

Introduction

Intellectual property plays an important role in maintaining a competitive edge in rapidly evolving consumer product and consumer packaged goods markets. Consumers expect ongoing product improvements, and savvy companies recognize that protecting innovative products, packaging, and related services and user experiences are essential to achieving business objectives in a crowded marketplace.

This quarterly Sterne Kessler newsletter will provide the latest best practices, news, links, tips, trends, and more – "the goods" – on what's happening at the intersection of consumer products and intellectual property.

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[Patent Office Litigation, 2nd Edition We Wrote the Book -- Again!](#)

Apple v. Samsung: What Does it Really Mean for Consumer Product Companies?

By: [Tracy G. Durkin](#)

In 2011, Apple sued Samsung in the U.S. District Court for the Central District of California (*Apple Inc. v. Samsung Electronics Co., Ltd.*) alleging that several Samsung smartphones infringed utility and design patents owned by Apple.

The centerpiece of the case eventually became three design patents asserted by Apple, which claim portions of a smartphone design (the bezel and front face). The patents were found to be valid and infringed, and Samsung was eventually ordered to pay Apple \$399 million for the infringement.

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Why Design Patents Are Surviving Post-Grant Challenges

This article first appeared in Law360.

By: [Tracy-Gene G. Durkin](#) and [Pauline M. Pelletier](#)

As of January 2017, the institution rate for Patent Trial and Appeal Board trials involving design patents was 37 percent. That is significantly lower than every other technology area and makes design patents the only technology area with an institution rate below 50 percent.

Of instituted trials, design patent claims were upheld as patentable 14 percent of the time, which is higher than all other technology areas with the exception of biotech-pharma.

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Show and Tell: Successful Examiner Interview Strategies for Consumer Product Cases

By: [Mark W. Rygiel](#)

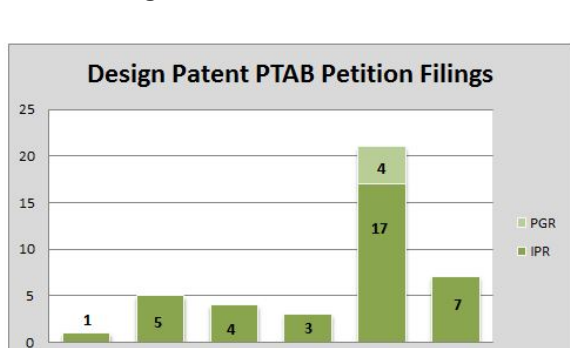
For consumer product companies, the Examiner interview has heightened importance and presents a unique opportunity for success. Because product lifespans are often brief and knockoffs find their way into the market quickly, a short path to allowance is critical. Given the tangibility of consumer products like apparel, hand tools, housewares, and everything in between, practitioners have the chance to provide hands-on instruction as to what makes a claimed product distinctive.

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Design Patent PTO Litigation Statistics (through February 1, 2017)

Although post-grant challenges of design patents have consistently made up a small percentage of the total number of patent challenges, these numbers have steadily increased to their highest level in 2017. The statistics below reveal the current trends on proceeding breakdowns, institution rates, and outcomes of design patent PTO litigation.

I. Proceeding Breakdown



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Events Calendar

A brief calendar of upcoming events happening at the intersection of consumer products and intellectual property:

Date	Event Name
05.03.17	Federal Circuit oral argument of Intercontinental Great Brands v. Kellogg North America Company , involving re-sealable cookie packaging patent.
05.11.17	'United States of Footwear' Executive Summit
06.05.17	USPTO Technology Centers 3600 and 3700 Customer Partnership Meeting

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