DESIGN PATENT LAW
380-001
FALL 2013

ADMINISTRATIVE

Professor Philippe Signore
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Class hours/Days of the Week: 6:00 pm – 7:50 pm Mondays, every other week (except classes 3 and 4 are back-to-back Mondays and Class 5 is on a Tuesday)

Classroom: Hazel Hall, Room 224

No Textbook. Material to be handed out or emailed in advance of class

EXPECTATIONS

**Attendance**: Unexcused repeated absences will lead to a downward adjustment.

**Reading Assignments**: Students are expected to read all of the assigned materials prior to class.

**Grading**: Course grades will be based on a final paper, due on the exam date listed on the course schedule. There will be no final exam, only a final paper. The final paper must be 10-15 pages, double spaced. Sample topics will be given during the first class, as well as a schedule for selecting a topic, preparing an outline, and bibliography.

**Class Participation**: Your grade may be adjusted upward or downward based on class participation. It is not just the quantity of participation but the professor’s assessment of the quality of the student's contribution to the class. Therefore, a student who speaks every class, but does not say anything particularly thoughtful may not get any added points for participation.

**Basic knowledge of patent law**: There is no prerequisite for this class. This class can provide a good introduction to patent law.

READING ASSIGNMENTS

**Class 1 (August 26): Introduction and overview**:

_L.A. Gear v. Thom McAn Shoe_, 988 F.2d 1117 (Fed. Cir. 1992)
Class 2 (September 9): Requirements for Design Patentability (one of three)

Statutes: 35 USC 171-173

Definition of an article of manufacture

- *In re Hruby*, 373 F.2d 997 (CCPA 1967)
- *In re Zahn*, 617 F.2d 261 (CCPA 1980)
- *Ex parte Strijland*, 26 USPQ2d 1259 (BPAI 1992)
- MPEP 1504.01(a) Computer-Generated Icons

Ornamentality

- *In re Carletti*, 328 F.2d 1020 (CCPA 1964)
- *In re Webb*, 916 F.2d 1553 (Fed. Cir. 1990)
- *Best Lock v. Ilco*, 94 F.3d 1563 (Fed. Cir. 1996)
- *Berry Sterling Corp. v. Pescor Plastic Inc.*, 122 F.3d 1452 (Fed. Cir. 1997)

Class 3 (September 23): Requirements for Design Patentability (two of three)

Novelty

- *In re Bartlett*, 300 F.2d 942 (CCPA 1962)

Statutory bars: 35 USC 102(b) and (d)

- *Ex parte Lancaster*, 151 USPQ 713 (Bd. App. 1965)
- MPEP 1504.02: Novelty

Prior Art under the America Invents Act (AIA)

Non-obviousness

- *In re Glavas*, 230 F.2d 447 (CCPA 1956)
- *In re Nalbandian*, 661 F.2d 1214 (CCPA 1981)
- *In re Rosen*, 673 F.2d 388 (CCPA 1982)
- MPEP 1504.04 Nonobviousness

Class 4 (September 30): Requirements for Design Patentability (three of three)

Priority, Sufficient Description

- *In re Daniel*, 144 F.3d 1452 (Fed. Cir. 1998)
- *In re Berkman*, 642 F.2d 427 (CCPA 1981)
- *In re Salmon*, 705 F.2d 1579 (Fed. Cir. 1983)

Single claim

- *In re Rubinfeld*, 270 F.2d 391 (CCPA 1959)

Double patenting

- *In re Dembiczkak*, 175 F.3d 994 (Fed. Cir. 1999)
MPEP 1504.05: Restriction; MPEP 1504.06: Double Patenting

Class 5 (October 15): Infringement of a Design Patent (one of two)

Paper topic is due

Ordinary Observer Test

Gorham Manufacturing v. White, 81 U.S. 511 (Sup. Ct. 1871)

The ordinary observer

Contessa Food Products, Inc. v. Conagra, Inc., 282 F3d 1370 (Fed. Cir. 2002)
Arminak v. Saint-Gobain, 501 F.3d 1314 (Fed. Cir. 2007)

Class 6 (October 28): Infringement of a Design Patent (two of two)

Paper outline is due

Defunct Point-of-Novelty Test


Claim construction

Crocks v. ITC (Fed. Cir., 2010)

Damages


Class 7 (November 11): Miscellaneous topics related to designs, Review

Paper bibliography is due

Patent Law Treaties Implementation (Geneva Act of the Hague Agreement)

Apple v. Samsung Litigation

Apple, Inc. v. Samsung Electronics Co., Ltd., 678 F.3d 1314 (Fed. Cir. 2012)
Apple, Inc. v. Samsung Electronics Co., Ltd., Order Denying Motion for Permanent Injunction, Case No.: 11-CV-01846 (N.D. Cal. 2012)