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CONDITIONS FOR THE PATENTABILITY OF INDUSTRIAL DESIGNS

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Abstract. This article examines the conditions governing the eligibility of industrial designs for legal protection, with particular attention to novelty, originality, and individual character where required by the applicable legislation. It considers the distinction between the appearance of a product and its technical function, as well as the significance of prior disclosure in assessing protection eligibility. The discussion also addresses the representation of a design in application documents and the distinction between formal filing requirements and substantive protection criteria. Particular attention is given to differences between national legal systems, including the use of design patents and design registration. The article aims to develop a comparative analytical framework for assessing industrial designs while recognizing that the applicable conditions, exclusions, and disclosure rules depend on the jurisdiction concerned.

Keywords: industrial designs, patentability, design protection, novelty, originality, individual character, product appearance, technical function, prior disclosure, design registration.

Introduction

Industrial design contributes to product differentiation by shaping the visual features through which consumers recognize and evaluate goods. Appearance may influence commercial decisions alongside functionality, quality, and price, making design an important consideration for manufacturers and designers. Legal protection provides a framework for safeguarding eligible design features, but eligibility depends on specific substantive conditions rather than aesthetic appeal alone.

Industrial design protection concerns the visual aspects of a product, including its shape, configuration, patterns, or ornamentation. Its subject matter differs from the technical solutions addressed by invention patents. WIPO explains that design rights protect product appearance rather than technical function. This distinction is essential when determining whether a proposed development should be assessed as an industrial design, a technical invention, or a combination of separately protectable features.

The conditions for protection vary across jurisdictions. WIPO identifies novelty and originality as common requirements while emphasizing differences in their legal interpretation. Some systems grant design patents, whereas others provide protection through design registration. Consequently, the term “patentability” should be understood within the relevant national framework, and criteria used in one jurisdiction should not automatically be treated as universal requirements.

Uzbekistan provides a relevant national example. Article 8 of the Law On Inventions, Utility Models and Industrial Designs, in the reviewed consolidated text, establishes novelty and originality as conditions for protecting an industrial design. Novelty concerns whether the combination of essential features was known from information publicly available worldwide before the priority date. Originality concerns whether those features determine the creative character of the product’s particular appearance. These requirements distinguish legal eligibility from an applicant’s subjective assessment that a design is attractive or commercially promising.

Disclosure creates another important issue because presenting a design publicly may affect its novelty. WIPO therefore emphasizes the importance of considering filing before public disclosure, subject to the rules of the relevant jurisdiction. Designers and enterprises need to coordinate exhibitions, advertising, online publication, and commercial release with their protection strategy. Any exception allowing certain disclosures must be assessed under the applicable law rather than presumed to apply internationally.

The representation of the design also requires attention. Substantive assessment concerns the features for which protection is sought, while application documents communicate those features to the examining authority. Clear and consistent representations support the identification of the claimed appearance. Formal completeness, however, should be distinguished from substantive eligibility: correctly prepared documents do not independently establish novelty or originality.

The purpose of this article is to examine the principal conditions governing the protection of industrial designs and clarify their relationship with application preparation. The analysis focuses on novelty, originality, the distinction between appearance and technical function, and the implications of prior disclosure. It considers Uzbekistan's legal framework alongside international guidance to develop an analytical approach that recognizes differences between jurisdictions and separates substantive protection criteria from procedural requirements.

Literature review

The literature on industrial design protection addresses three related questions: which aspects of a product constitute a protectable design, what substantive conditions govern eligibility, and how the claimed appearance should be represented in an application. These questions require distinguishing general intellectual property principles from jurisdiction-specific legal requirements.

WIPO's Introduction to Intellectual Property: Theory and Practice (2025) places industrial designs within the broader intellectual property system, alongside patents, trademarks, and copyright. This perspective provides a foundation for distinguishing protection of product appearance from protection of technical solutions or commercial identifiers. For the present study, its value lies in clarifying the subject matter before examining the conditions under which protection may be granted.

Bently, Sherman, Gangjee, and Johnson's Intellectual Property Law (2022) offers a detailed legal treatment of designs within a wider analysis of intellectual property rights. The book provides a comparative reference for examining the relationship between design protection and other rights. However, its discussion of particular legal systems must be distinguished from Uzbekistan's legislation; terminology and eligibility standards cannot be transferred between jurisdictions without examining their legal basis.

WIPO's official guidance identifies novelty and originality as common conditions for industrial design protection while emphasizing that their assessment differs between countries. It also distinguishes design registration from design patents. This guidance supports a jurisdiction-sensitive approach: the relevant inquiry is not simply whether a design appears different, but whether its features satisfy the standard established by the applicable law.

Uzbekistan's legislation provides the central national source. Article 8 of the Law On Inventions, Utility Models and Industrial Designs, in the reviewed consolidated text, requires novelty and originality. It defines novelty by reference to the combination of essential features and information publicly available worldwide before the priority date. Originality concerns the creative character determined by the combination of essential features. These provisions indicate that novelty and originality constitute separate legal questions, even though both involve examining the design's features.

The relationship between appearance and technical function represents another important theme. WIPO's intellectual property guidance explains that design rights concern visual form rather than

technical function. This distinction helps delimit the subject matter of protection, but it does not justify assuming that every product serving a practical function is excluded. The analysis must identify the appearance claimed and examine the applicable rules concerning function-related features.

Disclosure rules further demonstrate the importance of national differences. WIPO recommends considering protection before public disclosure because disclosure can affect novelty. Uzbekistan's reviewed Article 8 contains a six-month exception for specified disclosures originating from the author or applicant, with the burden of establishing the relevant circumstances placed on them. This exception should therefore be treated as a conditional provision rather than a general assurance that publication before filing is harmless.

Taken together, the reviewed sources support an analytical framework separating protectable subject matter, substantive eligibility, disclosure history, and application representation. The present article uses this framework to examine novelty and originality in Uzbekistan while recognizing that other jurisdictions may apply different terminology or additional criteria. Assessing the consistency of these standards in practice would require examination decisions and judicial materials beyond the documentary sources reviewed here.

Research methodology

This study employs a qualitative, desk-based methodology combining doctrinal legal analysis with a focused literature review. The source material comprises the reviewed provisions of Uzbekistan's Law On Inventions, Utility Models and Industrial Designs, WIPO guidance, and scholarly publications discussed in the literature review. Legislative sources establish the national eligibility criteria, while international and academic materials provide conceptual and comparative perspectives.

The analysis is organized around four dimensions: protectable subject matter, novelty and originality, the implications of prior disclosure, and application representation. Comparative analysis distinguishes Uzbekistan's requirements from general international guidance without assuming that standards are identical across jurisdictions. Substantive eligibility is examined separately from formal filing requirements.

The findings are synthesized into recommendations for assessing industrial designs and preparing applications. The study does not examine application files, judicial decisions, or registration statistics. Its conclusions therefore concern the interpretation of the selected sources rather than the consistency of examination practices or the likelihood of obtaining protection in individual cases.

Analysis and results

The documentary analysis identifies four connected dimensions for assessing industrial design protection: the subject matter claimed, novelty and originality, disclosure history, and application representation. The principal finding is that these dimensions require separate examination. A product's commercial appeal does not establish patentability, and formally complete application documents do not independently demonstrate compliance with substantive conditions.

The first finding concerns the identification of protectable subject matter. WIPO distinguishes the visual aspects of a product from its technical function. Industrial design protection can concern three-dimensional features, such as shape and configuration, or two-dimensional features, such as patterns and ornamentation. Accordingly, the initial analytical task is to identify the appearance for which protection is sought rather than describe only what the product does.

This distinction does not mean that a useful product cannot contain protectable design features. A product can perform a technical function while presenting choices concerning its appearance. The assessment should identify those visual choices and examine them under the relevant national rules. For example, the external appearance of equipment and the technical mechanism operating inside it

raise different protection questions. This example illustrates the distinction between subject matters; it does not establish the eligibility of any particular design.

The second finding relates to novelty. Article 8 of Uzbekistan's reviewed legislation evaluates whether the combination of essential features was known from information publicly available worldwide before the design's priority date. The provision also requires consideration of relevant unwithdrawn patent applications with earlier priority. Consequently, novelty assessment cannot be confined to products already sold in Uzbekistan or designs personally known to the applicant.

The analytical implication is that a preliminary search should consider several sources of earlier designs, including registration databases, product catalogues, exhibition materials, and publicly accessible online publications. The search should examine the claimed combination of features rather than rely solely on finding an identical product name. Such a search can inform application preparation, but its completeness and legal significance depend on the evidence identified and the applicable examination standards.

The third finding concerns originality. Uzbekistan's reviewed Article 8 defines originality through the creative character of the product's features as determined by their essential combination. This requirement should be distinguished from novelty: the absence of an identified earlier disclosure does not, by itself, complete the assessment of originality. The provision directs attention to the creative character of the claimed appearance rather than merely the applicant's assertion that the design was independently developed.

However, the statutory definition alone does not establish a universal threshold for deciding how much visual difference is sufficient. The present study therefore cannot classify particular alterations as legally adequate without examining the design, relevant prior material, and applicable practice. Small changes should neither be assumed sufficient nor automatically dismissed solely because they are small.

Table 1 summarizes the principal distinctions established by the analysis.

Assessment dimension	**Central question**	**Practical implication**
Protectable subject matter	Which visual features constitute the claimed design?	Separate the product's appearance from its technical operation
Novelty	Was the essential combination known from relevant earlier information?	Conduct and document a search beyond the applicant's immediate market
Originality	Does the essential combination determine a creative character?	Assess originality separately from the absence of an identical disclosure
Disclosure history	Was the design disclosed before filing, and under what circumstances?	Record disclosure dates, content, and the persons involved
Application representation	Do the documents consistently identify the appearance claimed?	Review images and descriptions for clarity and consistency

Source: Author's synthesis of WIPO guidance and Article 8 of Uzbekistan's legislation reviewed in this study. The table presents analytical requirements rather than examination outcomes.

The fourth finding is that disclosure timing can materially affect the assessment. WIPO emphasizes considering filing before public disclosure because disclosure may undermine novelty. Uzbekistan's reviewed Article 8 provides a six-month exception for certain disclosures originating from the author, applicant, or persons obtaining the information from them. It also places the burden of proving the relevant circumstances on the author or applicant. The exception is therefore conditional and should not be interpreted as an unrestricted period during which any disclosure is harmless.

For application planning, this supports maintaining a disclosure record identifying when, where, and in what form the design became accessible. Exhibition displays, online advertisements, catalogues, and commercial presentations may require review. The content disclosed also matters: the inquiry should identify which design features were made available rather than merely note that some information about the product was published.

The fifth finding concerns the relationship between representation and substantive assessment. Within the proposed framework, representations identify the appearance to which the eligibility analysis applies. Inconsistent views or unclear images can make that identification difficult. Application preparation should therefore ensure that the representations describe the same design consistently and communicate the intended features. This is an analytical recommendation; specific image formats, numbers of views, and document requirements must be verified under the applicable filing procedure.

The analysis also confirms the importance of jurisdictional differences. WIPO explains that countries vary in their assessment of novelty and originality and in whether protection is granted through registration or a design patent. Accordingly, criteria such as individual character should not automatically be presented as independent requirements under Uzbekistan's Article 8. Comparative terminology is useful only when its jurisdictional basis is made explicit.

The resulting framework places subject-matter identification before separate examination of novelty, originality, disclosure, and documentary consistency. Its contribution is to organize the questions that an applicant or researcher should investigate. Because the study does not analyze examination files or judicial decisions, it cannot establish how consistently these criteria are applied, quantify refusal risks, or predict the outcome of a particular application.

Conclusion and recommendations

The study concludes that assessing the patentability of industrial designs requires distinguishing protectable product appearance from technical function and examining substantive eligibility separately from application preparation. In Uzbekistan's reviewed legal framework, novelty and originality are distinct conditions. Neither commercial attractiveness nor the absence of an identical design identified by the applicant independently establishes compliance with both requirements.

Disclosure history is another important element of assessment. Public presentation before filing may affect eligibility, while any disclosure exception depends on the conditions established by the applicable legislation. Clear application representations help identify the design under examination but cannot compensate for a failure to satisfy substantive requirements.

Based on these findings, the following recommendations are proposed.

First, applicants should identify the visual features for which protection is sought before preparing an application. The description of those features should distinguish the product's appearance from its technical operation.

Second, preliminary searches should examine relevant design databases, product catalogues, exhibition materials, and public online sources. Search findings should be documented, including publication dates and the features relevant to comparison.

Third, novelty and originality should be evaluated separately. The assessment should explain both the relationship between the claimed design and earlier disclosures and the creative character of its essential features.

Fourth, filing plans should be coordinated with exhibitions, advertising, online publication, and commercial release. Where an applicant relies on a disclosure exception, the circumstances and supporting evidence should be assessed under the relevant national law.

Fifth, application representations should be clear and consistent. Images and accompanying descriptions should identify the same design, while technical document requirements should be checked against the applicable filing procedure.

Finally, future research should examine administrative and judicial decisions to clarify how statutory criteria are applied to particular designs. Since the present study relies on documentary analysis, its recommendations provide an assessment framework rather than a prediction of registration outcomes.

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