

An Introduction from the Editor

Last year, in our inaugural issue of “The Year in Review,” we reported that since the landmark jury verdict in the IP litigation between Apple and Samsung in 2012, which awarded more than \$1B to Apple for infringement of several design patents, interest in design patents grew exponentially. That trend has continued in 2022. And as the number of design applications filed around the world has continued to grow, so has design patent enforcement and litigation. This increasing desire by companies, large and small, to add design rights to their IP portfolio has also prompted many intellectual property offices to revisit how they process applications for design patents and registrations.

In this report, we will again highlight some of the important legal decisions in the past year involving design patents at the US Court of Appeals for the Federal Circuit, the US International Trade Commission (ITC), US District Courts and the US Patent and Trademark Office Patent Trial and Appeal Board (PTAB). We will also provide an update on some of the recent legislative changes that are taking place globally with respect to design protection and enforcement, as well as practice changes. Of note, it is still common to see jury verdicts in the millions of dollars for infringement of design patents based on the unique remedies statute in the US, like the award in the Panasonic case noted in this report. And the trend of granting general exclusion orders by the ITC not only continued, but intensified. Perhaps something that will become more common in future years is the assertion of design patents claiming graphical user interface designs, like the one asserted by Wepay Global Payments that is highlighted in the district court and PTAB sections of this report.

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 for this review.

We appreciate your interest in this report, and we encourage you to see our firm’s other recently released publication “Federal Circuit Appeals from the PTAB and ITC: Summaries of Key 2022 Decisions.” Additionally, we have recently produced a four-part, on-demand webinar series with year-in-review perspectives on the Federal Circuit, the PTAB, trademark law and further exploration of design patents. All of this content is available at www.sterneckessler.com or by request. Please contact us if you have questions about this report, wish to discuss the future of design protection, and/or if you would like a hard copy of this report.



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