

# Recent Developments in Design Patents

Tracy-Gene G. Durkin

MIND + MUSCLE

March 9, 2017

SKGF.COM

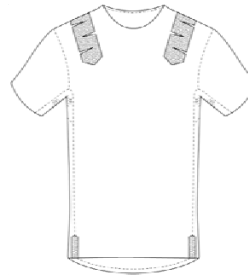
© 2015 Sterne, Kessler, Goldstein & Fox P.L.L.C. All Rights Reserved.

## Agenda

- Best practices for filing and prosecuting design patent applications before the USPTO
- Using design patents to protect software and virtual designs
- Filing for International design rights using the Hague Protocol
- *Apple v. Samsung* – What's next and why does it matter?

## What is a Design Patent?

- Protects the ornamental appearance of an article of manufacture, including:
  - The article
  - Surface ornamentation on an article; or
  - Both



D751,271

## Best Practices For Filing a US Design Patent Application

- **Figures**
  - Must be clear
  - No required amount of figures or views
  - May be line drawings or digital images
  - Shading in line drawings is not required, but can be helpful to show contour or transparency/translucency

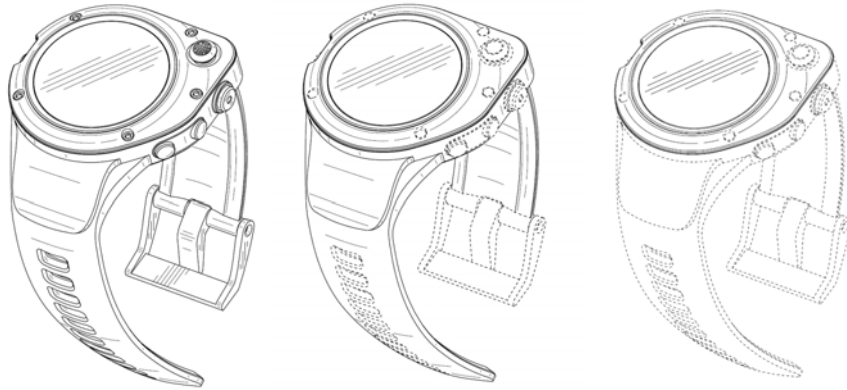


D759,725



D728,624

## Multiple Embodiments



May patent multiple embodiments together if they are not “patentably distinct” but beware of Restriction Requirements

## Best Practices Continued

- **Paris Convention Priority**
  - May be claimed in the US to an application filed in a home country within in **6 months** from the home country filing date
  - Best practice is to file the exact same priority application in the US and make any desired drawing changes by preliminary amendment after filing to avoid loss of priority claim
  - Priority application must be prepared to satisfy later desired countries requirements

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 \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Recent Developments in Design Patents

First appeared as part of the conference materials for the  
12<sup>th</sup> Annual Advanced Patent Law Institute session  
"Recent Developments in Design Patents"