
Design Patent Obviousness after LKQ v. GM

Timed agenda for an on-demand continuing legal education program

Sponsor	Design Patent Pro, LLC
Presenter	Robert G. Oake, Jr., Oake Law Office, PLLC
Format	On-demand video, with three announced attendance verification codes
Total instructional time	80 minutes
Texas MCLE course number	174333978 (1.25 credit hours, 0.00 ethics)
Area of study	Intellectual Property Law

Agenda

TIME	SEGMENT	MIN.
0:00 - 3:27	Introduction, disclaimer, how to use the written materials, and verification code instructions	3
3:27 - 20:08	Doctrinal foundation: anticipation compared with obviousness; In re Rosen and Durling v. Spectrum Furniture; the en banc decision in LKQ v. GM; what the court discarded and what it retained	17
20:08 - 31:14	The current framework step by step, including the analogous art requirement applied to each reference, comparison of the designs as a whole, the ordinary designer, motivation to combine, secondary considerations, and the USPTO examination guidance	11
31:14 - 37:32	Affirmative principles for rebutting an obviousness case: teaching away, destruction of the primary reference's fundamental characteristics, characteristics rather than concepts, and accounting for every material visual aspect of the claimed design	6
37:32 - 50:04	Prosecution histories worked step by step: analogous art arguments, amendment of the title as a tactic and its limits, and simple substitution rejections	12
50:04 - 53:41	A rejection walked from first Office action through the response to withdrawal and allowance	4
53:41 - 77:08	Application in litigation and before the Patent Trial and Appeal Board: what can supply a reason to combine, what a challenger must prove, and whether LKQ reopens questions that once appeared settled	23
77:08 - 80:01	Questions that remain open, and closing	3
Total instructional time		80

Attendance verification. Three verification codes are announced at unannounced points during the program. Participants record each code as it appears and enter all three on the course completion form before a certificate of attendance is issued. Written materials accompanying the program contain the full prosecution history analyses, complete citations, and the file by file discussion of the examination record.