



Training Academy Session # 39

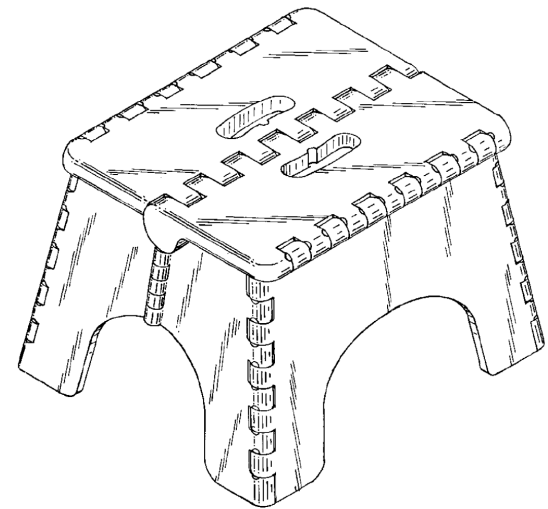
Design Patents: Strategies for Successful Filing, Acquisition, and Enforcement

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March 11, 2026

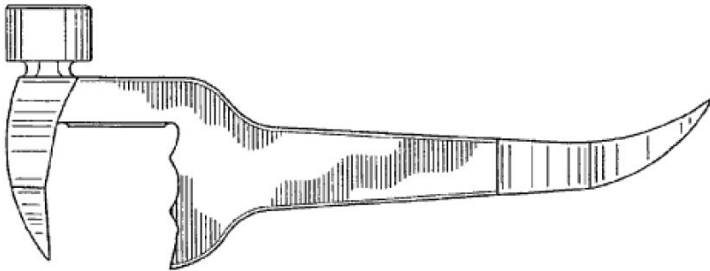
Design Patents

- Available for new and original **aesthetic/ornamental appearance** of an article of manufacture, not its function
 - Form over function
 - E.g.: Any “swivel-ability” of this stool does not matter; Only the overall appearance matters
- Change in appearance while performing the same function results in avoidance of design patent infringement
- Same appearance without performing the same function, results in design infringement



Design Patents

- Design Patents **cover appearance, not ideas or concepts**



- E.g., Same general idea/concept between patent design (left) and accused design (right), but no design patent infringement

(12) **United States Design Patent** (10) Patent No.: **US D1,087,677 S**
Akkad (45) Date of Patent: **** Aug. 12, 2025**

(54) **CHAIR**
(71) Applicant: **Idea Nuova, Inc., New York, NY (US)**
(72) Inventor: **Benjamin S. Akkad, New York, NY (US)**
(73) Assignee: **IDEA NUOVA, INC., New York, NY (US)**
(*) Notice: Patent file contains an affidavit/declaration under 37 CFR 1.130(b).
(**) Term: **15 Years**
(21) Appl. No.: **29/810,351**
(22) Filed: **Oct. 4, 2021**
(51) LOC (15) CL **06-01**
(52) U.S. CL
USPC **D6/716**
(58) Field of Classification Search
USPC D6/344, 347, 353, 364, 369, 385, 387, D6/595-601, 604, 606, 610-611
CPC .. A47C 4/00; A47C 4/28; A47C 7/021; A47C 16/005; A47G 9/00; A47G 9/10
See application file for complete search history.

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Urban Shop Velvet Tufted Sling Chair, first available May 12, 2022 [online], [retrieved Jan. 22, 2024], Retrieved from internet, https://www.amazon.com/Urban-Shop-Velvet-Tufted-Sling/dp/B0B16JN8HD/ref=dp_fod_scl_1/144-2757244-2967767 (Year: 2022).
(Continued)

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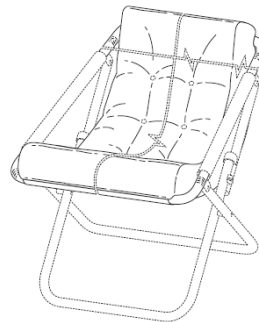
(57) **CLAIM**

The ornamental design for a chair as shown and described.

DESCRIPTION

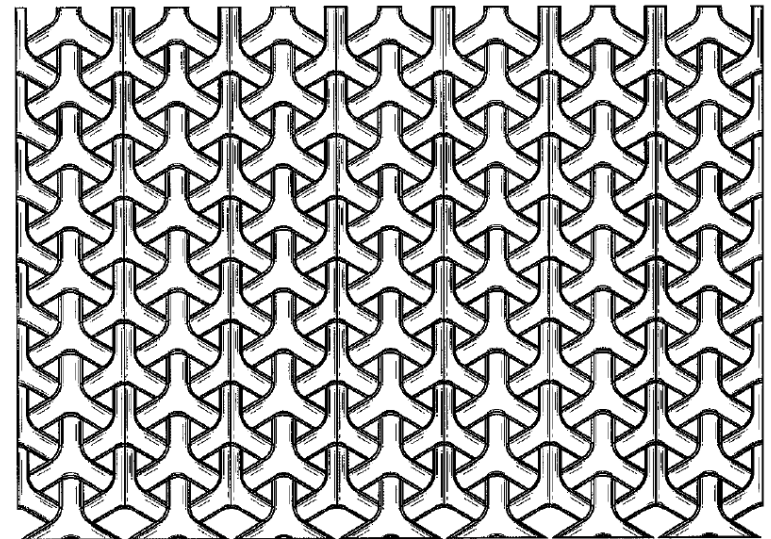
FIG. 1 is a top, front and left side perspective view of a chair, in accordance with my new design;
FIG. 2 is a front elevational view thereof; and,
FIG. 3 is a right side elevational view thereof.
The broken lines in the figures are for the purpose of showing portions of the chair that form no part of the claimed design. The chair is shown with symbolic breaks in its length and width. The appearance of any portion of the article between the symbolic break lines forms no part of the claimed design.

1 Claim, **3 Drawing Sheets**



What's in a Name?

- Scope of a design patent is defined by the Drawings *and also* Title/Claim
- 37 CFR 1.153 - Title, description and claim
 - (a) The title of the design must designate the particular article
- *Curver Luxembourg v. Home Expressions* (CAFC 2019)
 - Original Title/Claim:
FURNITURE (PART OF-)
 - The drawings showed only a design pattern (no particular furniture)
 - During examination, Examiner objected to the title for not designating an article to which the design is applied



Title/Claim

- *Curver Luxembourg v. Home Expressions* (CAFC 2019)
 - Amended Title/Claim:
PATTERN FOR A CHAIR
 - Accused Product: Basket
- CAFC: The claim language limited the scope of the design patent to a chair, and therefore the basket did not infringe



Title/Claim

- *Curver Luxembourg v. Home Expressions* (CAFC 2019)
 - CAFC: We hold that claim language can limit the scope of a design patent where the claim language supplies the only instance of an article of manufacture that appears nowhere in the figures
 - The Court was careful to limit its holding to cases where the claim recites an article that is not evident in the figures
 - Nevertheless, this case highlights the need for careful consideration of Title/Claim for their potential effect on claim scope
- Consider the potential outcome if Title/Claim had been broader
 - E.g.: Pattern for Furniture, Tabletop Products, Office Products, Home Products, and the like

Title/Claim

- *BMW v. Turbosquid*
 - In 2016, BMW sued 3D model marketplace TurboSquid for design patent infringement
 - One BMW design patent (shown right)
- Q: Does this design cover both the physical car and video or 3D model
- Title: Vehicle, toy, and/or replicas thereof

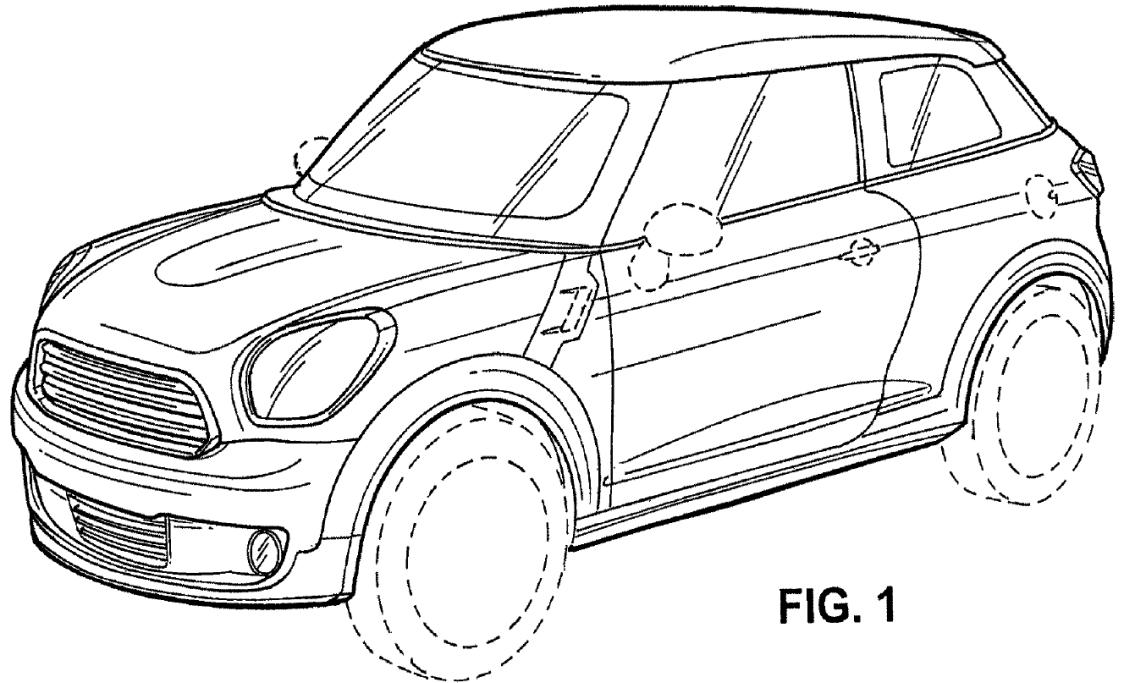
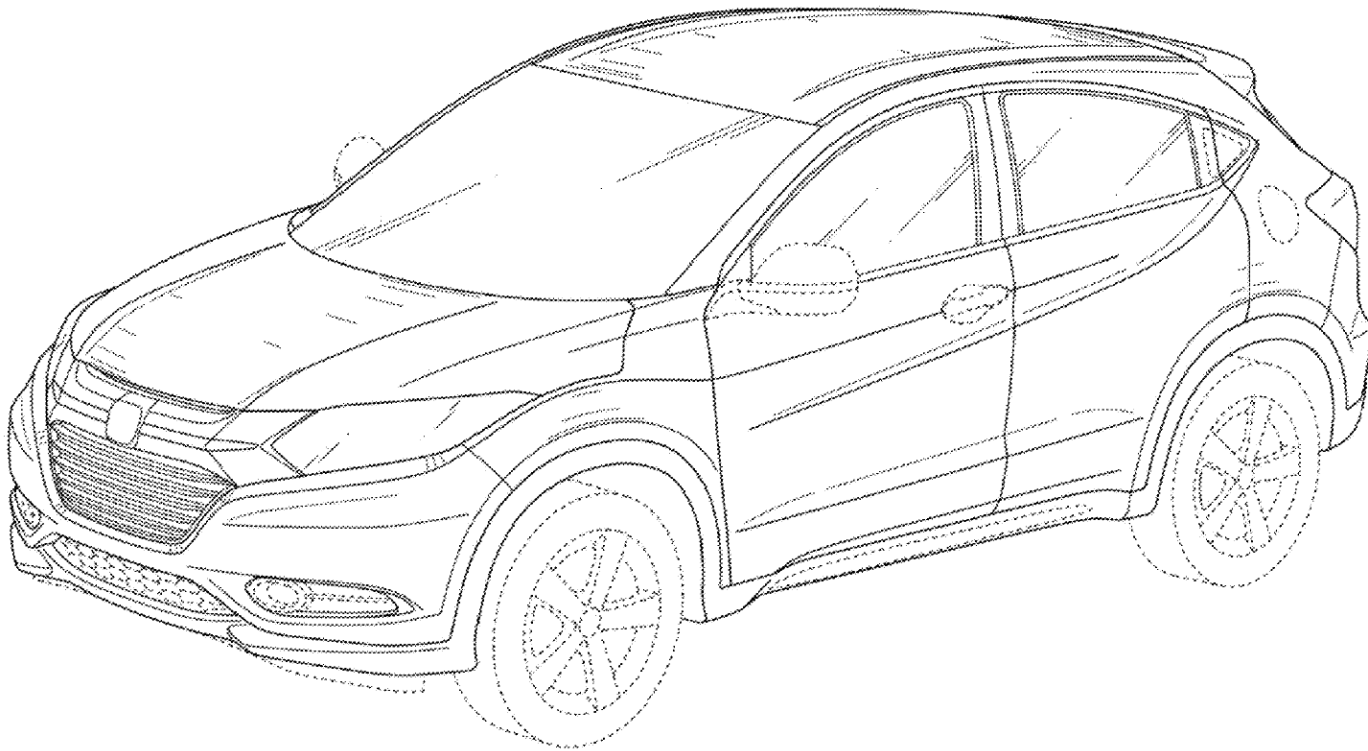


FIG. 1

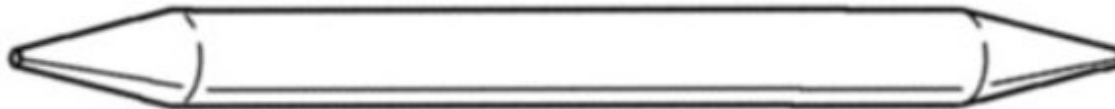
Title/Claim

- USD724493S1: Automobile, toy replica, and/or other replicas



Title/Claim

- *In re SurgiSil* – Title/Claim can also be used to limit analogous prior art
 - SurgiSil filed a design app on the ornamental design for a lip implant



- Patent Office (Examiner & affirmed by PTAB) rejected the claim over an art tool



- CAFC held that a design claim is limited to the article of manufacture identified in the claim
 - SurgiSil's claim is limited to lip implants and does not cover other articles, e.g., the art tool
 - By the same token, the claim cannot be anticipated by the art tool

Drawing(s)

- Drawings are Key
 - Enough view(s) to enable *the aspect of the ornamental appearance for which protection is sought*
 - Protection can be directed to parts/portions of an article
 - Broken lines show unclaimed elements, included for context
 - Typical views: perspective, top, bottom, left side, right side, front, rear
 - Line drawings preferred and most common
 - Other formats acceptable
 - Photographs
 - Computer-generated images

Drawing(s)

- Be careful to avoid unintended limitations
- *Think Green v. Medela AG*
 - Think Green - dba Haakaa
 - Haakaa's design patent D808,006 utilized computer-generated images
 - Court interpreted the design images indicate a choice of opaque surface material and could not cover a translucent object!



Fig. 9
D'006 figure 9



Medela Silicone Breast Milk Collector

The Fewer Drawings, the Better

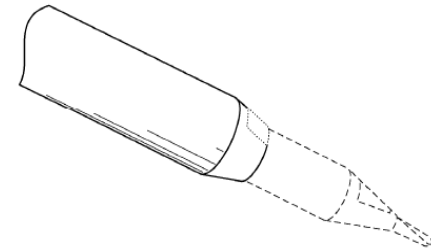
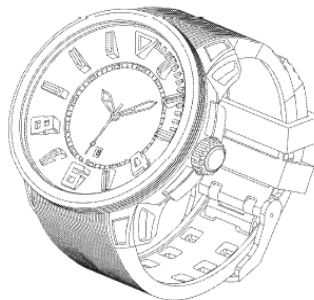
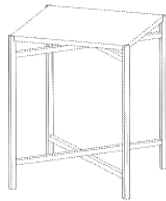
- A design patent's claim scope is the appearance of the article as **collectively** shown and described in the drawings
- For infringement, you compare the accused product to the overall claimed design, **informed by all the views**
 - More views usually disclose **more specific geometry**, i.e., additional ornamental aspects of the article, and, therefore, narrower claim scope
- MPEP 1504.04 – “[W]hen visible portions of the article embodying the design are not shown, it is because they form no part of the claim
- The Fewer Drawings, the broader the scope



The Fewer Drawings, the Better

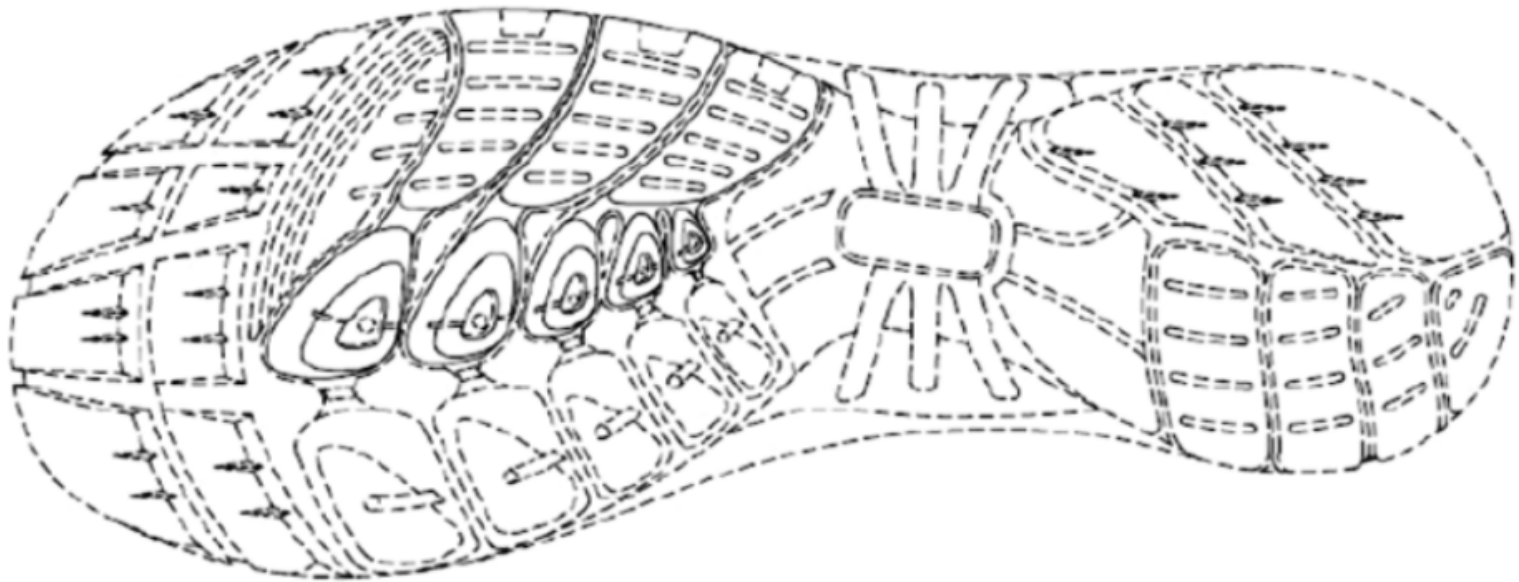
- Reduced/Single View Designs increasingly popular

(12) United States Design Patent Polidoros (10) Patent No.: US D693,161 S (45) Date of Patent: ** Nov. 12, 2013 (54) TABLE BASE (71) Applicant: HIS Global Design Pty. Ltd., Rowville (AU) (72) Inventor: Nicholas Polidoros, Mitcham (AU) (73) Assignee: HIS Global Design Pty. Ltd. (AU) (*) Notice: This patent is subject to a terminal disclaimer. (**) Term: 14 Years (21) Appl. No.: 29/461,203 (22) Filed: Jul. 19, 2013 Related U.S. Application Data (63) Continuation of application No. 29/457,257, filed on Jun. 7, 2013, which is a continuation of application No. 29/424,878, filed on Jun. 16, 2012, which is a continuation of application No. 12/377,096, filed on Feb. 10, 2009, now abandoned. (51) LOC (09) CL. D6-06 (52) U.S. CL. D6/708 (58) Field of Classification Search USPC D6/708 DESCRIPTION The sole FIGURE is a perspective view of a table base showing my new design. The broken lines illustrate environmental structure and form no part of the claimed design. The drawings include surface shading that represents contour and not surface ornamentation. These portions of the table base not shown in the sole FIGURE form no part of the claimed design. 1 Claim, 1 Drawing Sheet References Cited U.S. PATENT DOCUMENTS 587,219 A 7/1887 Maes D55,045 S 9/1901 Stuckley 1,930,004 A 12/1933 Koopman 1,963,594 A 6/1934 Schwabe	(12) United States Design Patent Ghielmini (10) Patent No.: US D716,670 S (45) Date of Patent: ** Nov. 4, 2014 (54) WRISTWATCH (75) Inventor: Gabriele Ghielmini, Lugano (CH) (73) Assignee: Tendence SA, Lugano (CH) (**) Term: 14 Years (21) Appl. No.: 29/400,836 (22) Filed: Sep. 1, 2011 Foreign Application Priority Data Mar. 15, 2011 (WO) DM/075 596 (51) LOC (10) CL. 10-02 (52) U.S. CL. D10/32 Field of Classification Search USPC D10/126, 30-39; 368/276, 281, 282; D11/3 See application file for complete search history. References Cited U.S. PATENT DOCUMENTS D67,598 S * 6/1925 Horvath D10/32 D195,421 S * 6/1963 Huguenin D10/39 3,475,902 A * 11/1969 Wend 368/10 3,901,023 A * 8/1975 Ledebardt 368/281 D240,026 S * 5/1976 Szalek D10/126 D240,408 S * 7/1976 Szalek D10/126 D295,838 S * 5/1988 Ando D10/32 D348,403 S * 7/1994 Sener D10/32 DESCRIPTION The sole view is a front and right side perspective view of a wristwatch showing my new design. 1 Claim, 1 Drawing Sheet References Cited U.S. PATENT DOCUMENTS 208,227 A 9/1878 Doer 972,983 A 10/1910 Arthur 1,328,624 A 1/1920 Graham 4,545,374 A 10/1985 Jacobson	(12) United States Design Patent Miles et al. (10) Patent No.: US D666,293 S (45) Date of Patent: ** Aug. 28, 2012 (54) DILATOR (75) Inventors: Patrick Miles, San Diego, CA (US); Scot Martinelli, Mountain Top, PA (US); Eric Finley, Poway, CA (US) (73) Assignee: NuVasive, Inc., San Diego, CA (US) (*) Notice: This patent is subject to a terminal disclaimer. (**) Term: 14 Years (21) Appl. No.: 29/411,651 (22) Filed: Jan. 24, 2012 Related U.S. Application Data (63) Continuation of application No. 29/360,369, filed on Apr. 23, 2010, now Pat. No. Des. 652,922, which is a continuation of application No. 12/428,081, filed on Apr. 22, 2009, now Pat. No. 7,935,051, which is a continuation of application No. 10/608,362, filed on Jun. 26, 2003, now Pat. No. 7,582,058. (51) LOC (09) CL. D24/135 (52) U.S. CL. D24/135 Field of Classification Search D24/112, 130, 133, 140, 147, 149; 600/200, 600/202, 184, 220-227, 201, 203, 210-218; 600/191-209, 201-202 See application file for complete search history. References Cited U.S. PATENT DOCUMENTS 4,573,448 A 3/1986 Kamlin 7030,461 S * 4/1988 Aso et al. 4,917,274 A * 4/1990 Aso et al. 5,087,002 A 4/1991 Wu 5,171,279 A 3/1994 Matthews 5,295,994 A 12/1992 Bonetti 5,313,417 A 5/1994 Wilk 5,331,975 A 7/1994 Bonetti 5,442,884 A 8/1994 Sugarbaker 5,578,241 A 1/1995 Haindl 5,395,317 A 3/1995 Kamlin D364,501 S * 11/1995 Gough D3/203.8 5,599,893 A 4/1996 Pracas 5,514,153 A 5/1996 Bonetti 5,599,279 A 2/1997 Stomata 5,707,359 A 1/1998 Bulantini 5,762,629 A 6/1998 Kamban 5,762,044 A 8/1998 Foley 5,814,073 A 9/1998 Bonetti (*) Notice: This patent is subject to a terminal disclaimer. (63) Continuation of application No. 29/360,369, filed on Apr. 23, 2010, now Pat. No. Des. 652,922, which is a continuation of application No. 12/428,081, filed on Apr. 22, 2009, now Pat. No. 7,935,051, which is a continuation of application No. 10/608,362, filed on Jun. 26, 2003, now Pat. No. 7,582,058. (51) LOC (09) CL. D24/135 (52) U.S. CL. D24/135 Field of Classification Search D24/112, 130, 133, 140, 147, 149; 600/200, 600/202, 184, 220-227, 201, 203, 210-218; 600/191-209, 201-202 See application file for complete search history. References Cited U.S. PATENT DOCUMENTS 208,227 A 9/1878 Doer 972,983 A 10/1910 Arthur 1,328,624 A 1/1920 Graham 4,545,374 A 10/1985 Jacobson 1 Claim, 1 Drawing Sheet
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The Fewer Drawings, the Better

- *In re Maatita* (Fed. Cir. 2018)
 - Examiner rejected the claim as indefinite, alleging the Applicant used a single, plan view drawing to disclose a three-dimensional design for a shoe bottom, which is not a two-dimensional object



The Fewer Drawings, the Better

- *In re Maatita* (Fed. Cir. 2018)
 - CAFC stated that “Maatita’s two-dimensional drawing clearly demonstrates the perspective from which the shoe bottom should be viewed”
 - A potential infringer is not left in doubt as to how to determine infringement
 - Therefore, “[b]ecause a designer of ordinary skill in the art, judging Maatita’s design as would an ordinary observer, could make comparisons for infringement purposes based on the provided, two-dimensional depiction, Maatita’s claim meets the statutory requirements”
- Agreeing on the necessary views may still become a point of contention with an Examiner
 - How to practically address?

Disclosure - ***Appendix***

- Vehicle to include additional drawings
 - Additional views of the claimed design and/or alternative embodiments of the design
- Adds depth to the disclosure
 - Enables more active prosecution
- Provides support for amending drawings during prosecution
- Provides flexibility/options for prospective related applications
- Strategically frame the scope of the application



PREAMBLE

[0001] BE IT KNOWN, that I/WE, [INVENTOR(S)], have invented a new, original and ornamental design for a [TITLE], of which the following is a specification, reference being made to the accompanying Figure(S) forming a part thereof. **The attached Appendix to the Specification is incorporated by reference herein in its entirety.**

APPENDIX TO THE SPECIFICATION

Attached hereto, and submitted herewith as part of the disclosure of this application, is an Appendix to the Specification, which includes additional drawings of the [Title].

Applicant reserves the right to claim any part, portion, element and/or combination of the Figure(s) of the specification and the drawings of the Appendix, including to replace any solid line with a broken line to disclaim any part, portion, element and/or combination thereof of the disclosed design, to replace any broken line with a solid line or to include or remove color. Applicant also reserves the right to supplement the Figure of the specification or add figures to the specification, relying upon the drawings of the Appendix.

Upon allowance, and if authorized by the Applicant, this Appendix will remain as part of the file but need not be printed as part of any patent that may issue.

Appendix

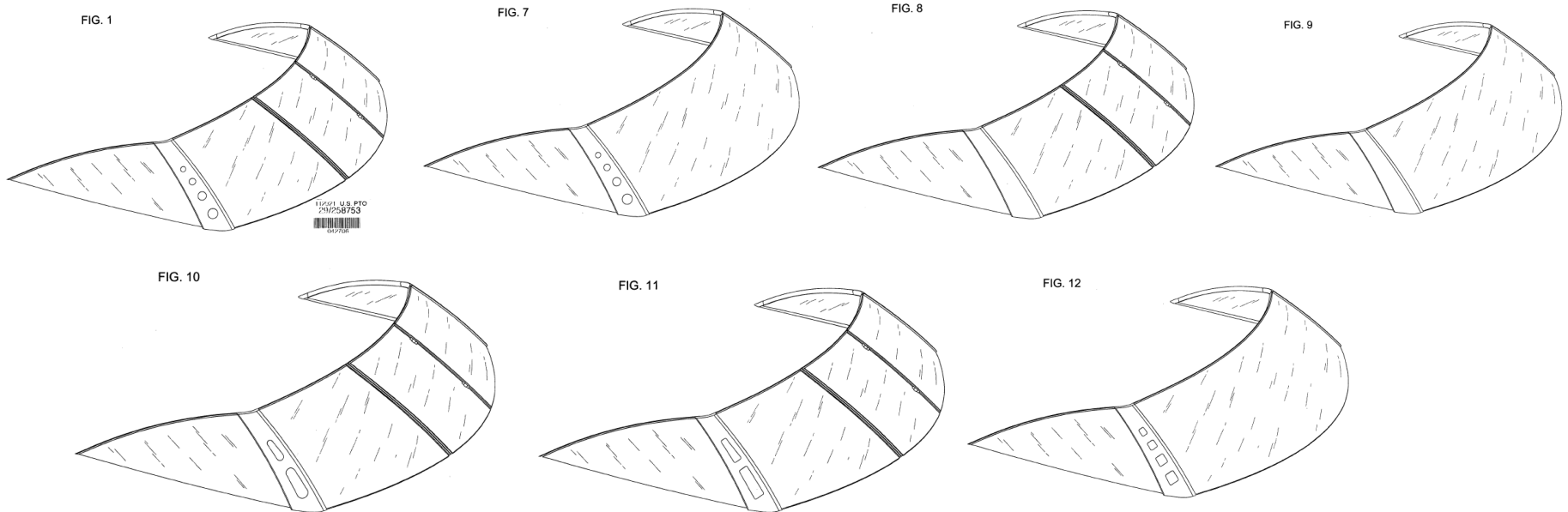
- Safety Net - Supplement reduced/single view(s) of drawing(s), by including additional views of the claimed design in the Appendix
 - Additional support beyond the filed design drawings in case “problems” arise during examination
- Provides more support for amending broken lines to solid lines or vice versa
- Can include alternate designs, which may be filed in CONs
 - Maintain Original Priority Date
- No extra USPTO fees

Multiple Embodiments?

- Pros
 - Lower upfront costs
 - Prospectively broader coverage if embodiments issue together in a single patent
- Cons
 - Restriction Requirements between embodiments are common
 - Non-elected embodiments not pursued in divisional application(s) are effectively surrendered claim scope
 - May be inadvertently handing competitors a design-around roadmap

Multiple Embodiments

- *Pacific Coast Marine Windshields Ltd. v. Malibu Boats, LLC. et. al.*
 - PCMW originally filed a single design application with multiple, slightly different embodiments

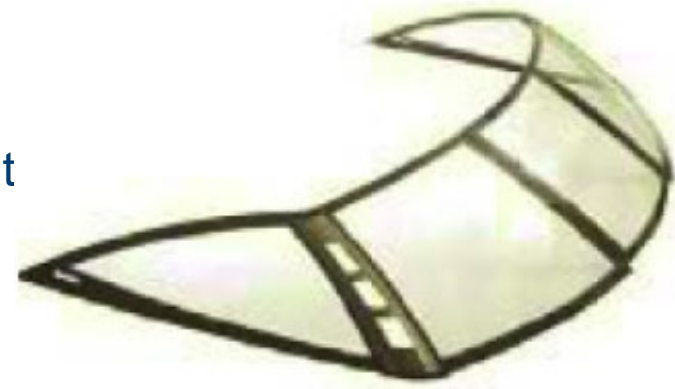
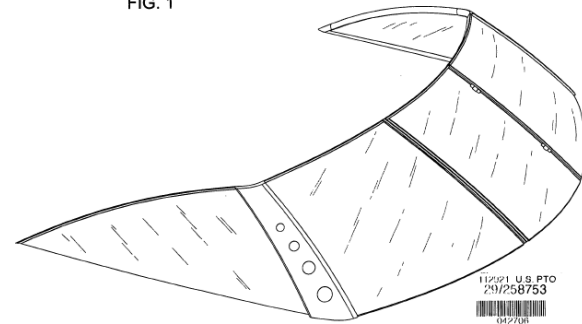


- USPTO issued a restriction requirement
 - Examiner considered certain embodiments *patentably distinct*

Multiple Embodiments

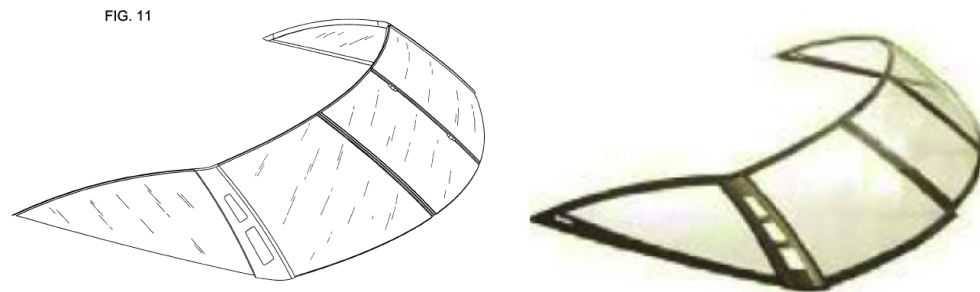
- *Pacific Coast Marine Windshields Ltd. v. Malibu Boats, LLC. et. al.*
 - PCMW elected embodiment of Fig. 1
 - Deleted others
 - Patent issued
 - PCMW filed one divisional application to one of the four unelected embodiments
 - Subsequently, PCMW sued Malibu Boats alleging infringement of their original patent

FIG. 1



Multiple Embodiments

- *Pacific Coast Marine Windshields Ltd. v. Malibu Boats, LLC. et. al.*
 - CAFC held that:
 - (i) cancelation of the non-elected embodiments was a surrender of those designs, i.e., the surrendered designs are not within the scope of the granted patent
 - (ii) a surrender resulting from a restriction requirement invokes prosecution history estoppel if the surrender is necessary to secure the patent
 - Ultimately, it was found that the accused design looked more like one of the non-elected embodiments than it did the patented embodiment
 - Non-infringing



Design Patent Term

- Term: 15 years from issuance
 - **No Maintenance Fees**
- A **continuation** design patent also has a term of **15 years from issuance**
 - Unlike utility patent continuations, even though it is a continuation, the term is not shortened by the age of the parent application
 - Think: Benefits of an Appendix
- Consider filing design continuations claiming the benefit of Utility applications

Practice Tips

- Think strategically about the Title/Claim
 - Balance between broader scope of protection and limiting prior art
- Preferable to use line drawings, but other formats acceptable if necessary
 - Be careful to avoid unintended limitations in scope
- The fewer drawings, the better
- Use an Appendix – no downside!
 - Fewer views are not permissible in certain foreign jurisdictions
 - Appendix may also assist with incorporating the additional views when needed
- Consider protecting multiple embodiments of varying scope in *parallel applications*, or initially include additional embodiments in an appendix and make use of continuation applications in view of design patent term
 - This avoids Restriction Requirements

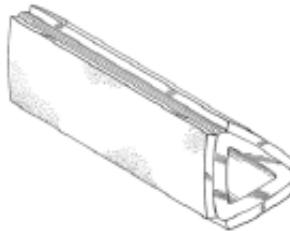
Enforcement – Design Patent Infringement

Pre-Sept. 2008 Design Patent Infringement Test

1. “the accused device is ‘substantially similar’ to the claimed design under what is referred to as the ‘ordinary observer’ test,” and
2. “the accused device contains ‘substantially the same points of novelty that distinguished the patented design from the prior art.’” *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 668.



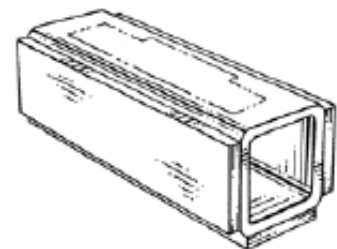
Falley Buffer Block



Nailco Patent



Swisa Buffer



'389 patent

Enforcement – Design Patent Infringement

Post-Sept. 2008, Design Patent infringement Test

- “the ‘point of novelty’ test should no longer be used in the analysis of a claim of design patent infringement.” *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 678.
- “the ‘ordinary observer’ test should be the sole test for determining whether a design patent has been infringed.” *Id.*
- The Ordinary Observer Test
 - Whether an ordinary observer, familiar with the prior art designs, would be deceived into believing that the accused design is the same as the patented design.

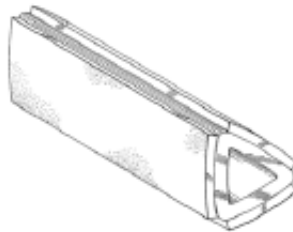
Enforcement – Design Patent Infringement

Practical Difference for Egyptian Goddess – NONE

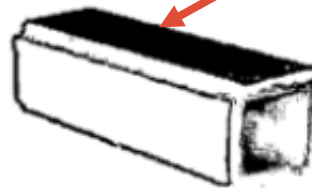
- Pre-2008 Test
 - The accused device does “not incorporate the ‘point of novelty’ of the ‘389 patent, which the court identified as ‘a fourth, bare side to the buffer.’” *Id.* @ 668.
- Post-2008 Test
 - “no reasonable fact-finder could find ... that an ordinary observer, taking into account the prior art, would believe the accused design to be the same as the patented design.” *Id.* @ 682.



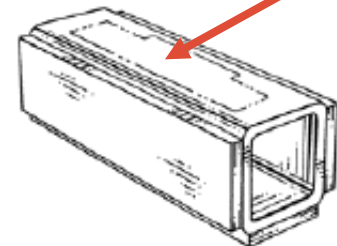
Falley Buffer Block



Nailco Patent



Swisa Buffer

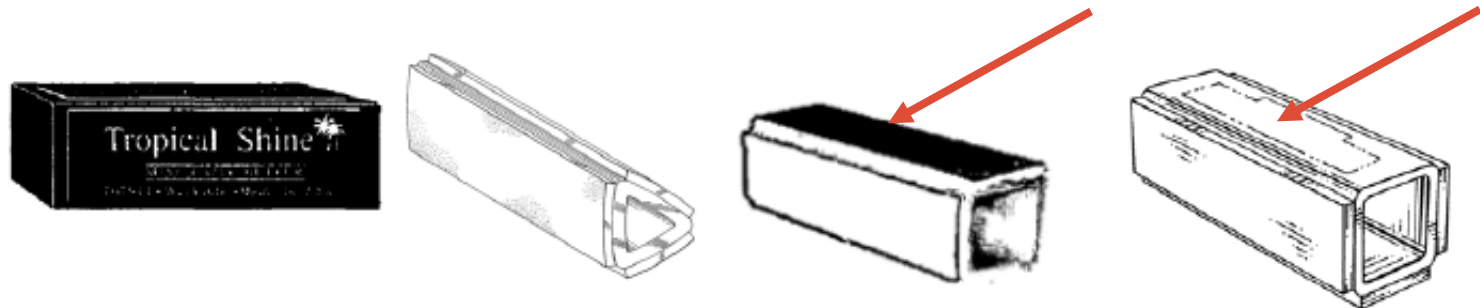


'389 patent

Enforcement – Design Patent Infringement

Egyptian Goddess 2-step Analysis

- “In some instances, the claimed design and the accused design will be sufficiently distinct that it will be clear without more that the patentee has not met its burden of proving the two designs would appear ‘substantially the same’ to the ordinary observer” and “[i]n other instances, when the claimed and accused designs are not plainly dissimilar, resolution of the question whether the ordinary observer would consider the two designs to be substantially the same will benefit from a comparison of the claimed and accused designs with the prior art” *Id.* @ 678.



Falley Buffer Block

Nailco Patent

Swisa Buffer

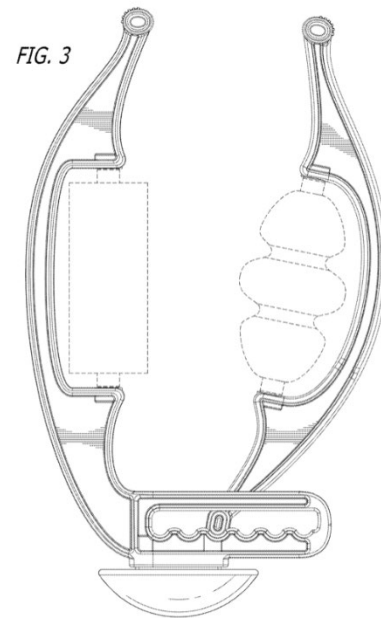
'389 patent

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - RoM accused the Armaid2 of infringing US D802,155 & Dist. Ct found Accused Device not substantially similar & not infringing



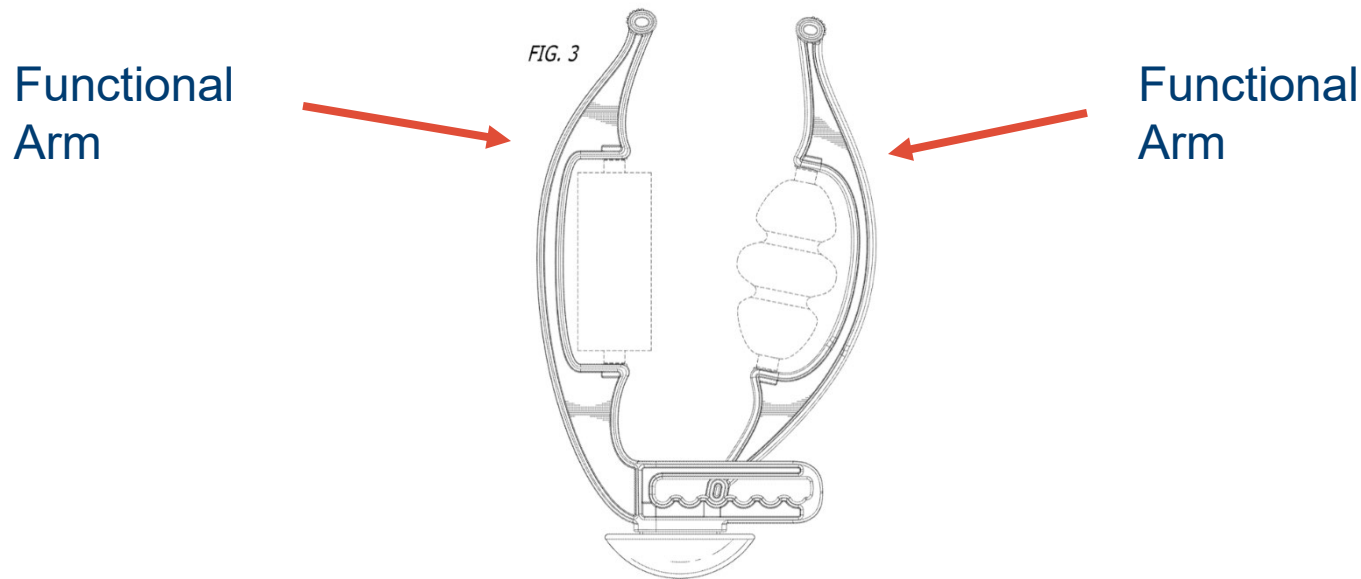
Accused Device



'155 Patent

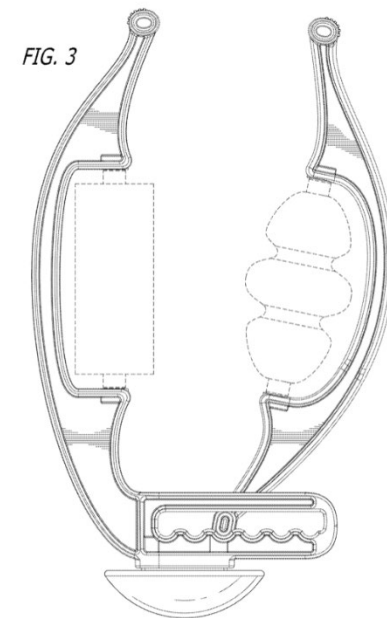
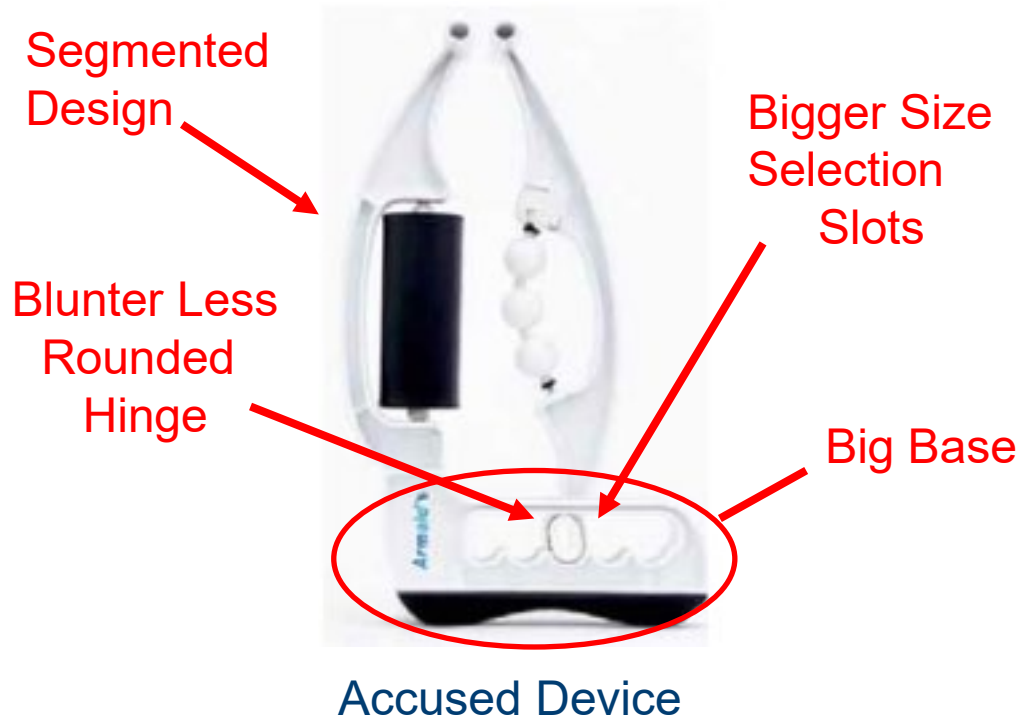
Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - ME District Court Determined in Claim Construction that many of the design features in the 155 patent are driven by function, including the clamshell shape of the arms, and the overall scope of the claim is narrow.



Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Dist. Ct determined the accused device and the narrow design protection of the '155 patent are plainly dissimilar.



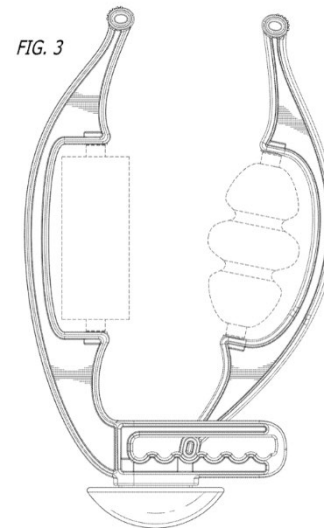
'155 Patent

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Fed. Cir. affirms asserting the designs share a broad design concept but most of the similarities are between functional features and the accused device is plainly dissimilar to the narrow protection of the '155 patent.



Accused Device



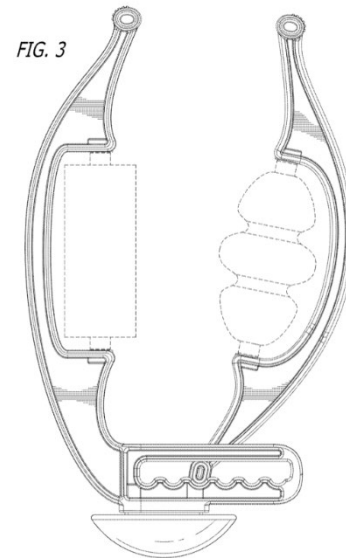
'155 Patent

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Strong Dissent from Chief Judge Moore – “I think the district court erred when it took this question away from the jury and granted summary judgment of noninfringement.”



Accused Device



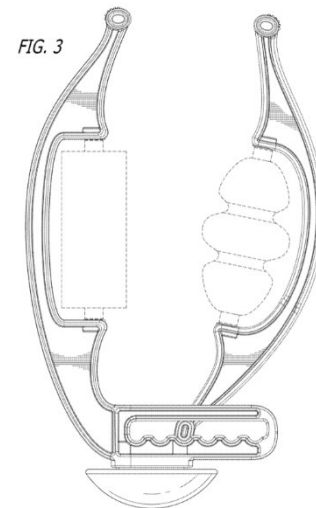
'155 Patent

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Dissent – “It is hard to imagine, looking at the two overall designs, that no reasonable purchaser of handheld massagers could ever find that the overall designs were substantially similar.”



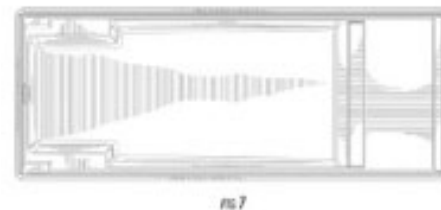
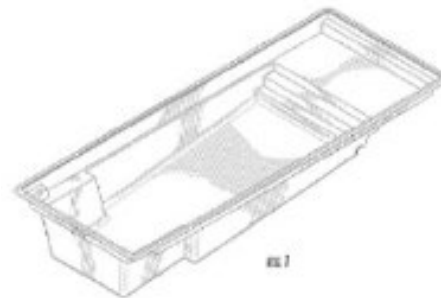
Accused Device



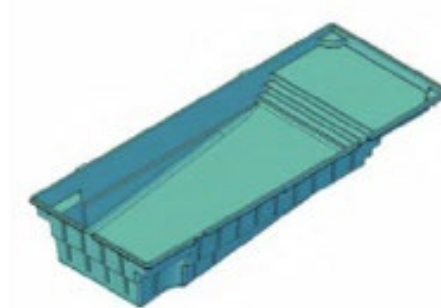
‘155 Patent

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Dissent – This result “is not an isolated incident but appears representative of a much broader trend.”
 - *North Star Tech v Latham Pool Prods.*:



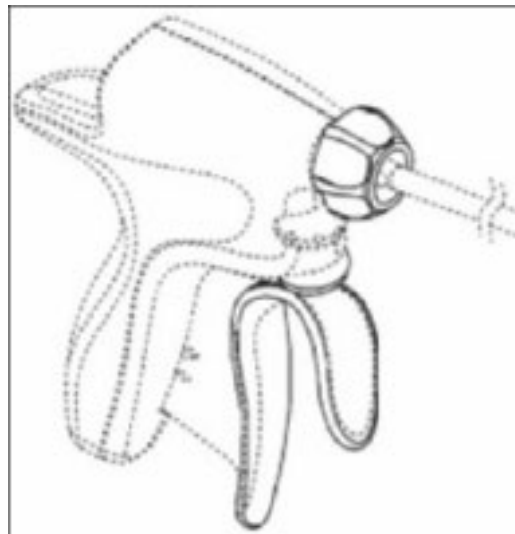
**D'966 patent, Fig. 1 and
Fig. 7**



**Latham's accused product,
the Corinthian 16**

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Dissent – This result “is not an isolated incident but appears representative of a much broader trend.”
 - *Ethicon Endo-Surgery v Covidien*:



D'804 patent, Fig. 1



Covidien's accused product

Enforcement – Design Patent Infringement

- *Range of Motion Prod. V Armaid Co.* – Feb. 2026
 - Dissent – “[T]he court was focused on differences in individual features rather than similarities in the overall designs. I think the legal frame of reference is askew and believe it infected the analysis. I dissent.”
 - “If I were on this jury, I would find the Armaid2 [Accused Device] is substantially similar in overall ornamental appearance to the D’155 patent taking into account the differences and similarities with the prior art” and would also find that the pool designs of North Star Tech and the surgical instrument of Ethicon are also substantially similar in overall appearance.

Defenses to Design Patent Infringement

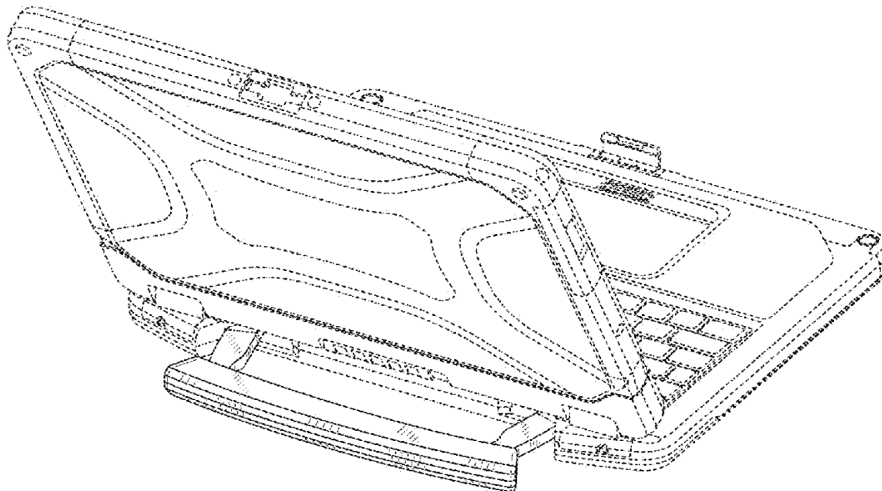
- Generally, the same types of defenses as to utility patents
- Noninfringement
- Invalidity
 - Anticipation: Ordinary Observer test
 - Obviousness: whether the claimed design would have been obvious to a designer of ordinary skill who designs articles of the type involved. Two steps:
 - (1) find a single reference that is “basically the same” as the claimed design (referred to as a Rosen reference)
 - (2) modify the Rosen reference with other references to create the “same overall visual appearance” as the claim
- Lack of ornamentality (35 USC 171) – purely functional
- PTAB proceedings (*Inter Partes* Review and Post Grant Review) are available for design patents

Design Patent Damages

- All utility-type damages available (reasonable royalty, lost profits, etc.)
- Disgorgement of profits (35 USC 289) – unique to design patents
 - Must apportion to the claimed “article of manufacture”
 - Statutory minimum of \$250
 - If design and utility patent are asserted, profits can (but not always) awarded in addition to utility patent damages
 - But beware: enhanced damages for willful infringement not available
 - Patent marking is still required
- Can disgorge all defendants in supply chain (*Bergstrom v. Sears, Roebuck & Co.*, 496 F. Supp. 476, 496 (D. Minn. 1980); *Red Carpet Studios v. Midwest Trading Grp., Inc.*, No. 1:12cv501, 2021 U.S. Dist. LEXIS 59168, at *16 n.6 (S.D. Ohio Mar. 29, 2021))

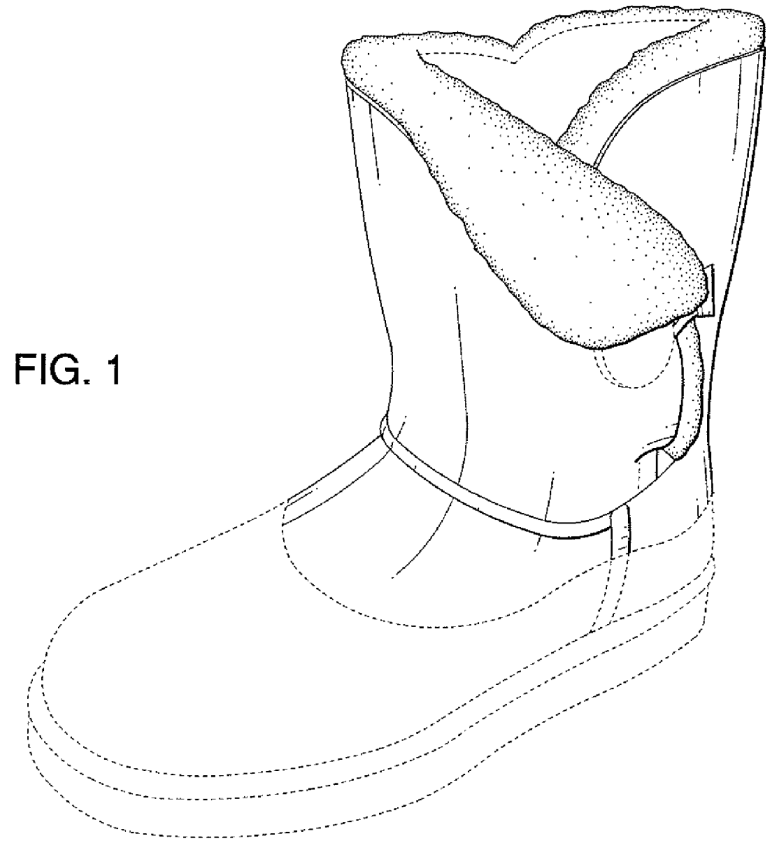
Examples of Damages

- *Apple v. Samsung* – after the retrial on damages, the jury awarded \$533M for design patent infringement and only \$5.3M for utility patent infringement
 - Vacated by Supreme Court, but shows that design patents have great potential where utility patents may not
- *Panasonic v. Getac* - \$17.5M for 3 design patents



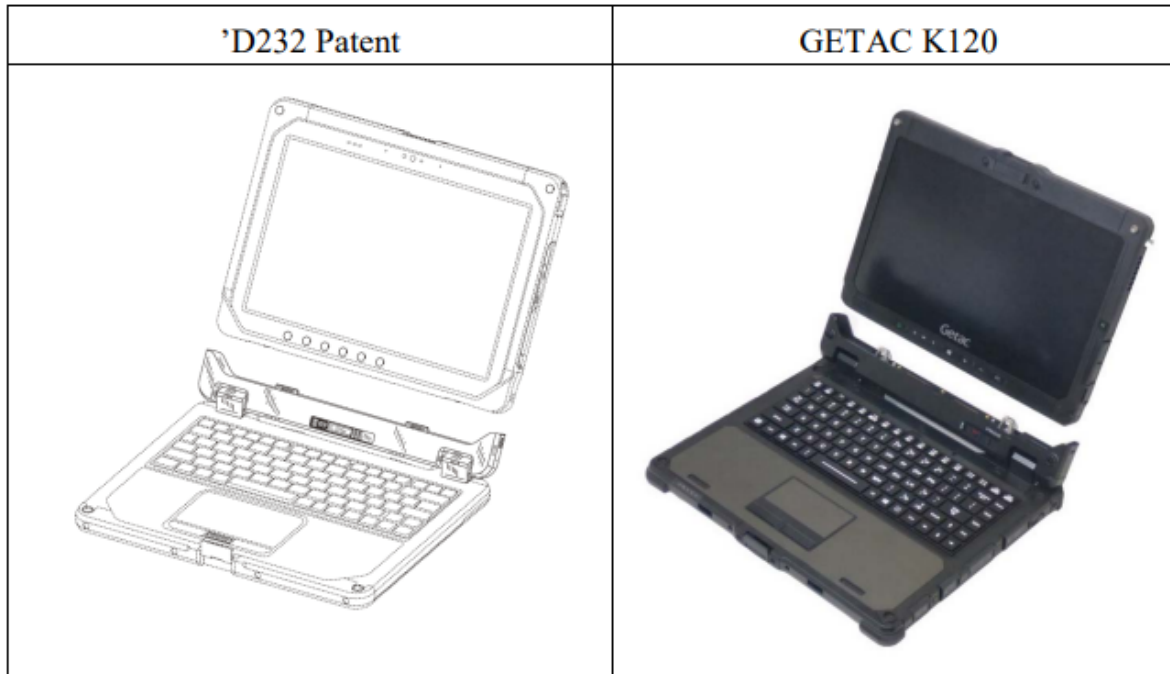
Examples of Damages

- *Decker v Romeo & Juliette* - \$5.25M for infringing 2 design patents
 - Note that only the upper portion of the boot is part of the claim



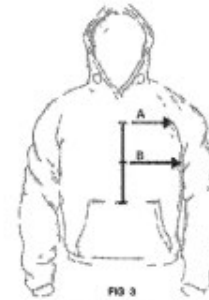
1. *Panasonic Holdings Corp. v. Getac Technology Corp., et al.* (C.D. Cal.) **\$17,515,616** (jury verdict; judgment entered)

- Design patents on Panasonic TOUGHBOOK detachable laptops; verdict included willfulness per Panasonic's description.



2. Cozy Comfort Co., LLC v. Top Brand LLC, et al. (D. Ariz.)

- **\$15.4 million** (jury award of disgorged profits)
- **Important later development:** the Federal Circuit opinion describing the \$15.4M award also reflects that the case proceeded on appeal and the infringement finding/award was ultimately reversed (so treat this as a “district-court award,” not necessarily the final outcome).



White, Fig. 3
(J.A. 15109
(annotations in
original))



D788 patent, Fig. 4
(J.A. 15109
(annotations in
original))



Accused product
(Appellants' Br. 40 (citing J.A. 17028)
(color alterations in original))

3. *Volkswagen Group of America, Inc., et al. v. Varona, et al.* (S.D. Fla.)

- **\$40,615.14** (design-patent damages under §289)
- The court's findings/conclusions expressly state §289 damages **“in the amount of \$40,615.14.”**

U.S. Design Patent D721,028 S	Infringing and Counterfeit Product
 Fig. 1	

4. *Apple Inc. v. Masimo Corp.* (D. Del.)

- **\$250** (jury award; statutory minimum)
- Reuters reports the jury found willful infringement of two Apple **design patents** (for earlier Masimo watch iterations) but awarded only **\$250** in damages.



Design Patent Remedies

- **Injunctive Relief (35 U.S.C. § 283)**
 - **Statutory Authority:** Federal courts “may grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent.”
 - **Preliminary Injunctions:** temporary court order issued before a final judgment to immediately stop an alleged infringer from selling, manufacturing, or distributing products that copy a patented design.
 - **Permanent Injunctions:** Awarded *after* a finding of infringement to permanently halt future infringing activity.

Preliminary Injunctions in Design Patent Cases

- To obtain a preliminary injunction, Plaintiff must establish:
 - (1) a substantial likelihood of success on the merits;
 - (2) that irreparable injury will be suffered if the relief is not granted;
 - (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and
 - (4) that the entry of the relief would serve the public interest.”

Yinbing Chen v. Individuals—Feb. 2026

Preliminary Injunctions in Design Patent Cases

Yinbing Chen v. Individuals—Feb. 2026

- Magistrate judge granted preliminary injunction because:
 - Defendants sold allegedly infringing griddle products on major e-commerce platforms;
 - failed to respond to design patent infringement lawsuit; and
 - plaintiff presented evidence of defendant's unauthorized use of patented griddle design through investigation of their online storefronts and product purchases
- Preliminary injunction included asset freeze based on strong likelihood of success and irreparable harm to patent holder's reputation and goodwill.

Permanent Injunctions in Design Patent Cases

Awarded *after* a finding of infringement to permanently halt future infringing activity, based on the **four-factor test** from *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006):

- Permanent injunctive relief is appropriate where a plaintiff demonstrates that:
 - (1) it has suffered irreparable injury;
 - (2) there is no adequate remedy at law;
 - (3) the balance of hardship favors an equitable remedy; and
 - (4) an issuance of an injunction would not disserve the public interest.

Permanent Injunctions in Design Patent Cases

Believe Pursue LLC v. Individuals—Dec. 2025

- The court awarded a permanent injunction prohibiting Defendant from using the design patent and selling infringing belts
- The Court found that Plaintiff established design patent infringement by Defendant's online sales operation, irreparable injury was presumed, damages alone were insufficient to stop ongoing infringement, Plaintiff stood to lose credibility and goodwill while Defendant faced no legitimate hardship, and the public interest supported preventing consumer confusion

Enforcement Practice Tips

- **Be Offensive, Not Just Defensive:** Treat your design patents as valuable offensive assets to protect market share and brand identity, not just as defensive shields.
- **A Multi-Pronged Approach Wins:** Analyze an infringing product for all possible IP violations. Asserting design patent rights alongside utility patent, trade dress, or copyright claims creates a formidable, multi-front challenge for a competitor.
- **Effective Enforcement is a Process:** Success relies on proactive monitoring, strategic communication, and leveraging the powerful remedies and damages available under U.S. patent law.

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