



*Looks Matter...*

*Legally.®*

## 14<sup>th</sup> Annual Patent Law Institute

Design Patent Practitioners:  
What Guidance Can You Glean from the Board?  
(and a peek at the “Article of Manufacture” brouhaha)

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The United States Patent and Trademark Office  
Alexandria VA

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The University of Texas School of Law  
George Mason University Antonin Scalia Law School

# AIA Proceedings

## Design Patents

### **IPR**

Petitions filed:	38
Petitions granted:	16 (42%)
Petitions denied:	22 (58%)
Final Written Decisions:	16
Design patents Valid:	6 (37.5%)
Design patents Invalid:	10 (62.5%)

### **PGR**

Petitions filed:	6
Petitions granted:	1 (17%)*
Petitions denied:	4 (67%)*
Final Written Decisions:	1
Design patents Valid:	0
Design patents Invalid:	1

\*one case settled before institution decision, so petition neither granted nor denied

## All Patents (as of 12/31/18)

Petitions filed:	9,646
IPRs filed:	8,917 (92%)
PGRs filed:	150 (2%)
Petitions granted:	4,912 (51%)
Petitions denied:	2,436 (25%)
Final Written Decisions:	2,513 (51%)
Patents Valid:	477 (19%)
Patents Invalid:	2,036 (81%)
All claims invalid:	1,601 (64%)
Some claims invalid:	435 (17%)

# AIA Proceedings

**Design patents Valid: 37.5%**

**Design patents Invalid: 62.5%**

**Patents Valid: 19%**

**Patents Invalid: 81%**

## U.S. Design Patent Standard Invalidity Defenses

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1. Anticipation
  2. Obviousness
  3. Priority – New Matter
  4. Functionality
- A. Claim Construction

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## Title search: Design Patent Practitioners: What Guidance Can You Glean from the Board?

Also available as part of the eCourse

[2019 Advanced Patent Law \(USPTO\) eConference](#)

First appeared as part of the conference materials for the  
14<sup>th</sup> Annual Advanced Patent Law Institute session

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