that a, it may be two dimensional, or it may be a three dimensional, or both forms, that can be developed by an industrial design process and that industrial design, maybe manual mechanical or chemical whatever it may be.

And most important it is like this that it should be seen by eyes. So, by eyes only you can see that particular design and then you, that will be appeal to your eyes, customer's eyes. So, that is very important that judged solely by the eyes. And it will, it will not include any mode or principle and all the other thing because we know that if any mode or principle of construction if anything, kind of thing is there, that is another type of IP which is taking care, that is a patent will take care.

And then they have given it the details that it should not be a trademark, it should not be a copyright or it should not be a property mark. So, we have to remember that it should not be, it should be excluded if property mark, copyright, it should be any aesthetic thing so that copyright will, copyright should not be there that subject matter of copyright will not be considered under for industrial design protection, property mark will not be considered and trademark will not be considered.

So, this three Acts are different and they are very clear, this three Acts have given a details about when trademark will be applied, we have already seen that particular thing. About

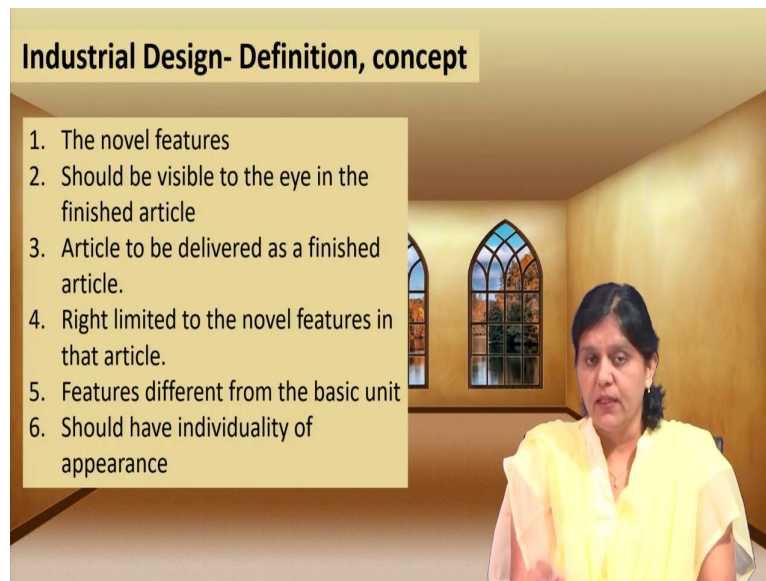
copyright we are very clear, just last week we have, dedicated, we have gone through the details of that. And there is another that is a property mark is there and that is also it should not be like that. So, that is excluded mode of construction, production is excluded.

So, you can appreciate it like that, that it is nothing but the, that pattern, particular pattern colour combination is there, three dimensional or two dimensional or both. And that particular thing, which you just judge or see by your eyes that will be considered as a industrial design. I guess you are pretty much clearer about the definition now and you can appreciate that, okay that what that industrial design it should, we have seen that no process nothing principle is involved so patent is excluded, trademark excluded, copyright is excluded, property mark is excluded.

It is something which is not that particular thing, but something which is giving the industrial importance because of that particular packaging, because of that particular design you are going to pay for that particular thing. Means you, sometimes what happens you may not, may not aware about what that exact product is there, but only because of that particular shape you get attracted towards that particular product.

Especially in cosmetic this kind of thing happen of thing happen, or car also, you may not be, you are ready to compromise about the features, means technical features if you like the particular design of a car. So, this is the, that appeal to the eyes makes and that colours and very, in automobile industry, you can easily appreciate that particular thing and then the, I guess you have, you can appreciate now the definition of industrial design, concept is very clear. Now, we will just see if key features or a important points related to the industrial design.

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Industrial Design- Definition, concept

1. The novel features
2. Should be visible to the eye in the finished article
3. Article to be delivered as a finished article.
4. Right limited to the novel features in that article.
5. Features different from the basic unit
6. Should have individuality of appearance

So, novel features should be there. It should be unique novel that design. You, you know that car design once come definitely it will not come again into the market, so that novel feature is very important. It should be visible to eyes in the finished article, because eye is, only that it should be appeal to the eyes that is very important. Then article to be delivered as a finished article whatever article for which you are trying to get that industrial design protection it should be the final finished article.

So, for example that particular bottle of oil or a particular tyre that is a completely like a final finished product and then you will take a industrial design protection on that particular final product. Rights limited to the novel features in the article that is very important and that is applicable to all IPs, like novelty is a prime thing for all types of IPs. Then features different from the basic unit.

Basic unit is there, tyre is there, but that features are giving that particular advantage or the added value into that and that are giving you the mileage in that particular related to that product. It should have individually, individuality of appearance. So, for example although car tyre is a part of a car, but tyre again itself is a like a individually you are going to sell and do that activities related to particular product.

That is very important that is this six point is that. So, now you can appreciate that where exactly industrial design is applicable, then we have seen the definition according to the industrial design act that is the Section 2 (d) is defining the industrial design, that long definition we have seen and then we have seen the points in that definition.

And then we have seen the six important points, which you can say that the, that important points related to Industrial design, so that it will be easier for you to judge how, how that industrial design can be applied a particular article. And I guess now that you are pretty well clear about that what exactly the industrial design is. So, we will move, we will see the details of that industrial design incoming modules. See you in the next week. Thank you.