

## An Introduction from the Editor

Not surprisingly, 2023 was another notable year for design rights around the globe. However, nowhere more than the U.S. did we see court decisions that will, in the case of one, and could in the case of another, have significant impact on design patent jurisprudence. In particular, the U.S. Court of Appeals for the Federal Circuit (CAFC) decided two cases of note. In one, the court addressed an issue of first impression – whether comparison prior art in an infringement analyses must involve the same article of manufacture as that recited in the design patent claim. In the other, the court agreed to hear a case *en banc* and consider whether the long-standing design patent obviousness analysis requires modification.

Elsewhere, the U.S. International Trade Commission (ITC) and the U.S. Patent and Trademark Office Patent Trial and Appeal Board (PTAB) continued to hear their fair share of design patent cases with trends that show the durability of design patents. And on the international front, intellectual property offices around the world continue to update their law, practices and procedures on the processing of design applications to better adapt to emerging technology like computer generated designs.

In this report, we will again highlight some of the important legal decisions in the past year involving design patents at the CAFC, the ITC, U.S. District Courts, and the PTAB. We also provide an update on some of the recent legislative changes that are taking place globally concerning design protection and enforcement, as well as practice changes. The information provided in this review is the result of a collaborative process. Thank you to co-authors— Ivy Estoesta, Daniel Gajewski, and Deirdre Wells, as well as Patrick Murray who contributed important data and statistics.

We appreciate your interest in this report, and we encourage you to see our firm's other recently released year-in-review publications covering the CAFC, ITC, and PTAB in detail. As with this report, each publication is being discussed in live webinars that are then available on-demand. All of this content is available at [www.sterneckessler.com](http://www.sterneckessler.com) and by request. Please contact us if you have questions, wish to discuss the future of design protection, and/or if you would like a hard copy of this report.



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