



PROTECTING DESIGNS

Robert Gordon Industries and Thermos Tussle Over Tumbler Design Patent

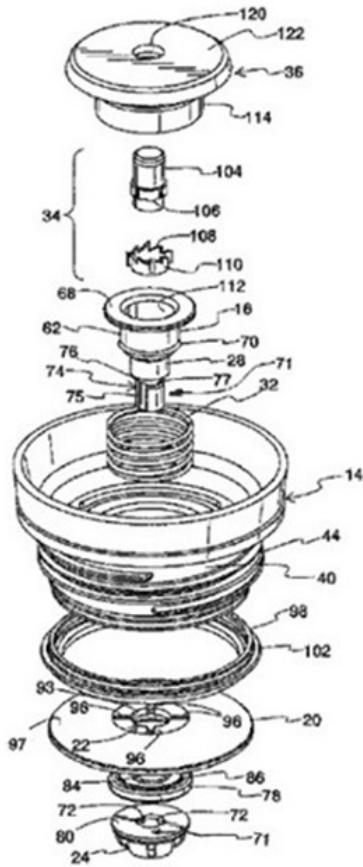
BY DAVID NGUYEN | DECEMBER 13, 2015

Robert Gordon Industries, Ltd. ("Robert Gordon") filed a [complaint](#) for declaratory judgment of noninfringement against Thermos, LLC ("Thermos") on November 18, 2015 in the U.S. District Court for the Eastern District of New York. Meanwhile, Thermos filed its own [patent infringement action](#) against Robert Gordon in the U.S. District Court for the Northern District of Illinois Eastern Division, also on November 18, 2015.

According to Robert Gordon, the declaratory judgment action was filed as a result of Thermos' continued efforts "to extract a royalty payment under two Thermos patents; United States Patent No. [D622,547](#) entitled 'Tumbler' ('the '547 patent') and United States Patent No. [8,348,078](#) entitled 'Leak Proof Drinking Lid With Pressure Relief' ('the '078 patent')," with regard to Robert Gordon's Empire VM-57 Tumbler, despite Robert Gordon's willingness to discontinue this product and pay Thermos a \$3,000.00 royalty (based on 5% of past sales). Robert Gordon seeks a jury trial to obtain a declaratory judgment of non-infringement and invalidity of each of the aforementioned Thermos patents.

For its part, Thermos asserted that Robert Gordon has "manufactured, imported, sold and/or offered for sale tumblers...in the United States that infringe the '547 patent," such as tumbler "SKU # VM-57 Silver" offered for sale on Robert Gordon's website.

Shown below, from left to right, are patent illustrations corresponding to Thermos' '547 patent (tumbler) and '078 patent (lid) and an image showing Robert Gordon's accused Empire VM-57 tumbler (based on Exhibit B from Thermos' complaint), respectively.



It is noted that Robert Gordon's declaratory judgment action was voluntarily dismissed without prejudice on December 16, 2015, as was Thermos' patent infringement action on December 17, 2015.

Tags: Complaint, Design Patents, District Court, Patent Infringement, Utility Patents, Filings and Decisions

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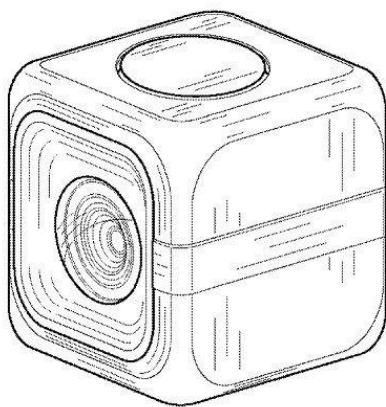
C&A Marketing Asserts Design Patent Infringement Claim Against GoPro's Hero4 Session Camera

BY DAVID NGUYEN | NOVEMBER 20, 2015

C&A Marketing, Inc. ("C&A Marketing") filed suit against GoPro, Inc. ("GoPro") on November 3, 2015 in the U.S. District Court District of New Jersey, alleging design patent infringement. More specifically, in its [complaint](#) C&A Marketing alleges that GoPro's Hero4 Session, a cube-shaped "action" camera, infringes U.S. Patent No. [D730,423](#) (the "D'423 patent").

According to C&A Marketing, the D'423 patent protects the Polaroid Cube, created through C&A Marketing's capacity as the exclusive manufacturer, distributor, and marketer of Polaroid® brand mountable action cameras, among other Polaroid® brand products. Notably, C&A Marketing states that they launched the Polaroid Cube in January 2014, at the Consumer Electronics Show (CES) in Las Vegas, Nevada, which was followed by GoPro's release of the "strikingly similar" Hero4 Session camera in 2015.

Provided below in side-by-side fashion are an image of the Polaroid Cube, Fig. 1 from the D'423 patent, and an image of GoPro's Hero4 Session camera, respectively, from the complaint.



Tags: [Complaint](#), [Design Patents](#), [District Court](#), [Injunction](#), [Patent Infringement](#), [Filings and Decisions](#)

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PROTECTING DESIGNS

Hoist v. Health In Motion, Inspire Fitness and Sunset Swings, and Does 1-10

BY COLIN B. HARRIS | SEPTEMBER 24, 2015




Hoist Fitness Systems, Inc. (“Hoist”) filed a [Complaint](#) against Health In Motion, LLC (“Health In Motion”), Inspire Fitness and Sunset Swings (“Inspire Fitness”), and Does 1-10 (collectively, “Defendants”) on August 31, 2015 in the District Court for the Southern District of California. Incidentally, the Complaint specifies that the fictitious defendants named “Does 1-10” “include, but are not limited to, any subsidiaries, affiliates, and/or parent companies of Health In Motion.”

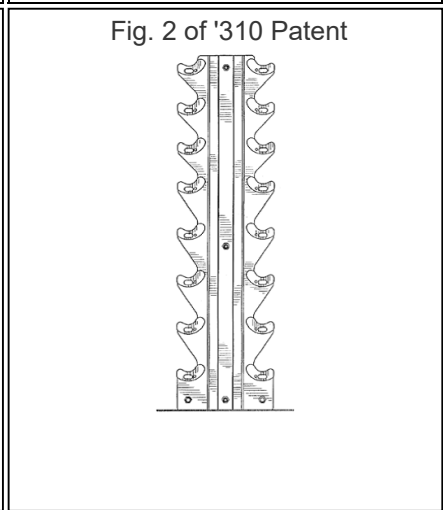
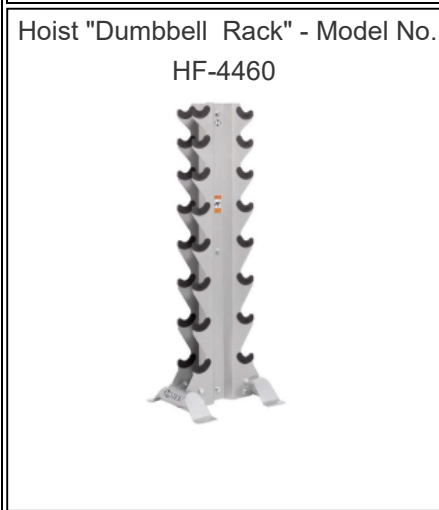
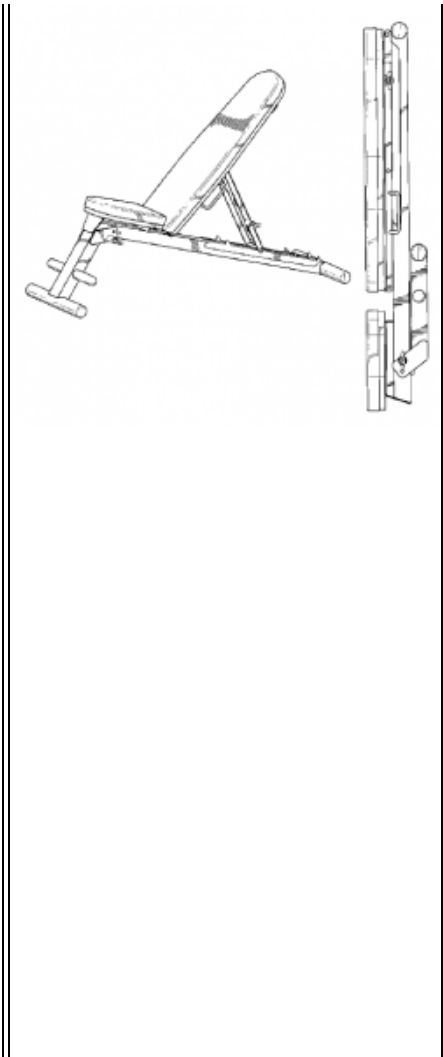
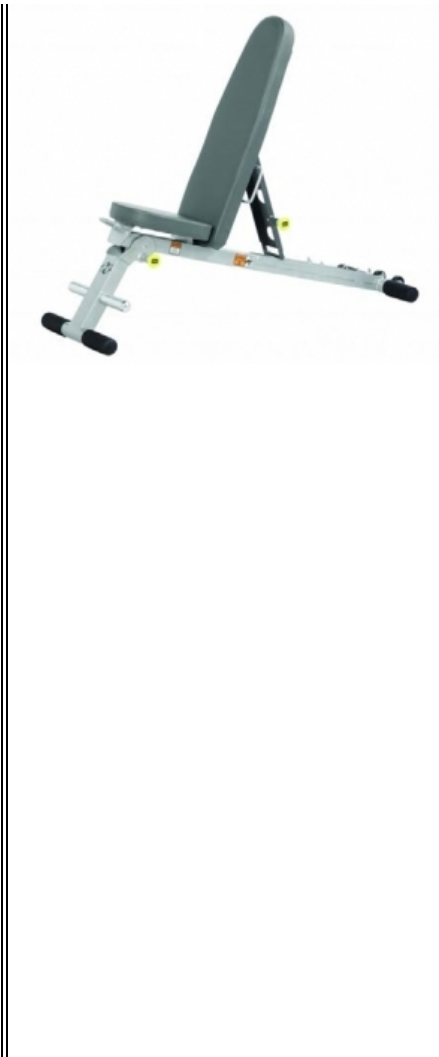
In its Complaint, Hoist alleges “patent infringement, trade dress infringement, unfair competition, and unjust enrichment with regard to Hoist’s intellectual property rights.”

Hoist asserts the following design patents regarding patent infringement:

- U.S. Patent No. [D544,050](#) (the ‘050 Patent),
- U.S. Patent No. [D519,585](#) (the ‘585 Patent), and
- U.S. Patent No. [D455,310](#) (the ‘310 Patent).

The Complaint includes several products developed from Hoist’s design patents, images from the design patents, and the allegedly infringing products, as follows:

Hoist Product	Hoist Patent	Defendants' Product
<p>Hoist "Fitness Tree" - Model No. HF-4962</p> 	<p>Fig. 1 of '050 Patent</p> 	<p>VKR Chin/Dip Station</p> 
<p>Hoist Folding Bench - Model HF-4145</p>	<p>Figs. 1 and 9 of '585 Patent</p>	<p>Folding Bench FLB-1</p>



The trade dress

infringement and unfair competition claims are related to the Hoist Squat Rack, Hoist Incline/Decline Bench, and Hoist Roman Hype. Specifically, Hoist argues with respect to the trade dress infringement claim that the Defendants have used, and continue to use, the Hoist Squat Rack, Incline/Decline Bench, and Roman Hype products without Hoist's consent "in a manner that is likely to cause confusion among ordinary consumers as to the source, sponsorship, affiliation, or approval of the Defendants' products." Regarding the unfair competition claim, Hoist alleges that the Defendants' acts are unlawful, fraudulent, unfair, misleading and likely to deceive the public.

Special thanks to Ms. Clothilde Lucius for contributing to this post.

Tags: Complaint, Design Patents, District Court, Patent Infringement, Trade Dress, Unfair Competition, Filings and Decisions

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PROTECTING DESIGNS

Lumetique, Inc. v. Blyth, Inc. and PartyLite Gifts, Inc.

BY COLIN B. HARRIS | SEPTEMBER 11, 2015

Lumetique, Inc. (“Lumetique”) filed suit against Blyth, Inc. and PartyLite Gifts, Inc. (collectively, “Defendants”) on September 4, 2015 in the District Court for the District of Connecticut. *Please note that Oblon represents Lumetique in this matter.*

In its [Complaint](#), Lumetique alleges that “Defendants manufacture, import, offer for sale, and sell certain candle products, including the Nature’s Light series of candles” that infringe two utility patents and two design patents. Specifically, the Complaint alleges that Defendants infringe U.S. Patent Nos. [8,961,171](#); [9,039,409](#); [D643,554](#); and [D644,359](#). By way of example, Figure 1 from D644,359 and Figure 1 from D643,554 are provided below, respectively:

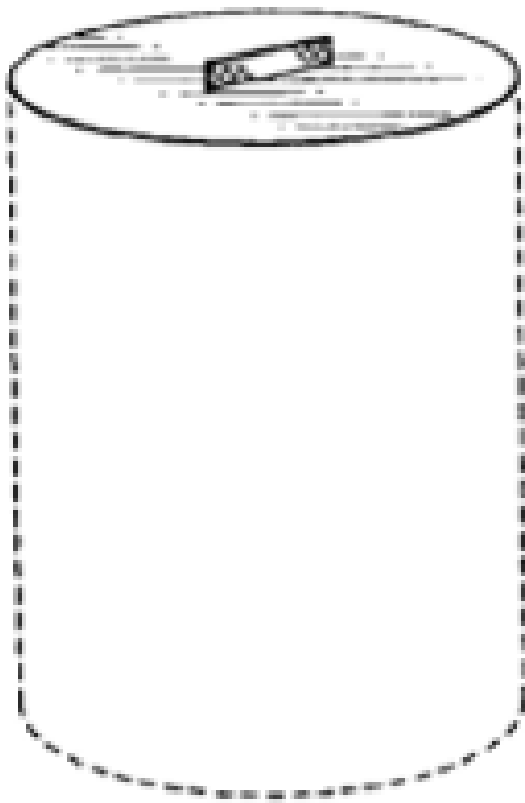


Fig. 1

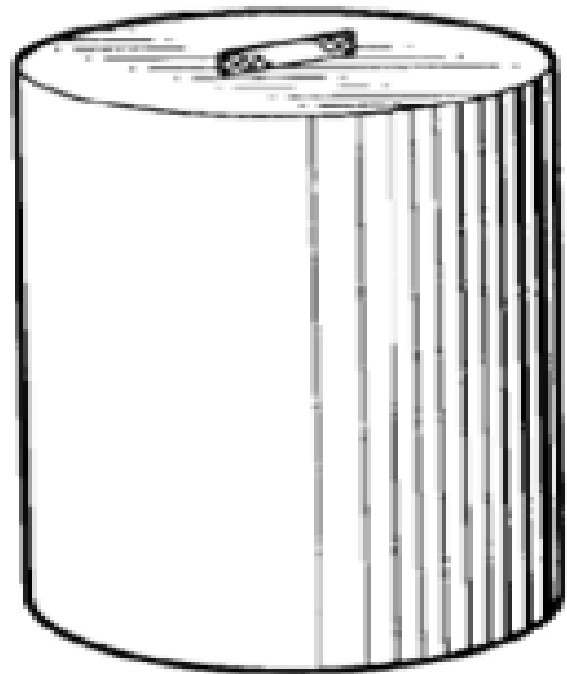


Fig. 1

Tags: Complaint, Design Patents, Patent Infringement, Utility Patents, Filings and Decisions

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PROTECTING DESIGNS

WIPO Announces Update to Its Global Design Database

BY DAVID. M. LONGO, PH.D. | AUGUST 6, 2015

On August 5, 2015, WIPO announced (available [here](#)) that its Global Design Database (available [here](#)) has added more than 1 million design documents based on data from the U.S., Japan, and Spain.

According to the announcement, users can now use the Global Design Database to search industrial designs registered under the WIPO-administered Hague System*, as well as designs from the U.S., Japan, Spain, Canada, and New Zealand. WIPO indicates that it plans to add other countries' design data "in the coming months."

The Global Design Database includes a user-friendly customizable interface, including various search categories, filters, and sorting capabilities.

As of this posting, the Global Design Database reports contents of 1.2 million design documents drawn from among 153,044 Canadian designs, 479,755 Japanese designs, 482,444 U.S. designs, 93,683 Spanish designs, 44,132 New Zealand designs, and 40,762 International (Hague) designs.

*The WIPO-administered Hague System has been previously discussed on this blog ([here](#), [here](#), [here](#), and [here](#)). More information about the Hague system can be found [here](#).

Tags: [Design Patents](#), [International and Non-U.S. Design Law and Practice](#)

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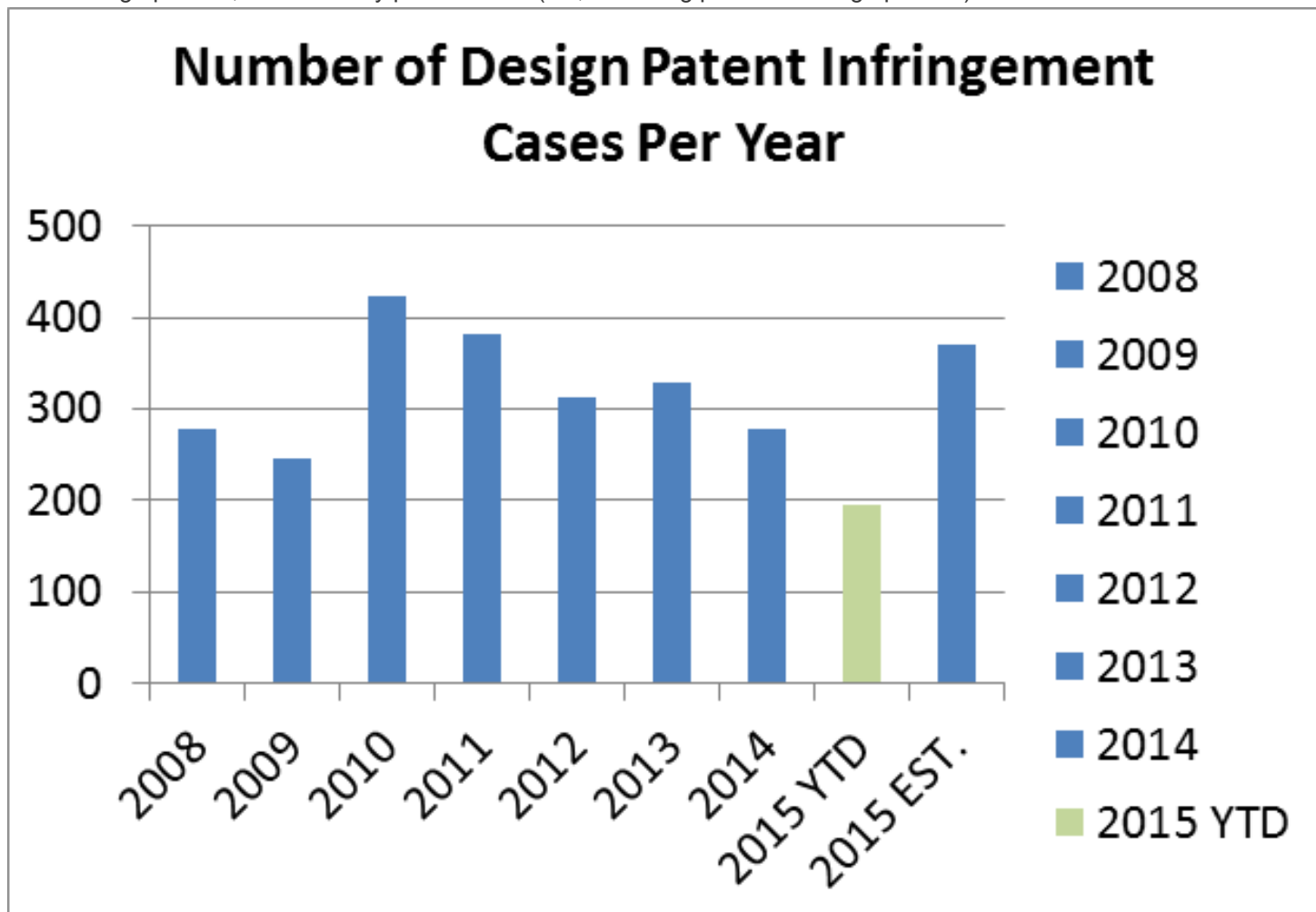
PROTECTING DESIGNS

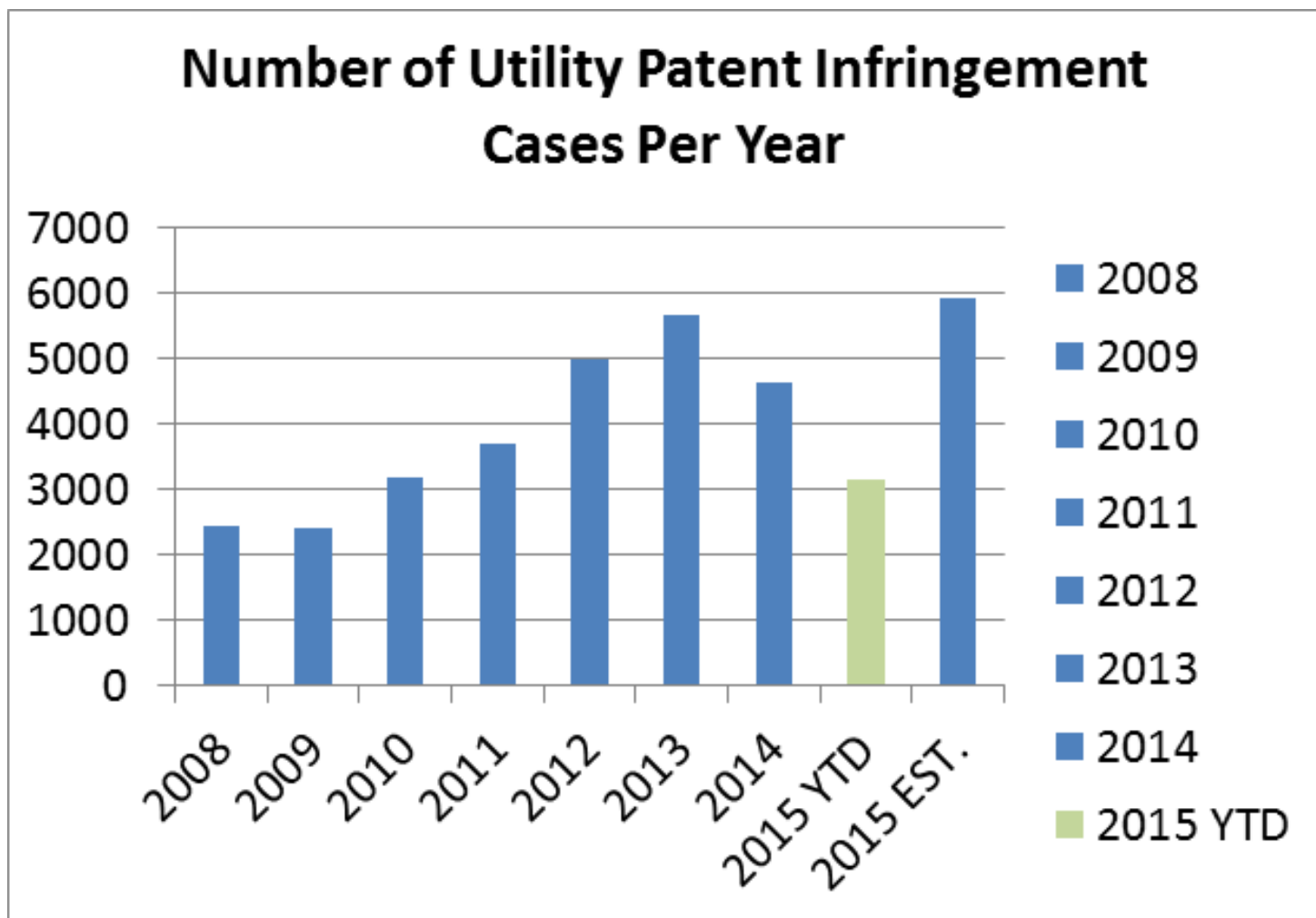
Design Patent Litigations Chart Their Own Course

BY ANDREW M. OLLIS & LISA M. MANDRUSIAK | JULY 28, 2015

Design patent litigations have frequently been in the news the past few years, particularly since Apple and Samsung began battling against each other in the Northern District of California. With the America Invents Act (AIA) also affecting the number of utility patent cases that have been filed, we wondered whether the number of design patent litigations has increased or decreased over the past few years. While the statistics we reviewed indicate no clear trend, we suggest three conclusions that might be drawn from the statistics.

The following statistics were compiled using the DocketNavigator™ analytics tool as of July 14, 2015. The district court cases were identified by searching for complaints or counterclaims of infringement or declaratory judgment, and limited to either design patents, or to all utility patent cases (i.e., excluding plant and design patents).





These statistics suggest three conclusions. First, perhaps surprisingly, the *Apple v. Samsung* litigations do not appear to have significantly increased the number of design patent litigations over time. In fact, the highest number of design patent litigation suits filed came in 2010, the year before the AIA was signed into law and Apple first filed suit against Samsung in the Northern District of California.

Second, the AIA did not result in a spike in design patent litigations. While the number of design patent cases appears to have declined somewhat in recent years, the number is estimated to be higher at the end of 2015 as compared to 2012 to 2014. Unlike utility patent cases, however, there was no increase in design patent cases following implementation of the AIA. We speculate that this is because nonpracticing entities (NPEs, often referred to as patent trolls) rarely assert design patents. For utility patent infringement litigation, the AIA requirement that plaintiffs file separate suits for separate defendants apparently contributed to a sharp increase in the number of utility patent suits in 2012 and 2013.

Third, it is also not clear that the dramatic rise in the use of IPRs to challenge patents has had any effect on the number of design patent litigations. While the number of inter partes reviews (IPRs) involving design patents has increased from 1 in 2012 to 12 (including 1 post grant review (PGR)) in 2014 with 8 so far in 2015, the number of design patents involved in IPRs is still so low that it seems unlikely to have influenced design patent litigation statistics.

Whether design patent litigations will increase or decrease in the future remains to be seen. For example, if Congress or the courts were to change the law that currently allows a design patent owner to collect total infringer's profits for an accused article rather than apportioning damages to account for the relative contribution of the design as compared to other features in the article, design patent litigation might be less attractive. On the other hand, product design is an increasingly important differentiator in a number of crowded markets, and the number of design patent litigations could very

well increase. Either way, it appears that design patent litigations will continue on a trajectory that is somewhat independent of utility patent litigation filings.

Tags: [AIA](#), [Apple](#), [Complaint](#), [Design Patents](#), [District Court](#), [Patent Infringement](#), [Samsung](#), [Filings and Decisions](#)

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PROTECTING DESIGNS

Oakley v. 7-Eleven

BY COLIN B. HARRIS | JULY 13, 2015

Oakley, Inc. (“Oakley”) filed suit against 7-Eleven, Inc. (7-Eleven) on June 25, 2015 in the District Court for the Southern District of California. In its [Complaint](#), Oakley alleges that certain products sold and/or offered for sale at 7-Eleven stores infringe the following design patents:

- No. [D649,579](#) (the ‘579 Patent”);
- No. [D547,794](#) (the ‘794 Patent”);
- No. [D554,689](#) (the ‘689 Patent”);
- No. [D556,818](#) (the ‘818 Patent”);
- No. [D692,047](#) (the ‘047 Patent”); and
- No. [D653,699](#) (the ‘699 Patent”).

For each of Oakley’s six asserted design patents, the Complaint includes images of allegedly infringing products sold in 7-Eleven stores. For example, the Complaint includes the images copied below of sunglasses found in a 7-Eleven in San Diego, California, which are alleged to infringe the ‘579 Patent (Fig. 1 of which is copied below).



Sunglasses Sold by 7-Eleven

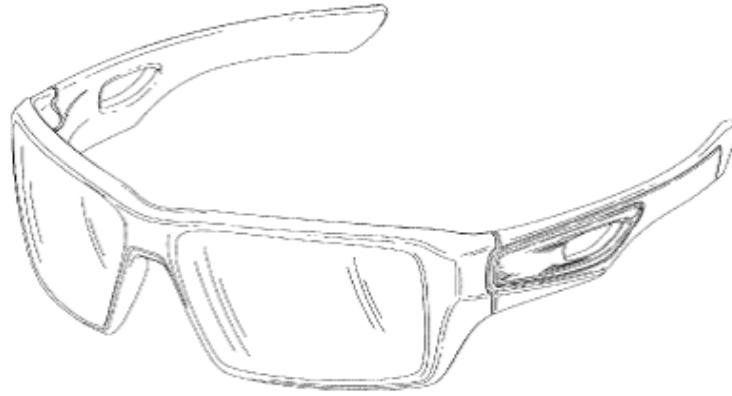


FIG. 1

Fig. 1 of the '579 Patent

The Complaint also alleges that the sunglasses pictured directly below, which were found in a 7-Eleven store in Laguna Hills, California, infringe the '699 Patent (Fig. 1 of which is provided below the Laguna Hills 7-Eleven sunglasses).



Oakley has frequently sought to protect its intellectual property rights, including asserting some of the same design patents listed above. We have reported on numerous complaints filed by Oakley involving its design patents, a few of which can be found [here](#), [here](#) and [here](#).

Special thanks to Ms. Clothilde Lucius for contributing to this post.

Tags: [Complaint](#), [Design Patents](#), [District Court](#), [Fashion Designs](#), [Injunction](#), [Patent Infringement](#), [Filings and Decisions](#)

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PROTECTING DESIGNS

Apple v Samsung – Design Patents Hold Firm, Trade Dress Gives Way

BY ANDREW M. OLLIS | JUNE 15, 2015

On May 18, 2015, the Federal Circuit issued its long-awaited decision on Samsung's appeal of Apple's nearly \$930 million 2014 judgment for infringement of Apple's design patents and utility patents covering various smart phones and tablets, and for dilution of its trade dresses. See [Federal Circuit Appeal Nos. 2014-1335, 2015-1029](#). See also our previous discussions regarding the Apple-Samsung dispute [here](#) and [here](#).

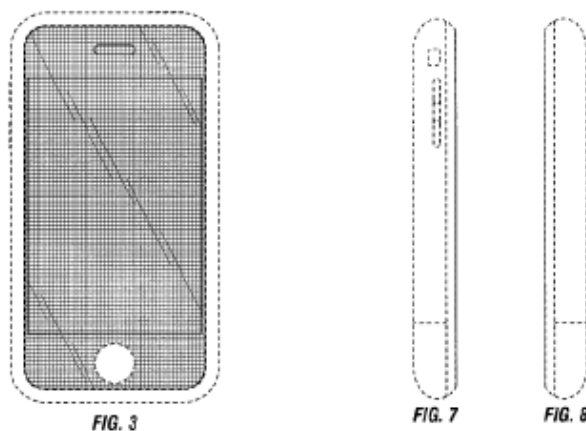
In its Appeal, Samsung asked that \$399 million in damages derived from infringement of Apple's design patents be reversed, that \$382 million in damages associated with Apple's trade dresses be reversed, and that \$149 million in damages associated with Apple's utility patents be reversed. See Samsung's Opening Brief before the Federal Circuit at 3. The issues of greatest interest to many observers concerned the design patents and trade dresses. The damages flowing from the design patents were affirmed. However, Samsung scored a significant victory in erasing \$382 million in damages attributable to infringement of Apple's trade dresses. The design and trade dress aspects of the Federal Circuit's opinion are discussed below.

I. Design patents

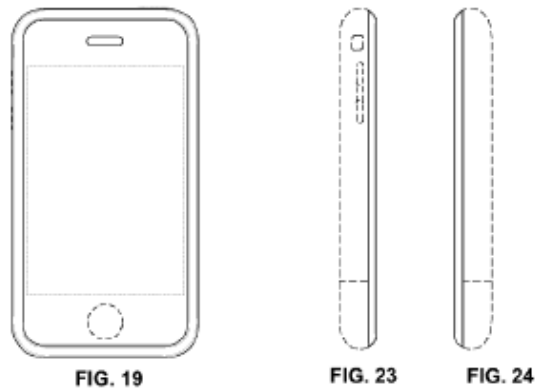
Apple's Design Patents

All of the design patents at issue relate to the iPhone® and were summarized by the Court as follows (slip op. at 18-19):

The D'677 patent focuses on design elements on the front face of the iPhone:



The D'087 patent claims another set of design features that extend to the bezel of the iPhone:



The D'305 patent claims “the ornamental design for a graphical user interface for a display screen or portion thereof” as shown in the following drawing:



FIG. 1

Design Patent Damages Statute 35 USC § 289 Withstands Challenge

The most widely anticipated question was whether the Court would accept the arguments by Samsung and amici, including 27 law professors, attacking the design patent damages statute, 35 U.S.C. § 289. Section 289 allows a design patent owner to claim as damages an infringer’s entire profits on an infringing article. Samsung argued that damages for design patent infringement should have been apportioned to reflect that portion of the damages attributable to the design patent infringement. The Federal Circuit dispatched these arguments, stating that “[t]hose are policy arguments that should be directed to Congress. We are bound by what the statute says, irrespective of policy arguments that may be made against it.” Slip op. at 27, fn.1. Since the language of the statute was clear, the Federal Circuit affirmed the damages award for infringement of Apple’s design patents, the damages amount being calculated based on Samsung’s total profits on the accused devices. See Slip op. at 27.

Whether a debate over the merits of Section 289 will continue in Congress remains to be seen.

Design Patent Functionality

Before summarizing the Court’s discussion, it is useful to recognize that functionality arises in two contexts in design patent law. See, e.g., Carani, “Design Patent Functionality: A Sensible Solution,” *Landslide*, V.7, No. 2 (Carani). The first issue is statutory functionality, namely, whether a design patent is invalid as “dictated solely by” function in which case it would not satisfy the ornamental requirement of 35 U.S.C. § 171. The second issue arises in the claim construction context where some courts have attempted to factor out functional elements of a design patent. The *Apple* decision addressed functionality in the claim construction context.

Samsung challenged the lower court’s claim construction and jury instructions for failing to exclude functional aspects of Apple’s design patents. Citing *Richardson v. Stanley Works, Inc.*, 597 F.3d 1288, 1294 (Fed. Cir. 2010), Samsung argued that any elements “dictated by their functional purpose” in the Apple designs should be ignored in their entirety. Slip op. at 20. For this reason, Samsung argued that features such as the rectangular form and rounded corners in the Apple design patents should be completely ignored.

The *Richardson* case had caused concern among many in the design patent community. For example, ignoring “functional” elements in a design could conceivably lead to absurd results such as a claim construction that eliminated every element of a design leaving nothing to compare to the prior art or an accused product. See, e.g., *Carani* at 26. Importantly, the Court clarified that *Richardson* “did not establish a rule to eliminate entire elements from the claim scope.” Slip op. at 20. Similarly, referring to *Lee v. Dayton-Hudson Corp.*, 838 F.2d 1186, 1188 (Fed. Cir. 1988), the Court stated that *Lee* “did not specify a rule ... to eliminate elements from the claim scope of a valid patent in analyzing infringement.” Slip op. at 21.

Although the Court’s opinion also included several statements that may benefit from further clarification, it appeared to confirm the general understanding that it is the “overall ornamental appearance” of the patented design that must be considered in an infringement analysis. Slip op. at 21-22.

II. Trade Dress

Apple’s Trade Dress

Apple’s registered and unregistered trade dresses were at issue in the appeal. The unregistered trade dresses related to the iPhone® 3G and 3GS and were asserted as (slip op. at 9):

a rectangular product with four evenly rounded corners;
a flat, clear surface covering the front of the product;
a display screen under the clear surface;
substantial black borders above and below the display screen and narrower black borders on either side of the screen; and
when the device is on, a row of small dots on the display screen, a matrix of colorful square icons with evenly rounded corners within the display screen, and an unchanging bottom dock of colorful square icons with evenly rounded corners set off from the display’s other icons.

The registered trade dress was described as relating to each of the 16 icons on the iPhone®’s home screen as follows (slip op. at 15):

The first icon depicts the letters “SMS” in green inside a white speech bubble on a green background;
...
the seventh icon depicts a map with yellow and orange roads, a pin with a red head, and a red and-blue road sign with the numeral “280” in white;
...
the sixteenth icon depicts the distinctive configuration of applicant’s media player device in white over an orange background.

Functionality Sinks Apple’s Trade Dresses

The Federal Circuit began its discussion by pointing out that the Ninth Circuit sets a high bar for finding a product configuration trade dress nonfunctional. See Slip op. at 6-9. The Court pointed to the four factor test in *Disc Golf Ass'n v. Champion Discs, Inc.*, 158 F.3d 1002, 1007 (9th Cir. 1998) of (1) whether the design yields a utilitarian advantage, (2) whether alternative designs are available, (3) whether advertising touts the utilitarian advantages of the design, and (4) whether the particular design results from a comparatively simple or inexpensive method of manufacture. See Slip op. at 10.

In analyzing utilitarian advantage, the Court repeated the demanding Ninth Circuit test that the unregistered trade dress “serves no purpose other than identification.” Slip op. at 10, citing *Disc Golf*, 158 F.3d at 1007. The Court found that features in Apple’s unregistered trade dress made the product easy to use, improved pocketability, durability, and had other functional benefits. See Slip op. at 11. Consequently, the Court found Apple’s unregistered trade dress had utilitarian advantage.

The Court next stated an alternative design must have “exactly the same” features as the asserted design to be nonfunctional. It found no evidence of any products with exactly the same features. See Slip op. at 12. The Court further found that Apple’s advertising touted benefits of the user interface (see Slip op. at 13) and that Apple offered no evidence that its design was not relatively simple or inexpensive to manufacture. See Slip Op. at 14. For all of these reasons, the Court found no substantial evidence in the record to support Apple’s assertion that its trade dress was not functional and therefore Apple’s trade dress was not protectable.

In addressing the registered trade dresses, the Court again found all of the icons in the trade dress to be functional and not protectable. See Slip op. at 17.

Tags: [Apple](#), [CAFC](#), [Design Patents](#), [Federal Circuit](#), [Samsung](#), [Trade Dress](#), [Filings and Decisions](#)

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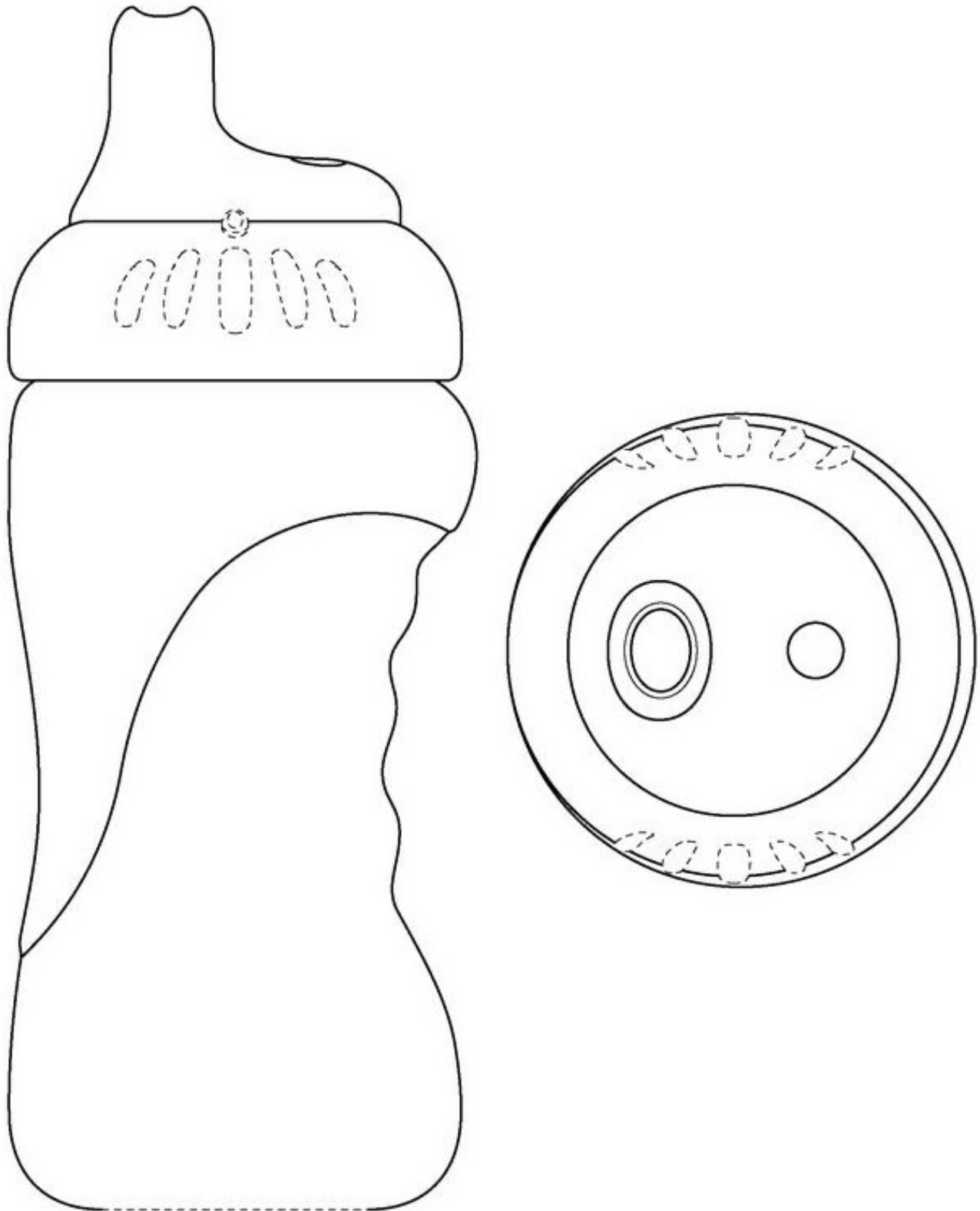


PROTECTING DESIGNS

Munchkin v. Luv N'Care – CAFC Affirms PTAB

BY COLIN B. HARRIS | APRIL 16, 2015

On April 14, 2015, the U.S. Court of Appeals for the Federal Circuit ("CAFC") affirmed the Patent Trial and Appeal Board's decision that Luv N' Care's U.S. Patent Number [D617,465](#) ("the '465 patent") was unpatentable. The PTAB's decision was the first inter partes review initiated by the USPTO for a design patent. The CAFC issued a Rule 36 judgment that affirmed this decision without opinion. For reference, Figures 2 and 3 from the '465 patent are provided below.



As we previously [reported](#), the PTAB found that the '465 patent had certain differences from a prior application and thus was unable to benefit from the filing date of the prior application. The PTAB's written decision noted that counsel for Luv N' Care conceded that the claim was not patentable if denied the benefit of the filing date of the prior application.

Tags: [CAFC](#), [Design Patents](#), [District Court](#), [Federal Circuit](#), [PTAB](#), [Post-grant Review](#), [Filings and Decisions](#)

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PROTECTING DESIGNS

USPTO Publishes Final Rule on Changes to Implement the Hague Agreement Concerning Industrial Designs

BY DAVID. M. LONGO, PH.D. | APRIL 2, 2015

On April 2, 2015, the U.S. Patent and Trademark Office ("USPTO") published its Final Rule on Changes to Implement the Hague Agreement Concerning the International Registration of Industrial Designs ("Hague Agreement"). [80 F.R. 63, pp. 17918-17971](#). These changes go into effect on May 13, 2015. Some of the changes only apply to patent applications filed on or after September 16, 2012 (e.g., power of attorney, application by assignee, inventor's oath/declaration, and application data sheet). Other changes only apply to patent applications filed on or after December 18, 2013 (e.g., continuing applications and filing of a certified copy of a previously-filed application).

As previously reported in this blog ([here](#), and [here](#)), the Hague Agreement basically establishes an international registration system that facilitates protection of industrial designs (i.e., design patents) in member countries and intergovernmental organizations ("Contracting Parties") by way of a single, "standardized," international design application filed either directly with the International Bureau of WIPO or indirectly through an applicant's Contracting Party (which now includes the USPTO).

Specifically, the Final Rule addresses these eight main changes to U.S. practice:

1. Standardizing formal requirements for international design applications;
2. Establishing the USPTO as an office through which international design applications may be filed;
3. Providing a right of priority with respect to international design applications;
4. Treating an international design application that designates the United States as having the same effect from its filing date as that of a national design application;
5. Providing provisional rights for published international design applications that designate the United States;
6. Setting the patent term to 15 years from the date of patent grant, for design patents issuing from both U.S. national design applications and international design applications designating the United States;
7. Providing for USPTO-based examination of international design applications that designate the United States; and
8. Permitting an applicant's failure to act within prescribed time limits in an international design application to be excused as to the United States under certain conditions.

Also worth noting:

- Pursuant to Article 10(5) of the Hague Agreement, the USPTO will "keep international design registrations confidential until publication of the international registration by the International Bureau. This provision does not alter the Office's long-standing practice to make application files available to the public to satisfy the constitutionally mandated quid pro quo requiring public disclosure of patented inventions."
- Rule 1.84(a)(2) is amended to "eliminate the requirement for a petition and fee set forth in § 1.17(h) to accept color drawings or photographs in design applications."

- Rule 1.109 is amended “such that its definition of ‘effective filing date’ is no longer restricted only to first inventor to file applications, but applies regardless of whether an application is a first to invent or a first inventor to file application.”
- Rule 1.155 is amended “to provide for expedited examination of an international design application that designates the United States” provided that “the international design application must have been published pursuant to Hague Agreement Article 10(3).”
- New Rule 1.1011(a) “specifies that only persons who are nationals of the United States or who have a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the territory of the United States may file international design applications through the [USPTO].”
- An international design application that designates the U.S. must contain a claim in order to be entitled to a filing date in the U.S. If such an application does not contain a claim, “the International Bureau will invite the applicant to submit the claim within a prescribed time limit and will accord a date of international registration as of the date of receipt of the claim (assuming there are no other filing date defects).”
- New Rule 1.1028 is added to “make clear that an international design application may contain a request for deferment of publication, provided the application does not designate the United States or any other Contracting Party that does not permit deferment of publication.”
- New Rule 1.1052 is added to “set forth a procedure for converting an international design application designating the United States to a [U.S.] design application.”
- The Final Rule does not provide for the filing of a continued prosecution application (“CPA”) in an international design application.
- “An international design application designating the United States has the effect of a U.S. patent application and thus is subject to § 1.56 [the duty of disclosure].”
- “International design applications designating the United States are subject to the same substantive conditions for patentability as regular U.S. applications, including the written description requirement under 35 U.S.C. 112(a).”

Additional details will be discussed in future posts.

Tags: [Design Patents](#), [Geneva Act](#), [Hague Agreement](#), [USPTO](#), [International and Non-U.S. Design Law and Practice](#)

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PROTECTING DESIGNS

Ford Global Technologies LLC Files Complaint for Design Patent Infringement Against United Commerce Centers, Inc.

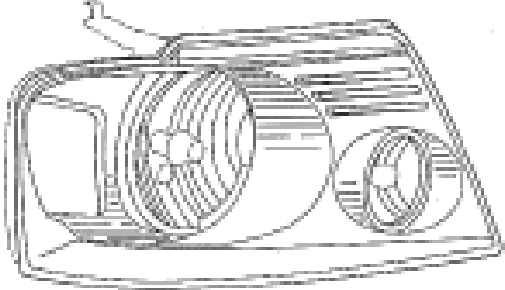

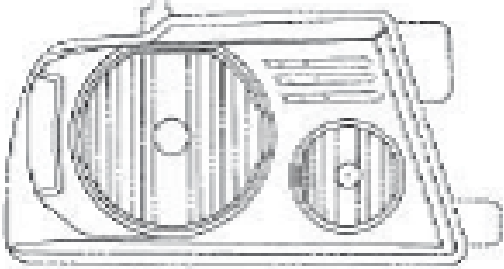

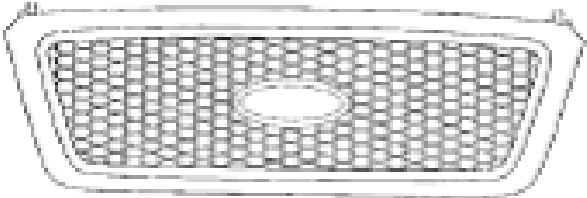



BY JEREMY BARTON | JANUARY 31, 2015

On January 29, 2015, Ford Global Technologies LLC (“FGTL”) filed a [complaint](#) in the Eastern District of Michigan (2-15-cv-10394) against United Commerce Centers, Inc. (“UCC”), which FGTL believes is doing business as New World International, alleging design patent infringement of the following U.S. Design Patents, which are attributed to the 2004 Ford F-150 and the 2005 Ford Mustang. The pictures below are provided in the complaint.

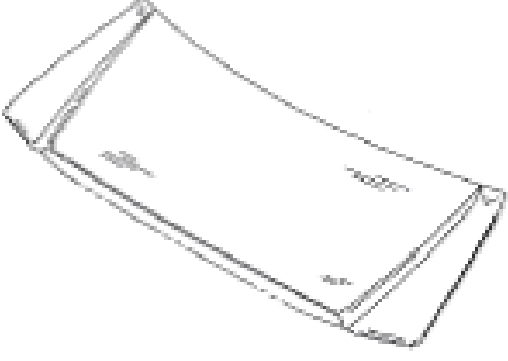
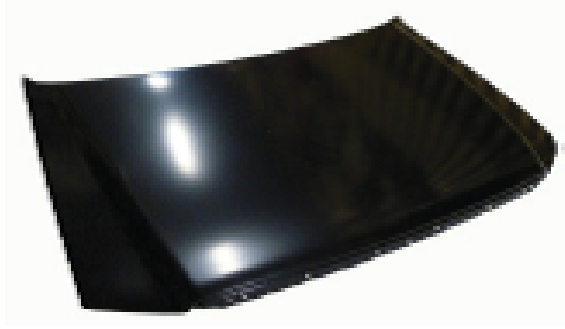
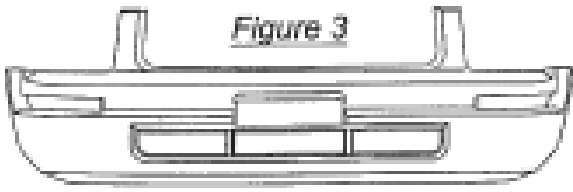
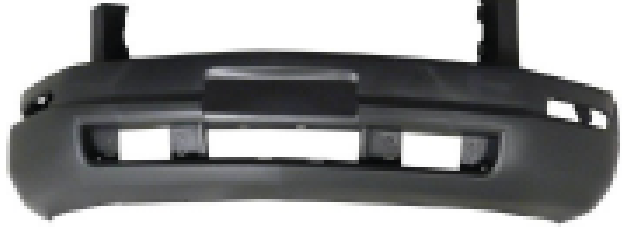
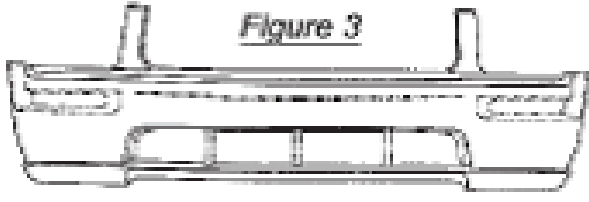
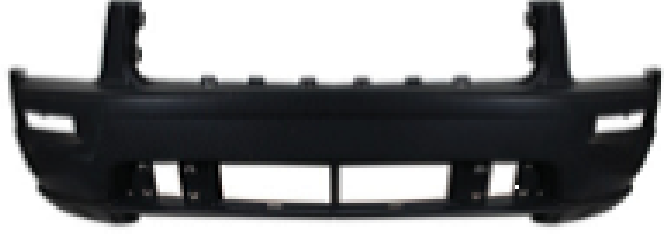
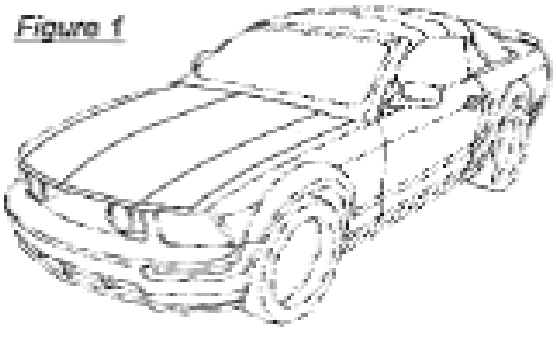



U.S. Patent No.	Title	Ford Vehicle
D493,552	Vehicle Headlamp	2004 F-150
D501,685	Vehicle Headlamp	2004 F-150
D496,890	Vehicle Grill	2004 F-150
D489,299	Exterior of Vehicle Hood	2004 F-150
D493,753	Exterior of Vehicle Hood	2004 F-150
D498,444	Front Bumper Fascia	2005 Mustang
D501,162	Front Bumper Fascia	2005 Mustang
D510,551	Hood	2005 Mustang
D539,448	Vehicle Taillamp	2005 Mustang

FGTL's complaint alleges UCC is a distributor and marketer of aftermarket automotive parts and accessories, and has sold aftermarket parts for the Ford 2004 F-150 and Ford 2005 Mustang. Ford alleges that UCC operates at least four active websites offering for sale aftermarket automotive parts, including autobodycarparts.com, autobodypartsnow.com, Quality-Parts.com, QWuality-Parts.us, and auto_lighthouse eBay and Amazon online stores. FGTL alleges that UCC has infringed, continues to infringe, and has actively induce others to infringe, and contributorially infringe FGTL's design patents. FGTL's complaint provides the following comparisons between the design patents and products allegedly sold by UCC.

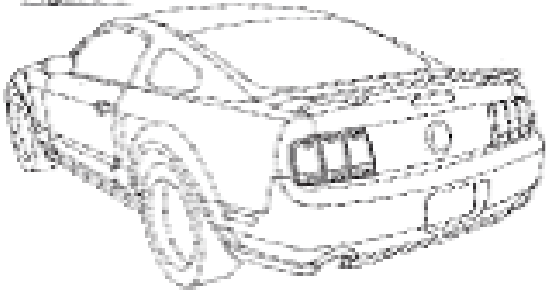
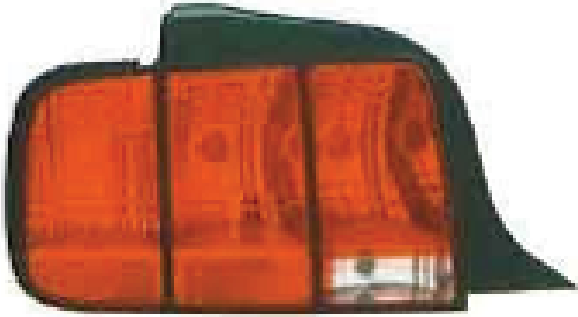
<p>'552 Patent, Figure 1</p>	<p>Defendants' Headlamp</p>
 <p><i>Figure 1</i></p>	
<p>'685 Patent, Figure 2</p>	<p>Defendants' Headlamp</p>
	
<p>'890 Patent, Figure 2</p>	<p>Defendants' Grille</p>
 <p><i>Figure 2</i></p>	
<p>'299 Patent, Figure 1</p>	<p>Defendants' Hood</p>
	

In the complaint, FGTL seeks a finding of willful infringement, a preliminary and permanent injunction enjoining UCC from

<p>'753 Patent, Figure 1</p> 	<p>Defendants' Hood</p> 
<p>'444 Patent, Figure 3</p> 	<p>Defendants' Bumper Fascia</p> 
<p>'162 Patent, Figure 3</p> 	<p>Defendants' Bumper Fascia</p> 
<p>'551 Patent, Figure 1</p> 	<p>Defendants' Hood</p> 

directly or indirectly infringing any of FGTL's nine design patents. FGTL also seeks damages against UCC to adequately compensate FGTL for the infringement of the nine design patents. FGTL also alleges that the UCC infringement has been deliberate and willful, and that the damages should be trebled. FGTL declares that this is an exceptional case and requests an award of attorneys' fee, disbursements, costs of the action, and an award of interests and costs.

Complaint, Design Patents, District Court, Injunction, Patent Infringement, Filings and Decisions

'448 Patent, Figure 1	Defendants' Tail Lamp
<p data-bbox="152 155 261 187"><i>Figure 1</i></p> 	

Tags:



PROTECTING DESIGNS

Riddell Sues Rawlings for Infringement of Design Patent Directed to Sports Helmet

BY COLIN B. HARRIS | JANUARY 8, 2015

Riddell, Inc. ("Riddell") filed a complaint against Rawlings Sporting Goods Company, Inc. ("Rawlings") in the Northern District of Illinois alleging infringement of various patents related to sports equipment, including U.S. Pat. No. [D603,100](#) to a Sports Helmet. Figures from the patent are provided below.

FIG. 1

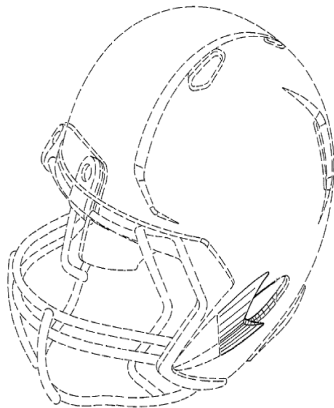
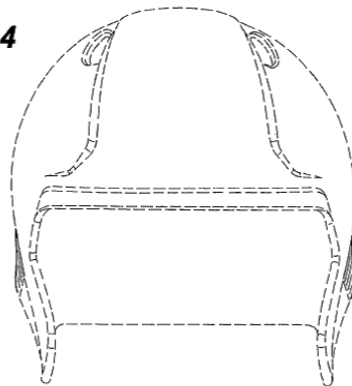


FIG. 4



The [complaint](#) alleges that the claimed design is infringed by Rawlings' sports helmets, including at least the Tachyon, Impulse, Quantum, Momentum, and Force model name football helmets and the baseball helmets identified with S100, S90, S80, and S70 series name.



Rawlings Quantum



Rawlings S90PA

The complaint did not include images of the allegedly infringing helmets. However, the Rawlings helmets above, which were found via an online search, appear to have the same names as those listed in the complaint.

Interestingly, the complaint alleges that Rawlings had knowledge of U.S. Pat. No. D603,100, for example, because it was cited on Rawlings' U.S. Pat. No. [D699,895](#).

Tags: [Complaint](#), [Design Patents](#), [District Court](#), [Patent Infringement](#), [Filings and Decisions](#)

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