

Looks Matter...

Legally. ®

1

Design Patents: All is Not Quiet on the Federal Circuit Front

17th Annual Advanced Patent Law Institute
The University of Texas School of Law
March 16, 2022

Perry Saidman

2

All is Not Quiet on the Federal Circuit Front

1. *In re Surgisil*

- a. Anticipation – Relevant Prior Art
- b. Infringement – “Comparison” Prior Art
- c. Article of Manufacture

2. *Campbell Soup v. Gamon*

103 – Secondary Considerations + Nexus

3. Revisiting Overall Appearance in Infringement Determinations

All is Not Quiet on the Federal Circuit Front

1. *In re Surgisil*

- a. Anticipation – Relevant Prior Art
- b. Infringement – “Comparison” Prior Art
- c. Article of Manufacture

2. *Campbell Soup v. Gamon*

103 – Secondary Considerations + Nexus

3. Revisiting Overall Appearance in Infringement Determinations

Curver v. Home Expressions

(Fed. Cir. 2019)



FIG. 1

TITLE/CLAIM: Pattern for a Chair



Accused Design: Basket

5

Curver v. Home Expressions

(Fed. Cir. 2019)



FIG. 1

TITLE/CLAIM: Pattern for a Chair



Accused Design: Basket

Fed. Cir. A basket is not a chair. No infringement.
In other words, **THE TITLE/CLAIM MATTERS.**

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Design Patents: All is Not Quiet on the Federal Circuit Front

Also available as part of the eCourse

[2022 Advanced Patent Law \(USPTO\) eConference](#)

First appeared as part of the conference materials for the
17th Annual Advanced Patent Law Institute session

"Design Patents: All is Not Quiet on the Federal Circuit Front "