



Implications of the Calcutta High Court’s GUI judgment dated March 09, 2026 for design protection of GUIs in India and for the Government of India’s proposed reforms

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The Government of India has been considering certain proposed reforms to the legal framework for design protection in India, *inter alia*, proposing the definition of “article” and “design” under the Designs Act to include non-physical forms, including GUIs, icons, graphic symbols, typefaces, augmented reality graphical user interfaces, and other virtual products provided under the Locarno classification. It proposes clarifying that a design may subsist regardless of whether it is embodied in a tangible object or materialises in a purely digital or virtual environment.

As explained hereinafter, the latest judicial pronouncement on the subject from the High Court of Calcutta may need to be considered by the Government in proceeding with the contemplated reforms. The High Court of Calcutta has found sufficient statutory support within the current Designs Act for registrability of GUIs.

The Relevant Provisions of the Designs Act 2000

Section 2(a) of the Designs Act 2000 defines “*article*” to mean “*any article of manufacture and any substance, artificial, or partly artificial and partly natural; and includes any part of an article capable of being made and sold separately.*”

Section 2(d) defines “*design*” to mean “*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 trade mark as defined in clause (v) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958 (43 of 1958) or property mark as defined in section 479 of the Indian Penal Code (45 of 1860) or any artistic work as defined in clause (c) of section 2 of the Copyright Act, 1957 (14 of 1957).*”

The 2008 Rules in the relevant class 14-4 of the Third Schedule (Classification of Goods) provided: Screen Display and Icons.

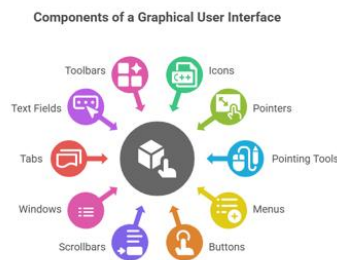
The 2019 Rules in the relevant Rule 10 substituted the Classification of Goods in the Third Schedule with the International Classification for Industrial Designs (Locarno Classification).

The 2021 Rules amended Rule 10 to recognize the Locarno Classification of Goods as per the current edition and added a proviso that registration of any designs would be subject to the fulfilment of provisions of the Act, specifically sections 2(a) and 2(d). These Rules also

introduced a new class 32 containing graphic symbols, graphic designs, logos, ornamentation and surface patterns.

What is “Graphic User Interface” (GUI)?

A graphical user interface (GUI) allows users to interact with electronic devices through visual elements like icons, buttons, and menus instead of text-based commands. By using a pointing device such as a mouse, touchscreen, or stylus, users can click, drag, and select these visual components to perform actions. GUIs make computing more intuitive and user-friendly, and are now standard in most operating systems and applications, from computers to smartphones.



Examples of graphical user interfaces (GUIs) include operating systems like Windows, macOS, and Android, which use icons, windows, and menus for navigation. Other examples are mobile apps, web browsers like Chrome, and interactive devices like ATMs and self-service kiosks. The concept of GUI contemplates visual representation of configuration of icons and several elements on a touch screen. GUI is also used as a powerful differentiation of products and user experience with the ultimate aim of influencing customer decision when buying such products.

Ust Global (Singapore) Pte Ltd vs The Controller of Patents and Designs (Judgment of the Calcutta High Court delivered on 20 March, 2023)

Ust Global, a global leading provider of end-to-end IT services and solutions for different companies, applied before the Patents and Designs Office on October 30, 2017 for registration of a design titled “Touch Screen” for a novel surface ornamentation which is a Graphical User Interface. It contended that the claimed design is a novel surface ornamentation displayed on a touch screen.

The Patents and Designs Office rejected the application on the grounds that:

- (i) since the GUI is only visible when it is in 'ON' mode or operating mode there can be no design when the product is on 'OFF' mode. Hence, GUI cannot be treated as a design of any article.
- (ii) as the ICON/GUI does not follow the process of industrial manufacturing but is mainly created by software development processing.

Ust Global appealed the rejection before the Calcutta High Court, contending that:

- (i) GUI is a software, an intellectual property, an article of value and hence capable of registration.

- (ii) the subject design is original and has never been in the public domain. A well implemented GUI can positively influence customers in buying such products.

After noting the relevant provisions of the Designs Act, the Calcutta High Court found the reasoning of the Controller erroneous, holding that:

- (i) the GUI is visible only in ON mode or operating mode and hence not capable of registration is erroneous. The GUI in the present case is in-built. In-built ICONS are displayed in shops as well as in advertisements. Designs registered may be applied to any external or internal feature and are capable of registration if they appeal to the eye and enhance the aesthetic value of the product. Ordinarily, the design of a product is concerned with the external appearance of an article. However, the pertinent feature of visual appeal may in the case of certain articles be considered as features of a registrable design.
- (ii) The design submitted by Ust Global is a 2D design i.e. a design which possesses the dimensions of length and width but does not possess depth. The novelty of the same can be judged by the eye as soon as the device is turned on. There is no requirement to touch the device in respect of the design. The process of application of the subject design i.e. GUI on the finished article is a mechanical and manual process which falls within the definition of "industrial process" mentioned in Section 2(d) of the Designs Act 2000. A software developer develops a source code which creates the GUI. This source code is then embedded in the micro-controllers and micro-processors and is displayed in screen by illuminating pixels by electronic means. Therefore, the design is applied to the article by industrial process and means.

For the aforesaid reasons, the High Court set aside the impugned order, remanding it to the Controller for reconsideration.

However, on re-examination, the Controller maintained the objections and denied registration.

The Calcutta High Court through the same Bench was once again presented with an opportunity to examine and resolve the issue of GUI registrability under the Designs Act in a number of appeals preferred by different parties, all challenging the Controller's similar orders of rejection in respect of their respective GUI applications.

The Controller essentially reiterated the grounds of rejection in the Ust matter and elaborated these as follows:

- a. A design is an integral part of an article and such design cannot be separated nor does the same have any independent existence from the article to which it has been applied. The word "design" relates to a physical and tangible article and not intangible and digital forms. Being an intangible embodiment and not capable of being made or sold separately, a GUI does not constitute an article within the meaning of section 2(a) of the Designs Act, making it incapable of registration. It is the display screen hosting the GUI which qualifies as an article.
- b. GUI is not applied to an article through an industrial process.

- c. GUI fundamentally consists of mere software codes and has no element of permanence and is only seen when an associate device is switched on which does not justify registration.
- d. GUI should not be protected under the Designs Act since it is protected under the Copyright Act 1957 as an ‘artistic work’ and there can be no dual protection.

This time around, the Bench appointed an amicus curiae to assist it on the issues involved.

On March 09, 2026, the Bench passed a detailed judgment, allowing the appeals and remanding the matters to the Controller for hearing afresh in the light of the findings reached. The Bench held that the orders of the Controller to be erroneous in failing to apply the correct legal tests in determining design registrability relating to GUIs.

The Bench’s findings:

1. Whether GUI qualifies as an article?

- 1.1 Finding the Controller’s aforesaid interpretation of “article” in section 2(a) erroneous, the Bench noted that “design” and “article” under the Designs Act are distinct, independent and separate. The design itself need *not* be the article as section 2(d) envisages such design to be *applied* to an article. This means that the relevant article for a GUI can vary, for e.g. it could be a display unit, a phone, tablet or automobile dashboard.
- 1.2 Elaborating the expression “article of manufacture” in section 2(a), the Bench took an exception to the Controller’s finding that the article and the design can only exist in physical or tangible forms. Rejecting this interpretation, the Court held that the expression “article” is broad and generic and tying it down to a physical embodiment of sorts is a narrow approach. If the Controller’s interpretation were to prevail, GUI, icons, animations and screen based designs would never be covered because they exist in digital and virtual forms. In this connection, the Court found support in *Microsoft Corp. v. Corel Corp.*, Case No. 5:15-CV-06836-EJD (2018), (where adopting a broad, liberal and purposive interpretation, even a software was held to be “article of manufacture”).

2. Whether the displaying or applying a GUI to a display surface fulfils the definition of industrial process as per section 2(d) of the Act.

- 2.1 In *Ust Global* (supra), the Controller had taken a view that the phrase “*applied to an article by any industrial process*” restricted its meaning only to manual, mechanical or chemical processes. Rejecting this view as a glaring error, the Bench noted that the term “*any*” which precedes “*industrial process*” in the definition of “*design*” is an inclusive language, requiring a liberal and broader interpretation.
- 2.2 Applying the principles of *updating construction* in interpreting legislation such as intellectual property legislation, the Bench held that these principles would require taking into account relevant changes and advancements in modern technology including the modern developments in the area of software and hardware. The displaying process involves systematically manipulating electronic signals and precise rendering by

advanced hardware. In view of this interaction of digital and physical processes, displaying or applying a GUI to a display surface fits within the evolving concept of an industrial process under section 2(d) of the Designs Act.

3. Whether no element of permanence in a GUI makes it not registrable?

- 3.1 Rejecting the Controller's view, the Bench held that Section 2(d) nowhere refers to a design being permanently visible, "*permanently applied*" or "*permanently affixed*". The term "*applied*" is to be interpreted as broad and generic.
- 3.2 The Bench found that the statute only requires and contemplates an association between the design and the article rather than a registration in the abstract. Applying the statutory intent, the Bench held "permanence of the design is a function of the *materials* it employs". Relying upon a precedent in this behalf, the Court gave an example of a lampshade which may not be apparent unless the lamp is lighted. Many designs rely on external conditions to manifest their full appearance, which does not undermine their eligibility for protection. The Bench referred to *Re:Hruby 373 F.2d 997 and K.K. Suwa Seikosha's Design Application (1982) RPC 166*, where the ornamental display of a fountain and a watch display which became visible when activated were all held to be eligible subject matter for design registration.

The Bench also referred the Manual of Designs Practice itself which expressly recognizes that the internal features made visible only during use may be registered as designs (citing the decision in *Ferrero Cs.P.As application (1978) RPC 473* in providing guidance on the phrase 'judged solely by the eye' in section 2(d) to explain design features which are visible only during use may be subject matter of registration).

4. Whether GUI is a computer program and thus not a subject matter of design protection:

The Controller had found a GUI to be a computer programme. The Bench disagreed with the finding, holding that a GUI, though produced by a computer programme, is in fact a visual configuration displayed on an article, not a computer program per se. It noted an inherent flaw in the Controller's finding. A computer program is a literary work under the Copyright Act, and the exclusion under section 2(d) extends to "artistic work" only.

5. Whether GUI is an artistic work and not a subject matter of design protection:

The Bench held that a GUI inherently comprises iconography, layout, colour schemes, composition of lines and ornamentation and therefore falls within the kind of visual features contemplated by the Designs Act. Being aesthetic in appeal and integrated and industrially applied to an article, it meets the requirements under the Designs Act and therefore ceases to be an artistic work once so applied and *industrially* commercialized in more than 50 copies.

In conclusion, while holding that nothing prevents GUIs being registrable under the Designs Act for the reasons given, the Court has requested clarificatory guidance from the legislature or the Controller, providing the appropriate directions for the scope of protectable designs to be expanded in terms of its findings.