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22<sup>th</sup> ANNUAL ADVANCED  
PATENT LAW INSTITUTE

**DESIGN PATENTS:**

**In Anticipation of Functionality**

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1. Anticipation
2. Functionality
3. (whisper) Design Patent Damages



## Black Letter Law

A claim is anticipated only if *each and every element* as set forth in the claim *is found*, either expressly or inherently described, *in a single prior art reference*.

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)



## Black Letter Law

“The *identical invention must be shown* in as complete detail as is contained in the ... claim.”

*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) (emphasis added).



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