Design Patents

What is a design patent?

Whereas a utility patent protects how something functions, a design patent protects how something looks, or more specifically, "the ornamental characteristics" of your product. Therefore, a design patent application may relate to the configuration or shape of an article, the surface ornamentation of an article, or the combination of shape and ornamentation of an article.

What does a design patent application consist of?

Because a design patent relates to the ornamental appearance of an object, the core of a design patent application is the disclosure of that appearance. The best way to do so is to include line drawings that accurately depict how your product or article of manufacture looks from a variety of different angles. The written portion of the application serves to identify which drawing is of which angle.

What are the drawing requirements?

Typically, the USPTO recommends line drawings depicting how your product or article of manufacture looks from seven different angles. These include:

Perspective

Right Side

Left Side

Top

Front

Bottom

Back

In special circumstances, the USPTO allows black and white photographs. However, photographs should be used if they are the only practical way of illustrating the design, for example, if the detail of the design is too complex to be illustrated with line drawings.

Elements of the drawings that are not claimed (not part of the design) but are necessary to give context to the design are drawn using dotted lines. For example, if the design is for a scrolling wheel of a computer mouse, but not for the mouse itself, then the scrolling wheel would be drawn in solid lines, while the rest of the mouse would be drawn in dotted lines.

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What are the prerequisites for applying for a design patent?

It is very important to make sure that the design has not been publicly disclosed for more than a year before applying for a design patent. Public disclosure may include selling the design, advertising the design, or even just presenting it to a third party. If the design has been publicly disclosed for more than a year, it will not be eligible for a patent.

It is also important to understand the difference between 'functionality' and 'ornamental appearance.' If a design primarily focuses on how the object functions, then it may not be eligible for a design patent.

Finally, it is also important to do some preliminary research on the internet (we suggest: www.google.com, www.images.google.com, and/or www.patents.google.com) to make sure that the design, or a similar design, does not already exist.
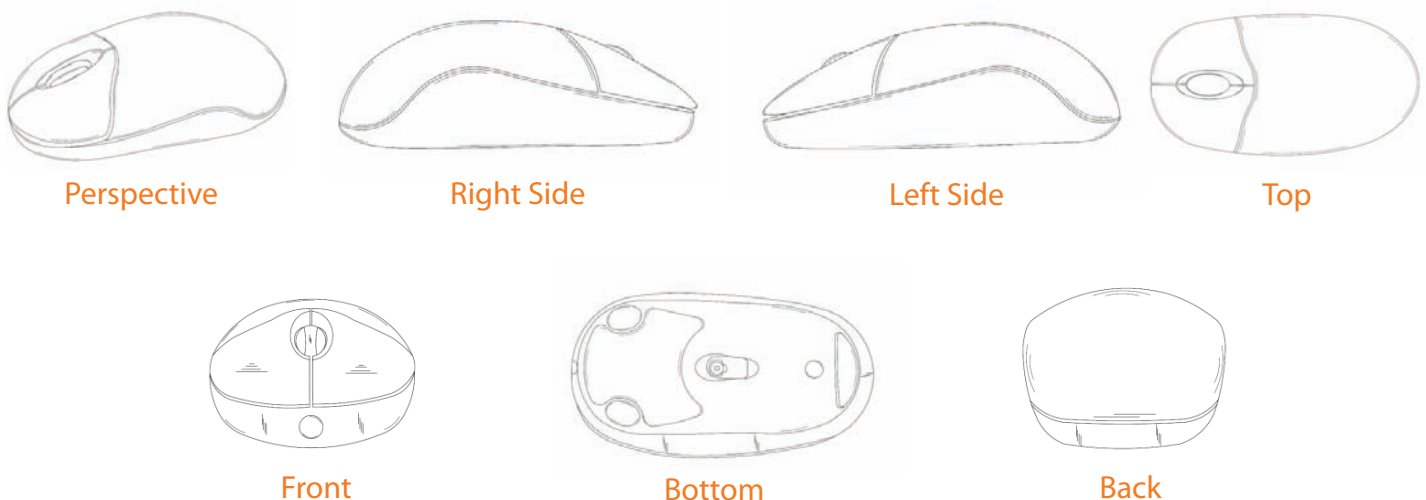
How are design patent drawings made?

Design patent line drawings are usually made by a patent artist using photographs.

We typically ask our clients to submit quality photographs of their design from all seven angles required by the USPTO (perspective, front, back, left, right, top, and bottom). It is important to make sure that the photographs accurately capture all of the features of the design.

When taking these photographs:

•Place the object on a flat surface.
•Make sure that all of the photographs are taken from the same distance from the object to
        the best of your ability (we recommend arms-length).
•When taking a photograph of the front of a design, it should be completely of the front;
        the sides, top and bottom should not be visible. The same goes for the back, sides, top,
        and bottom. Only the perspective photograph should show multiple faces of the same
        object.
Our team of artists will then use these photographs to create line drawings for the application.

Perspective   Right Side   Left Side   Top

Front   Bottom   Back

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Common mistakes to watch out for!

Bottom
This picture doesn't actually show the whole bottom. Be sure to get a full view of whichever angle you are capturing.

Back
This is too close. You can't see the full view. All pictures should be taken from arms length away.

Side
Because of the shadow it is difficult to see where the mouse ends and where the shadow begins.

Front
This doesn't actually show the front. It is a mix between the front and the top side view.

If you have any questions please contact us!

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