

Design Patent Basics

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Design patents are often a forgotten form of intellectual property despite the fact that they have been available to inventors and designers for over 150 years. A design patent protects a new and original ornamental design of a useful product. For example, a design patent can protect the shape of a bottle or the pattern on the bottom of a shoe or the ornamental design of a unique-looking bird house. Design patents can be incredibly valuable to a company since they protect “iconic” designs ranging from Apple’s iPhone graphics to the original glass Coca-Cola bottle.

Design patents are a cost-effective mechanism to add value to a company and combat copying of products. The typical cost for obtaining a design patent is anywhere from \$1,500 to \$3,000. For a company whose long-term goal is to sell its products or technology in the future, a collection of design patents can significantly increase the selling price. But the timeframe of that value is limited to the 14-year term of the design patent itself.

Requirements for patentability are that the design be new, original and ornamental. The design cannot be completely functional as there must be some significant aspect of the design not dictated by function alone.

Design Patent Application Tips:

General

Claim the broadest possible design and not just one embodiment of the design. Because the scope of the design patent claim is the drawings, the most important features of the design patent are the drawings. In order to broaden protection, think about filing more than one design patent applications, each covering a different aspect of the design. Or filing several design patent applications, each one covering a separate embodiment of a design.

Drawings

There is no limit on the number of views an applicant can include in a design patent application. The application should include as many views “as necessary” to fully disclose every novel feature of the invention. Depending on a number of variables such as disclaimed features, alternate positions, and number of embodiments, the number of views required may vary greatly. There is a standard number of views that is a good starting point. They are perspective view, front view, back view, top

view, bottom view, and side views (for example, left side view and right side view).

Shading

Proper use of shading is critical in design patent application drawings. The drawings should be provided with appropriate surface shading which shows clearly the character and contour of all surfaces of any three-dimensional aspects of the design. Surface shading is also necessary to distinguish between any open and solid areas of the design. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Lack of appropriate surface shading in the drawing as filed may result in a rejection of the application. Additionally, if the shape of the design is not evident from the disclosure as filed, addition of surface shading after filing may be viewed as new matter and not allowed. New matter is anything that is added to, or from, the claim, drawings or specification, that was neither shown nor suggested in the original application.

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