



# Protecting Designs Under Patent, Copyright and Trademarks Laws

An Online Continuing Education Course for Engineers

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# **Protecting Designs Under Patent, Copyright and Trademark law**

**For Professional Engineers in all Technical Disciplines**

**Professional Development Course Materials  
2.0 PDH credits**

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# TABLE OF CONTENTS

Introduction.....	4
What is product design?.....	5
Why is product design important?.....	5
Why protect product designs?.....	6
Design protection under Trademark Law.....	7
State unfair competition law may also protect product design.....	8
Protections of Vessel Hull designs under Copyright Law.....	9
Interplay of design patent with copyright and trademark.....	13
Design Patents.....	15
Free design patent searching.....	17
Statutory bars to patent protection.....	17
The Patent Prosecution Process – What to Expect.....	18
Cost of design patents.....	22
Foreign patent protection.....	22
Contrast with utility patent applications.....	22
Overview of the design patent process.....	22
Examples of subject matter that have been granted design protection.....	23
Drawings for design patents.....	25
Media.....	25
Type of paper.....	27
Numbering of sheets of drawings.....	28
Margins.....	29
Lines.....	30
Arrangement of views.....	31
Scale.....	31
Conclusion .....	32
Appendix	
Pertinent portions of Manual of Patent Examination Procedure	
Chapter 13 of the Copyright Law on Designs	
United States patent D 521,201 (issued May 16, 2006)	
United States patent D 521,106 (issued May 16, 2006)	

## **IN THIS PROFESSIONAL DEVELOPMENT COURSE, YOU WILL:**

1. Learn how protecting designs may play a role in protecting your company's intellectual property and market share.
2. Learn to identify potentially patentable designs
3. Learn about requirements for preparing the patent drawings for design patents
4. Learn about protection under the Copyright law for designs
5. Learn about the interplay of design patents with trademark and copyright law.
6. Learn how long trademark protection for product designs is available
7. Learn how long design patent protection lasts
8. Learn how long design protection under copyright law lasts
9. Learn about other protection that may be available for product designs
10. Learn about protection under Trademark law for product designs
11. Learn where to conduct free design patent searches
12. Learn about some examples of subject matter granted design patent protection by the USPTO
13. Learn about the design patent process, including costs

## INTRODUCTION

Engineers design many things. Think for a moment about the popularity of certain designs for watches, automobiles, cell phones, home products, and consumer electronics which prove that marketing potential is a valuable asset. An engineer's professional work product enjoys several forms of protection under copyright laws, trademark laws, patent laws and state unfair competition laws. The extent of protection, and the applicable laws that may provide protection, vary depending upon the nature of what is designed.

*Hardworking Company, Inc. invests significant resources in redesigning its water pump. Its successful line of water pumps has enjoyed a significant portion of the market share for more than a decade. This new design is more than just functional, it is esthetically pleasing. It combines clean design with a compelling color scheme. Preliminary sales results in the first month after product launch show that sales are up 40% over the monthly average of the previous year. Big Box Company reports that the new pumps are attracting customers. "They have a hi-tech look and feel." Hardworking Company, Inc wants to protect against competitors introducing a similar design that might be confusingly similar to customers.*

Design patents protect a product manufacturer from "copycat" products where inferior quality detracts from the design patent owner's reputation in the marketplace.

*"I have worked hard to develop a good reputation. Putting the products side by*

*side, consumers might be confused as to which is mine. They might buy my competitor's product thinking it is mine. I want to prevent copycat devices from usurping my market share."*

Design patents protect the overall appearance of an invention. Patent protection, in the form of a limited 14 year monopoly, may be granted for any new, original and ornamental design for an article of manufacture. Design patents will not protect the concept, just the appearance. Design patents are directed at protecting surface ornamentation, configuration of parts, shape of the article or a combination of these elements. Protection is granted for definite and reproducible designs with a pleasing aesthetic appearance that is not dictated by functional considerations.

We will be focusing our attention on non-functional design protection in this PDH course. However, it is worth reminding that novel, non-obvious functional designs may be afforded protection under Patent law with a utility patent. A utility patent protects the concept itself in the way of a functional structure of the article.

*National Tool Company is introducing an "all in one" cordless power tool with interchangeable tool devices. The handle on all of its tool devices are immediately recognizable to customers as part of National Tool Company's product line. The quality and value of National Tool Company's products attracts customers by reputation alone.*

Trademark law protects marks that indicate product origin to the buying

public. Trade dress, in the form of product shape and design, may be afforded trademark protection when the design obtains a “secondary meaning” and acts as an indicia for consumer recognition of the product’s source.

nonfunctional ornamental or aesthetic aspects of a product and is distinct from any technical or functional aspects. In other words, it refers only to the appearance of a product.

Product design consists of:

A closely related body of law to trademark is unfair competition law.

Trade dress, including

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transportability,

marketability,

manufacturing costs, storage,

durability, repair and disposal.

From an intellectual property law perspective, however, a product design refers only to the

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modifications to the design of some products (e.g. a lamp or a watch) may make them suitable for different age groups. While the main function of a watch or a lamp remains the same, children and adults generally have very different tastes in design.