

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT AND APPEAL BOARD

A&A GLOBAL IMPORTS, INC.,
Petitioner

v.

LERMAN CONTAINER CORPORATION,
Patent Owner

U.S. Patent No. D781,151

March 14, 2017

Entitled: JAR

Inter Partes Review No.: IPR2024-01138

DECLARATION OF LANCE G. RAKE
IN SUPPORT OF PATENT OWNER

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I. Introduction

1. I, Lance Rake, have been retained on behalf of Lerman Container Corporation (“Lerman” or “Patent Owner”) as an expert witness to provide my opinions regarding the validity of U.S. Patent No. D781,151 (the “D ‘151 patent”). I understand that this declaration will be submitted in defense of A&A Global Import’s (“A&A”) *inter partes* review (“IPR”) petition. I have also been asked to review the declaration provided by Timothy Fletcher, submitted in support of A&A’s IPR petition. My opinions are set forth in this report, and I expect to testify about them at trial if asked to do so.

2. I have set forth a summary of my academic and professional qualifications and relevant experience in Section II of this report below and have attached a copy of my *curriculum vitae* as Appendix A.

3. In forming my opinions, I considered the materials referenced in Appendix B and the references and materials discussed in this report. Further, I relied on my own knowledge, training, and over 50 years of experience in designing, developing, teaching, and consulting in the industrial and consumer products design industry.

4. I reserve the right to amend or supplement my opinions in light of evidence presented by or on behalf of A&A or any of its experts in this case, or in

connection with additional information that may be made available to me in the future.

5. In addition to the information, materials, and opinions discussed in this report, I may use demonstrative exhibits at hearings and/or trial, to the extent useful, for explaining and understanding the opinions I set forth in this report.

6. I may also testify at trial about background design concepts related to my opinions to the extent that is useful for understanding my opinions.

7. I am being compensated at my standard hourly consulting rate for my time on this matter, which is \$400 per hour, plus reimbursement of any reasonable expenses. I have no financial stake in the outcome of this matter. My compensation is not contingent upon the results of my research, the substance of my opinions, or the outcome of any proceeding involving the D '151 patent or any other Lerman patent(s). I have not been retained in any capacity by either Lerman or A&A prior to this matter.

8. A list of the litigations in which I have testified as an expert witness over the last four years is attached as Appendix C.

II. Background And Qualifications

9. I am a Professor of Design in the School of Architecture & Design at the University of Kansas. I am an industrial designer and a design researcher and

educator. I have a Bachelor's Degree in Industrial Design from the University of Kansas, received in 1974, and a Master's Degree in Product Design from North Carolina State University, received in 1982.

10. I have worked as an industrial designer continuously for 50 years since receiving my undergraduate degree in 1974. In 1980, I began my career as a full-time faculty member at various universities. From 1980 to 1984, I was an Assistant Professor of Industrial Design at Auburn University. From 1985 to 1986, I taught Product Design at UNITEC Institute of Technology in Auckland, New Zealand.

11. I then returned to the United States and began teaching at the University of Kansas in 1987 as an assistant professor. I am presently a full professor with the University of Kansas, and my formal title is Professor of Design, School of Architecture & Design. Also, while at the University of Kansas, I was the Founding and Acting Director of the Center for Design Research from 1991 to 2005.

12. For 16 years, from 2000 to 2016, I served as a design consultant to Infusion Design. My creative activity there centered on collaborative design work in the transportation and consumer products industries. As a practicing professional, I have designed consumer products including a line of exercise

equipment and hydration bottles for Rubbermaid, and polycarbonate water bottles for the Eddie Bauer brand.

13. I am a 2015–2016 Fulbright Senior Scholar. I am also a 2019–2020 Global Fulbright Scholar.

14. My design research involves working with traditional craftspeople in the United States, in South Africa, in India, and in Nepal to create designs for craft-based businesses.

15. As a design practitioner and educator, I have conducted and/or directed research into the study of markets from a product design perspective, as well as, researching human factors and product usability. I have given presentations on design at several institutions around the world on topics including ergonomics, design education, design practice, and contemporary issues in the practice of industrial design.

16. My work has been featured in numerous articles and texts, including the text “Think Wrong,” relating to design innovation and processes. “Think Wrong” features a story about my design process, focusing on my philosophy of working with and manipulating physical materials in the design process to develop prototypes early in the design process.

17. I have developed and designed numerous consumer products from nonconventional materials such as bamboo and bamboo composites, including

bicycles, skateboards, and paddleboards, in collaboration with HERO, a not-for-profit organization located in Greensboro, Alabama. Designs in this field challenge us to develop workable solutions within the limitations imposed by non-conventional materials and structural requirements of the product. In my role as a professor, I have taught an Industrial Design Studio course nearly every semester since approximately 1980, where I advise and direct undergraduate students as they design and develop a variety of different products.

18. Over the years, I have served as an expert witness since approximately the year 2000 and have been retained as an expert witness in approximately 40 cases. As an expert witness, I have provided opinions relating to numerous consumer products, including water bottles. Many of the cases for which I have been retained have involved issues relating to alleged design patent infringement, alleged utility patent infringement, and/or alleged invalidity.

19. I am an inventor or co-inventor of 11 patents.

20. In the fall of 2012, I was awarded a sabbatical to teach and conduct design research at the Industrial Design Centre at the Indian Institute of Technology – Bombay in Mumbai, India. I have been a facilitator and advisor to the Swedish Industrial Design Foundation's Sommar-designkontoret. In 2009, I was one of only two American designers invited to participate in ICSID (International Congress of Societies of Industrial Design) Interdesign Citymove,

Gellivare, Sweden. In 2013, I was on sabbatical as a Visiting Professor in the Mechanical Engineering Department at Högskolan i Halmstad (Halmstad University) in Halmstad, Sweden. I have taught design in New Zealand, Australia, India, England, Sweden, and Nepal, and lectured in South Africa and Israel.

21. In 2004, I was included in ID Magazine's "Design 50" ("ID"). The editors at ID chose to profile the work of 50 US designers in their January/February 2004 Issue - one from each state. I was honored as the designer chosen to represent Kansas. ID is the largest and most prestigious journal in the United States for the design profession.

22. I was one of "133 Distinguished Industrial Design Professionals and Professors and Educators" to sign the amicus brief supporting Apple Inc. in its case against Samsung Electronics before the U.S. Supreme Court in *Samsung Electronics Co., Ltd. v. Apple Inc.*, No. 15-777 (U.S.). Other signatories included renowned designers such as Dieter Rams, Norman Foster, Robert Brunner, Alexander Wang, Paula Scher, and Jasper Morrison.

23. A complete list of my qualifications including education, experience, and a comprehensive listing of clients and publications is included in my curriculum vitae that is attached as Appendix A to this report.

III. Applicable Legal Standards – Design Patents

24. Counsel for Lerman asked me to offer my opinions regarding whether the challenged D ‘151 patent is invalid as alleged in the declaration of Mr. Fletcher. In order to form my opinions on this issue in the context of this petition, counsel for Lerman has explained to me certain legal standards. I include below my understanding of these legal standards, which I applied in forming my opinions set forth in this report.

25. I have been informed that, in addressing a claim of obviousness for a design patent, the ultimate inquiry is whether the claimed design would have been obvious to a designer of ordinary skill who designs articles of the type involved.

26. I have been informed that in the recent Federal Circuit decision *LKQ Corp. v. GM Glob. Tech. Operations LLC*, the prior rules to evaluate obviousness of a design patent claim were overruled as being too rigid, including in the rules identifying what references could be selected as a primary and a secondary reference. Following the *LKQ Corp.* decision, the Patent Office issued “Updated Guidance and Examination Instructions for Making a Determination of Obviousness in Designs in Light of *LKQ Corp. v. GM Global Technology Operations LLC*”. (“Guidance”). The Guidance provides a summary of the current test for obviousness of a design patent claim and specifies that these guidelines apply to the Patent Trial and Appeal Board.

27. As specified in these new guidelines, during an obviousness inquiry, several factual inquiries in accordance with the “Graham factors” should be made: (1) identify the scope and content of the prior art primary and secondary references, (2) determine the differences between the prior art designs and the design claim at issue, and (3) identify the level of ordinary skill in the art. After this is done, obviousness or non-obviousness of the claimed design is evaluated to determine “if an ordinary designer in the field to which the claimed design pertains would have been motivated to modify the prior art design to create the same overall visual appearance as the claimed design.” The obviousness analysis “must focus on the visual impression of the claimed design as a whole and not on selected individual pieces.” (Guidance p. 2-3).

IV. The Ordinary Designer

28. I understand that the obviousness of a design patent is evaluated from the viewpoint of an ordinary designer(i.e., a designer of ordinary capability who designs articles of the type presented in the patent application).

29. According to Mr. Fletcher, “it is my opinion that a designer of ordinary skill in the art that designs jars, the same as or similar to the jar shown and claimed in the ’151 Patent, would be someone who would have had a minimum of a bachelor’s degree in Industrial Design, Mechanical Engineering, or

related field and approximately 5 years of professional experience in the field of plastic or glass consumer products design and manufacturing (“DOSA” or “POSITA”). However, additional graduate education could substitute for professional experience, or significant experience in the field could substitute for formal education. Thus, the more experience one has in a relevant field, the less formal education that may be required in order to attain the level of ordinary skill in the art, and vice versa. Although this description might be considered overqualified for this particular design, I agree that this level of education and experience is typical in the field.

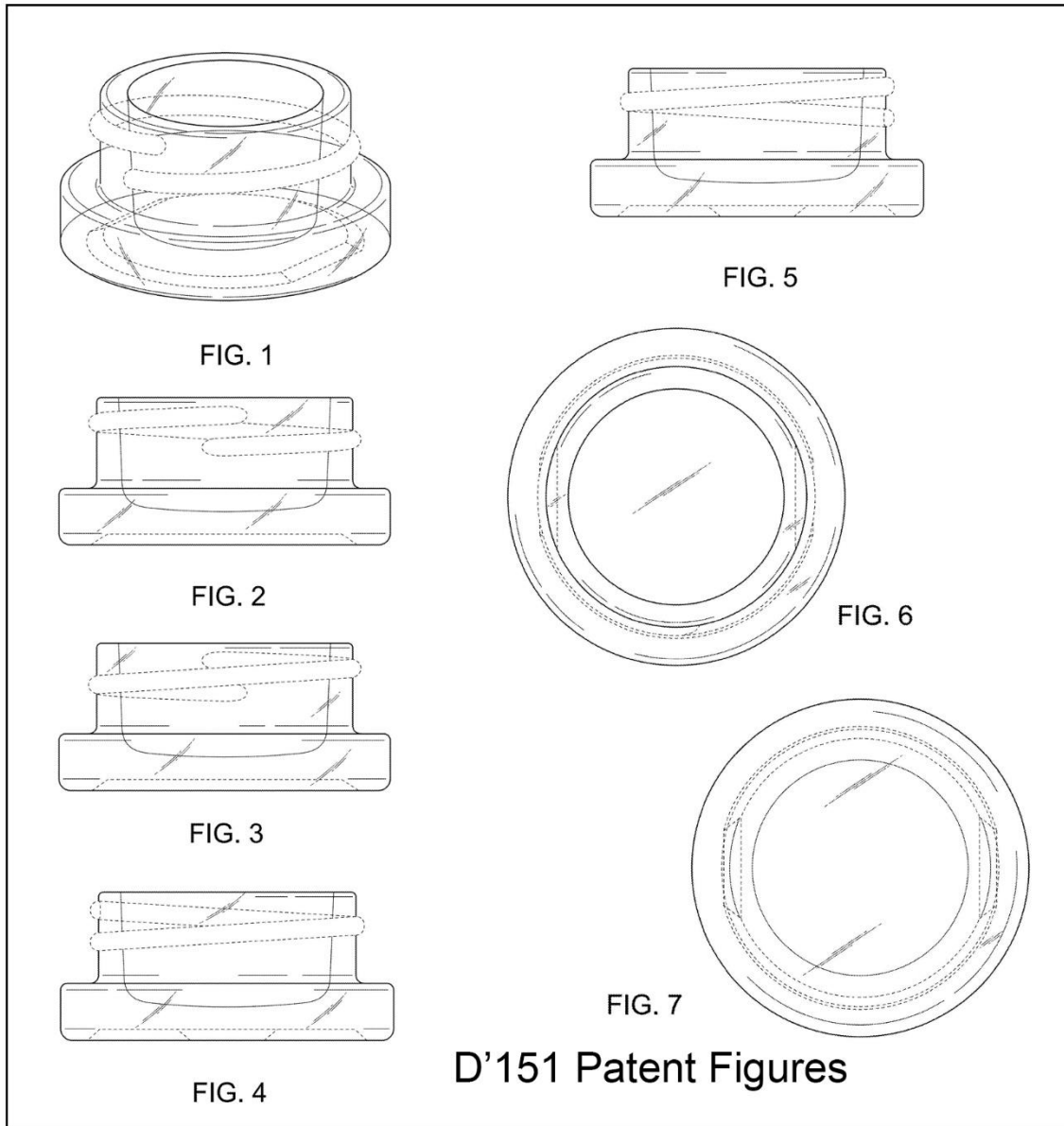
30. As noted above, I have over 50 years of experience as a designer, including in designing, developing, teaching, and consulting in the industrial and consumer products design industry. My experience includes the design of packaging and bottles. Further, I hold a B.F.A. degree in Industrial Design and a Master of Product Design. I consider myself more than qualified to understand the viewpoint of a designer of ordinary skill in the art and will apply that viewpoint in my analysis.

V. The D ‘151 Patent

31. The D ‘151 patent is titled “JAR” and claims “The ornamental design for a jar as shown and described” in seven drawing figures. The D ‘151 patent was filed on June 8, 2016, and issued on March 14, 2017 to Robert Lerman as inventor.

32. While the scope of a design patent is best conveyed by its figures, it is my understanding that, where a design patent shows functional features of an article of manufacture, the ornamental aspects of the design must be distinguished from the functional features. In addition, I have found that it can be helpful to describe prominent visual aspects of the depicted design to exemplify the overall visual impression that it would convey to a designer of ordinary skill in the art. In so doing, I am not attempting to construe the patent claim or purporting to replace the image, but merely calling out prominent design features that a designer of ordinary skill in the art would notice.

33. The jar design of the D '151 patent is shown in the figures below:



34. The ornamental design protected by the D '151 patent includes the following ornamental design elements:

- a. A one-piece jar with a generally cylindrical base portion.
- b. The base is short and wide relative to its height, about 6 times wider.
- c. A narrower cylindrical neck portion that is spaced from and concentric with a base portion.

d. The neck has a height that is slightly more than $1 \frac{1}{2}$ times the height of the base.

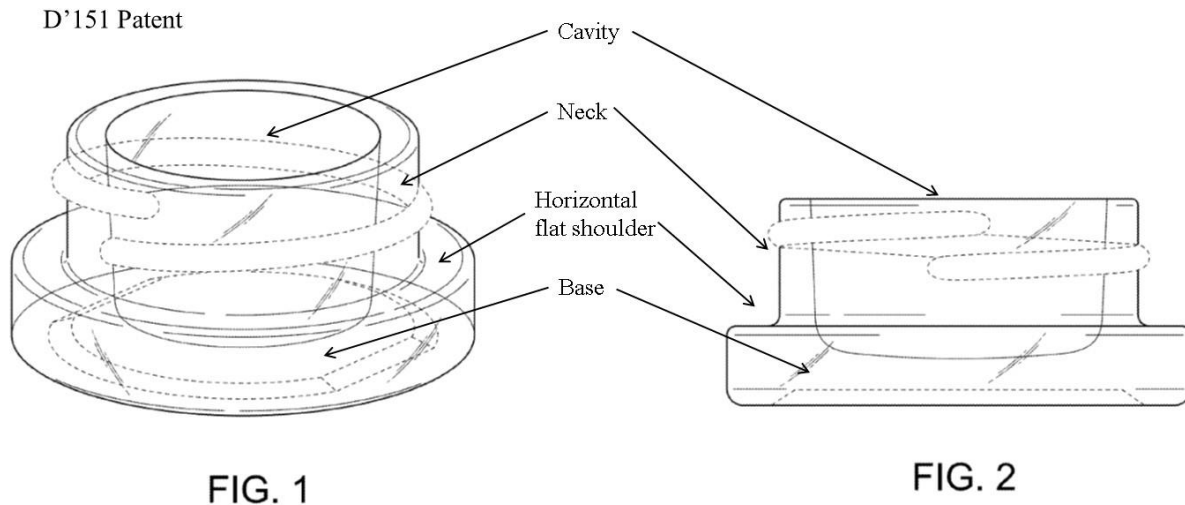
e. A concentric circular cavity that extends downwardly, completely through the neck portion and slightly into the base portion. The bottom surface of the cavity is gently concave in configuration. The sidewalls of the cavity taper slightly inwardly from top to bottom.

f. A flat, annular horizontal “shoulder” transition between the base portion and the narrower neck portion. The width of the shoulder is approximately $\frac{2}{3}$ the height of the base portion.

g. Small radius fillets on all exterior surfaces.

h. Unclaimed areas (indicated with broken lines) include threads on the neck portion and a slight circular offset indicated on the bottom of the jar.

35. Looking at the side view of the jar, relationships between the features of the jar’s design are clearly illustrated. These relationships are the proportions that are distinctive and defining. For example, the height of the neck portion is approximately $1 \frac{1}{2}$ times the height of the base portion. The diameter of the neck portion is approximately $\frac{3}{4}$ the diameter of the base portion thereby creating a significant horizontal offset shoulder. The base is short and the shoulder width is comparatively large, at about $\frac{2}{3}$ the base height.



36. The configuration of the cavity itself is also an important design feature that adds to the visual impression of the design as a whole, particularly because the jar of the D'151 patent is transparent. Importantly, the circular cavity that extends downwardly from the top of the jar extends only slightly into the base portion. The overall proportions of the jar give it an elegant, but solid character, with a tall neck and a low, stable base.

37. In a Decision of Appeal from the USPTO Patent Trial and Appeal Board (the “Board”) dated September 1, 2021, the Board paid close attention to the proportions of the jar of the D '151 patent, describing it as having “a wide and thick circular base, a tall narrow circular neck extending upwardly from the base, wherein the base and neck are concentric and the base encompasses about 40% of the total height of the jar,” and with an interior having a “slight frustoconical shape within the neck.” EX1003 at 16.

VI. The Prior Art

38. Mr. Fletcher identifies certain pieces of prior art as the basis for his obviousness assertions. These references include the Neutrogena jar, U.S. Patent No. D795,705 to Huang (the “D ‘705 patent”), U.S. Patent No. D578,891 to Canamasas Puigbo (the “D ‘891 patent”), the McKernan jar, and U.S. Patent No. D634,202 to Zamberlan (the D ‘202 patent”).

39. The following paragraphs in this report identify significant differences in the design depicted in each reference as compared to the claimed design of the D ‘151 patent, and in my opinion, no combination of these references can be put together to make the claimed design of the D ‘151 patent obvious to a designer of ordinary skill in the art.

40. In my analysis of the prior art, I evaluated each image in Ex 1003 at pp. 431-439 and EX 1025 (the McKernan jar), Ex 1007 (the D’705 patent), Ex 1008 (the D’891 patent), Ex 1013 (the D’202 patent), Ex 1014, Ex 1015, Ex 1016, and Ex 1017 (the Neutrogena jar), and compared these images with the figures in the D ‘151 patent (Ex 1001). In the analysis below, relevant images were selected that best represent the significant design features that I evaluated. To allow the designs to be compared, the images have been scaled so that the widths of the bases are the same.

A. The Neutrogena Jar

41. The images provided by A&A of the Neutrogena jar (EX1015, EX 1016, EX 1017) are not clear or complete enough to fully understand the jar's design. For instance, I cannot see enough of the neck portion to know exactly how tall the neck is because I cannot see through the opaque top of the Neutrogena jar. Moreover, photos taken through the transparent base of the Neutrogena jar distort any internal features, so I don't know with any degree of precision the specific shape of anything inside. Examples of this are shown in the markup of images from EX 1017 below.

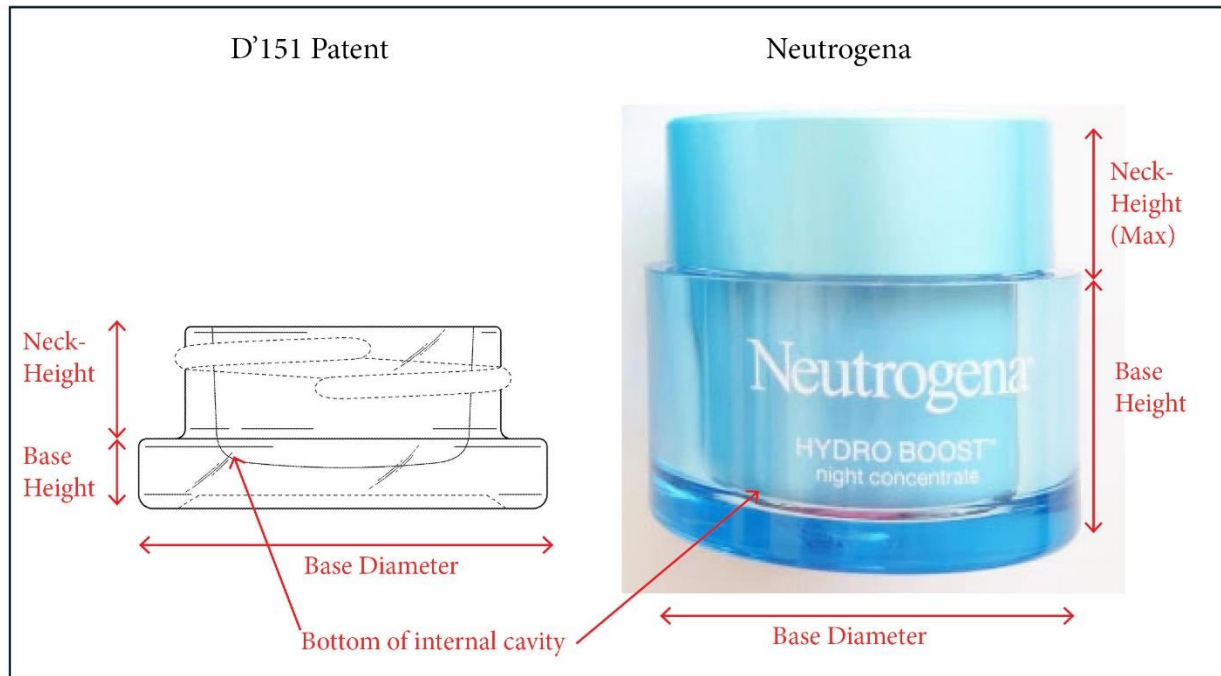


Likewise, I cannot tell, for example, how thick the sidewalls are or if the bottom is flat or curved because the view of the interior is distorted and looks different in different exhibits. This is illustrated in the comparison between

Exhibits 1017 and 1016 below, where the sidewalls and bottom of EX 1016 look thinner than the sidewalls and bottom of EX 1017:



42. The only design features that I can clearly see in the Neutrogena jar are the exterior proportions of the base and the approximate external diameter of the neck and approximate depth of the interior cavity. Compared to the D '151 patent, the proportions of the Neutrogena jar are clearly different.



43. The above images illustrate the differences in proportions between the features in the jar of the D '151 patent and the features of the Neutrogena jar. As is readily apparent, the visual appearance of these two jars is completely different. The ratio of base height to base diameter of the Neutrogena jar is dramatically different from that of the jar of the D '151 patent. For the same relative base diameter, the height of the Neutrogena jar is at least three times greater than the height of the jar of the D '151 patent. The image of the capless Neutrogena jar above shows the neck, but the height of the neck relative to the height of the jar cannot be seen. In the image immediately above, the height of the neck of the Neutrogena jar cannot be seen because the cap is opaque so I can only guess from these pictures as to how much the neck may extend relative to the base of the jar. I

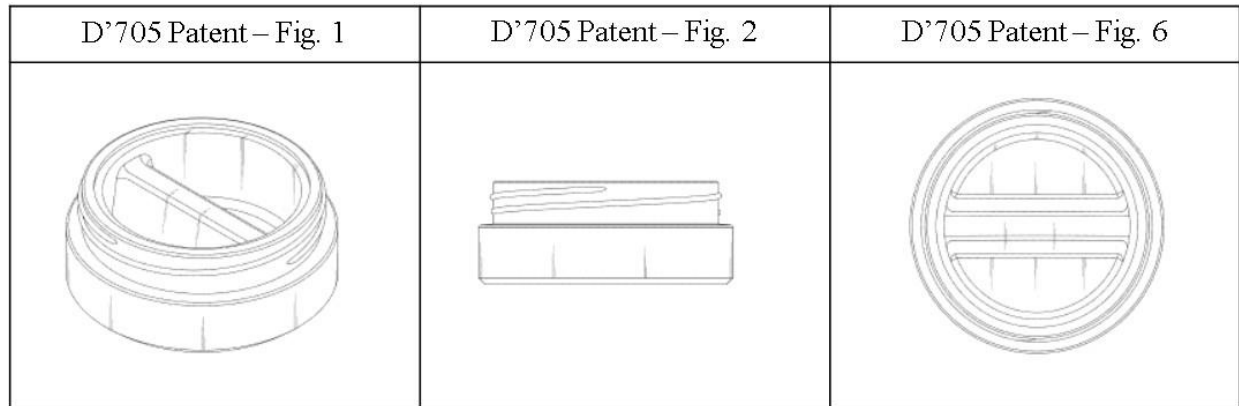
do know the neck can't be taller than the cap itself. Therefore, the Neutrogena jar must have a neck height that is much shorter than height of the base. The jar of the D '151 patent, in comparison, has a neck height that is much greater than the base height. The width of the shoulder of the Neutrogena jar between the base and the neck is also very small relative to the base height.

44. Further, the internal cavity is shown in the D '151 patent to extend only slightly into the upper portions of the base, whereas the internal cavity of the Neutrogena jar appears to extend almost completely through the base. The actual bottom of the Neutrogena jar cavity is not disclosed . It is obscured by the opaque insert and the distortion of the glass and it is impossible to tell what the contour of the bottom might be, such as if it is flat or concave. At most in EX 1016 and 1017 the periphery of bottom of the interior is visible, not the actual bottom itself. .



B. The D ‘705 Patent (Huang)

45. Figures 1, 2, and 6 D ‘705 patent, which is entitled “COMPARTMENTALIZED CONTAINER,” are reproduced below.

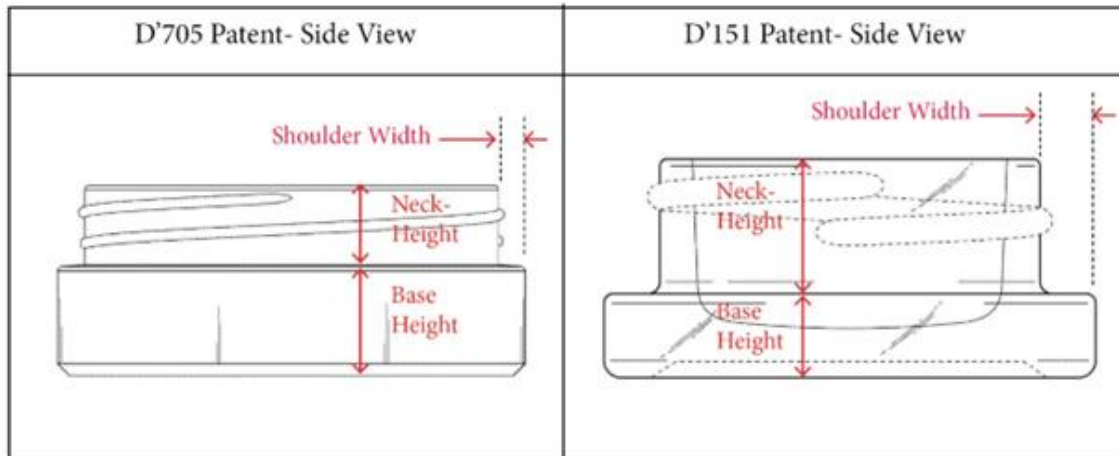


46. First, the container as disclosed in the D ‘705 patent is opaque, unlike the transparent jar depicted in the D ‘151 patent. Second, in the above perspective view of the D ‘705 container, there is a radiused or bevel edge that appears to define a bottom surface of the top compartment. I am in fact seeing the bottom surface of one compartment in the perspective view, it would seem that the bottom of that compartment extends well into the base- much further than what is depicted in the jar of the D ‘151 patent.

47. I do not see the bottom of the lower compartment at all in this view and so it is impossible to say with any degree of accuracy where the bottom of the front compartment is located relative to either the top of the base section or the bottom. The top view in the patent (Fig. 6) has no depth information. It is possible

that the two compartments have different depths or shapes, depending on the container's intended use.

48. Notable differences between the designs of the D '151 patent and the D '705 patent include differences in material opacity and the prominent divider wall in the container of the D '705 patent. But the major difference is in the proportions of each product design, which gives these designs a completely different overall visual appearance.

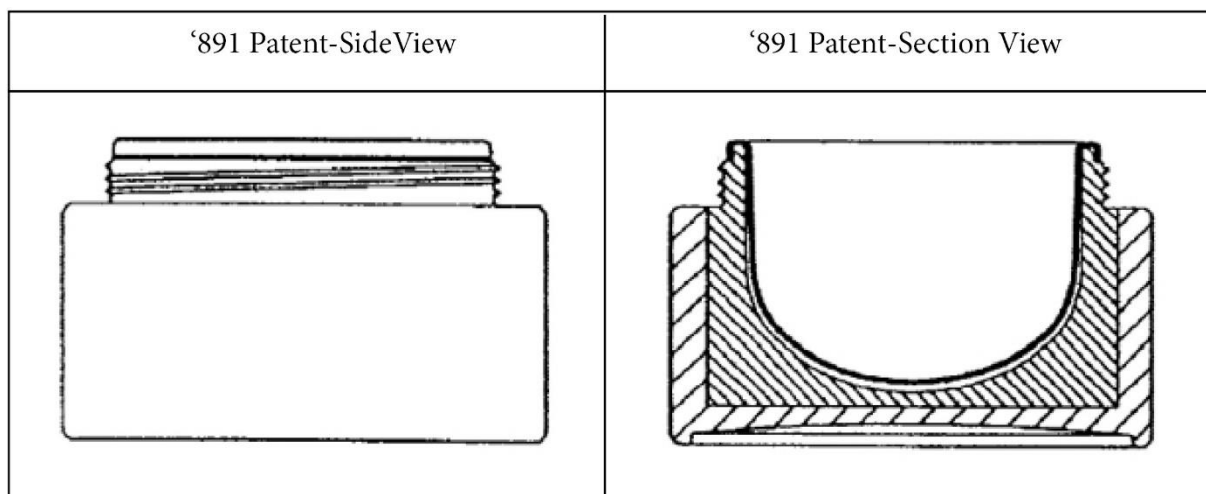


49. The D '705 container has a fairly balanced look, with the height of the base a little bigger than the height of the neck. The D '151 jar, in contrast, has a proportionately much larger neck height than base height. Also, the offset distance between the base and neck diameter of the D'705 container is less than the offset in the D '151 jar, giving the D'705 container a shoulder that is small, in contrast to the much larger shoulder of the D'151 jar. The shoulder width relative to base height of the D'705 container is also much smaller than that of the D'151 jar due to

the combination of the smaller shoulder and taller base of the D'705 container relative to the wider shoulder and shorter base of the D'151 jar. In addition, the bottom of at least the top compartment appears to extend deep into the base in contrast with the bottom of the jar cavity of the D '151 patent, which extends only slightly into the base. The contour of the bottom of the D'705 container is not clearly shown, although it might be flat, in contrast to the D'705 jar which has a gently concave interior bottom. The interior of the D'151 jar is illustrated with a filleted edge at the bottom. The partial double line shown in the top chamber of the perspective drawing of the D '705 patent may indicate a fillet, but it also may be a chamfer/ bevel.

C. The D '891 Patent (Canamasas Puigbo)

50. Figures 2 and 3 of the D '891 patent, which is entitled "BOTTLE," show the design of a two-piece bottle and are reproduced below.

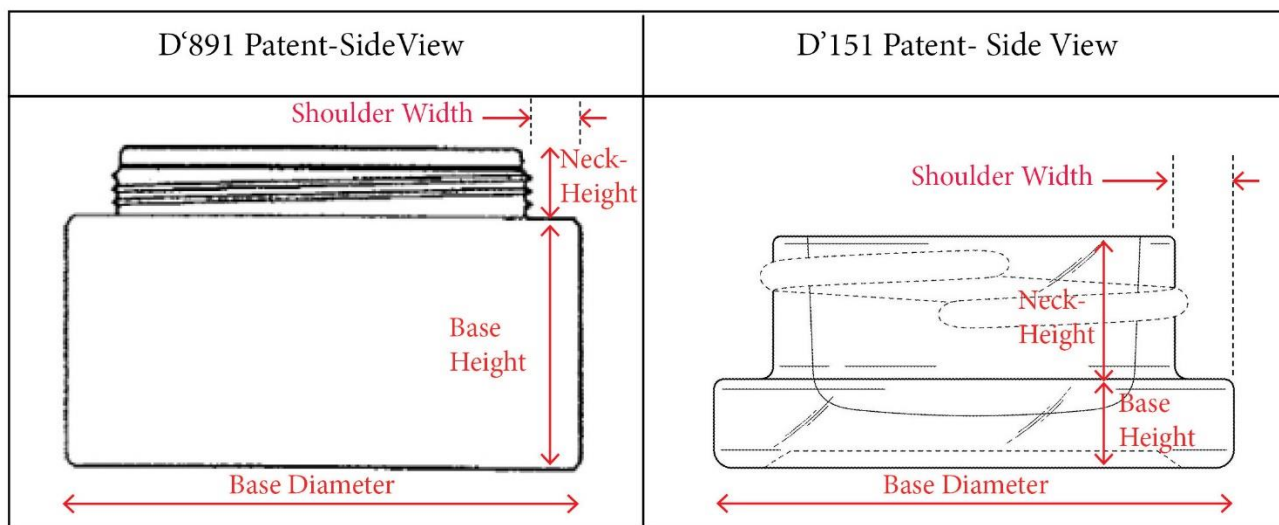


51. The D'891 patent shows the design of a bottle with a cylindrical base. The height of the base is roughly $\frac{1}{2}$ its diameter. There is a very short, threaded neck portion and the height of the neck portion is approximately $\frac{1}{3}$ the height of the base. The D '891 patent shows the claimed bottle is comprised of at least two different materials, as indicated by the different hatching in the cross-sectional view. There is an internal cavity or hole that extends completely through the neck portion and through most of the base portion. The bottom of this cavity is generously rounded.

52. There are many differences between the bottle of the D '891 Patent and the jar of the D '151 patent, beginning with differences in material. The D '891 bottle as shown in the figures is opaque, whereas the D '151 jar is transparent. The D '891 bottle is comprised of at least two materials (it is unclear whether the interior hole feature is lined with a different, third material), whereas the D '151 jar is made of a single piece of material. The interior cavity feature of the D '151 jar extends only slightly into the base and has a gently concave bottom, whereas the D '891 bottle has an interior cavity that extends nearly to the bottom of the base of the D '891 bottle and has a considerably concave bottom.

53. I find the most significant visual difference between the jar design of the D '151 patent and the D '891 bottle is the difference in proportion. The different proportions give the two designs completely different overall visual

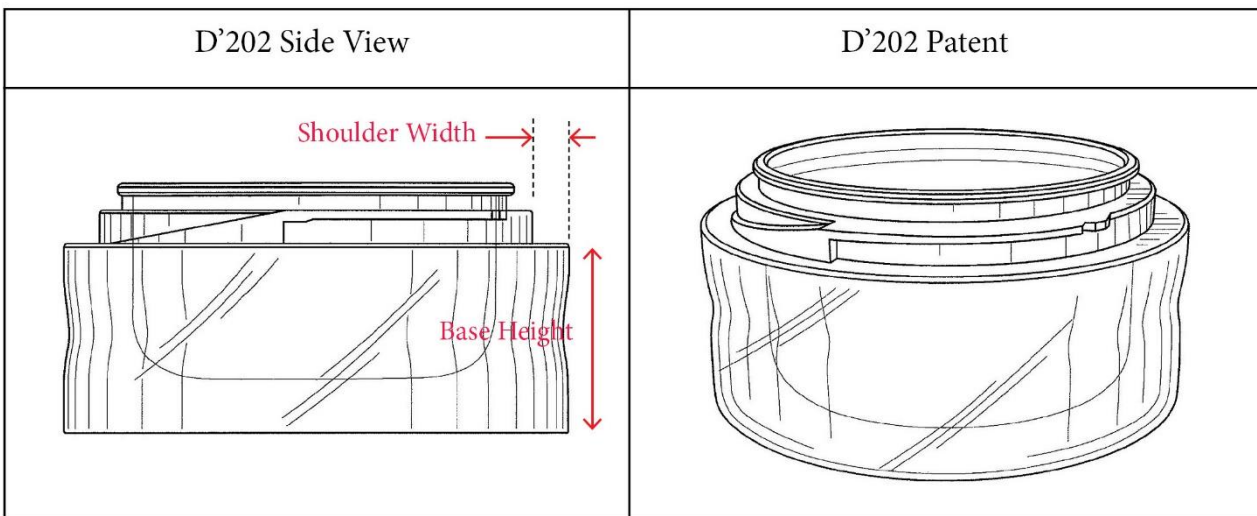
impressions, as illustrated in the side-by-side comparison below. The D ‘891 bottle has a much taller base relative to diameter than that of the D’151 jar. Further, the height of the neck portion of the D ‘891 bottle is comparatively small relative to the base, whereas the neck height of the D ‘151 jar is proportionately much taller compared to the base. The shoulder width between the base and the neck of the D ‘891 bottle is very small relative to the base height, as compared to the proportionally much larger shoulder in the D ‘151 jar.



D. The D ‘202 Patent (Zamberlan)

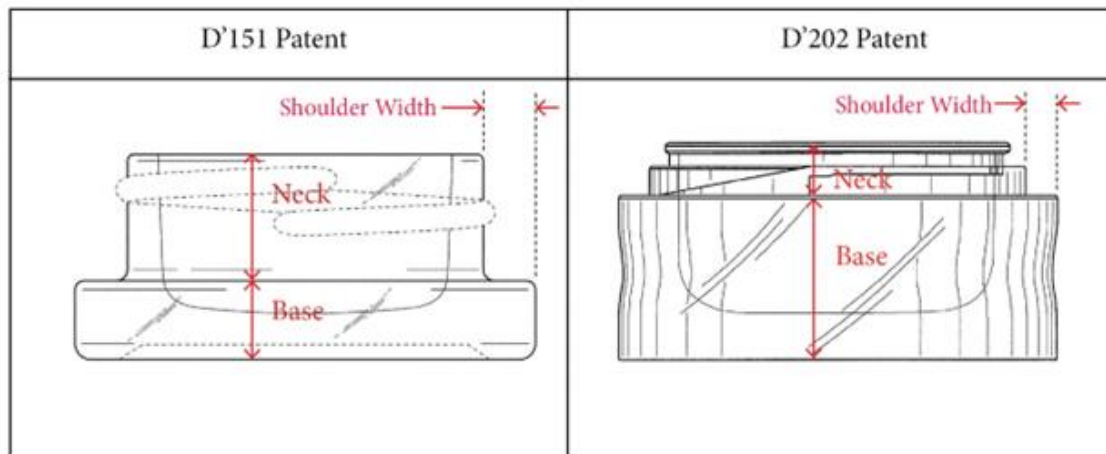
54. The D ‘202 patent is titled FLASK, CAP AND REFILL. Perspective and side views of Figs. 6 and 7 are illustrated below. The flask of the D ‘202 patent as depicted in the figures has a relatively tall base with a distinctive horizontal indentation located approximately at the middle of the base. The neck of the D

‘202 flask is very short and has a stepped closure system. The neck is wide and the width of the shoulder is very small relative to the height of the base. There is also an internal hole or cavity that extends more than halfway into the base and has a flat bottom.



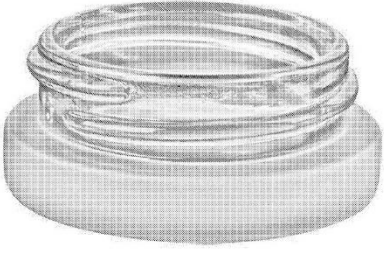
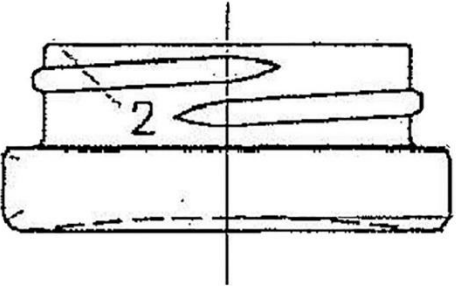
55. When compared with the jar design of the D ‘151 patent, dramatic proportional differences are apparent, which result in a striking difference in the overall visual appearance between the two designs. While the overall height of the D ‘202 design is approximately the same as the D ‘151 design, the relative height of the base portion of the D ‘202 flask is more than 2X the height of the jar of the D ‘151 patent. At the same time, the overall height of the neck of the D ‘202 flask is roughly ½ the neck height of the D ‘151 jar. Additionally, the D ‘202 flask design has a tall, somewhat curvy base and a short, stepped neck, whereas the D ‘151 jar design has a short base with a tall neck. The shoulder between the base

and the neck of the D '202 design is very small relative to the base height, as compared to the design of the D '151 Patent

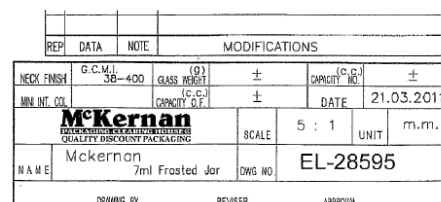
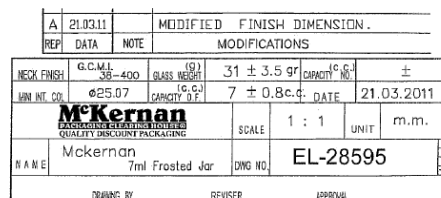


E. The McKernan Jar

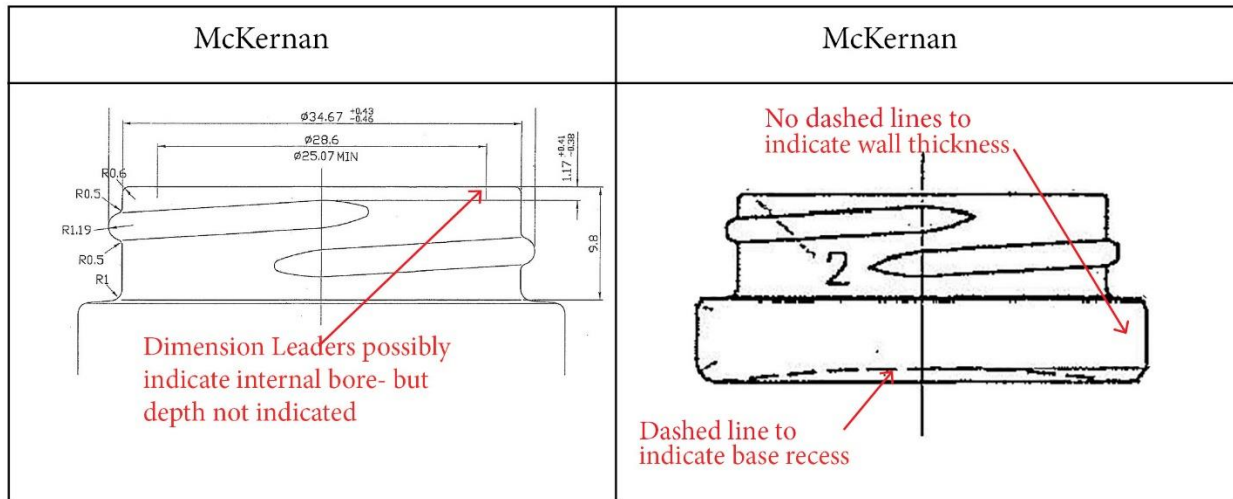
56. The materials showing the McKernan jar are photographs (EX 1003 at pp. 431-436 and EX1022) as well as some basic dimensioned technical drawings (EX 1003 at pp. 437-439). Taken together, they still don't convey important information about the McKernan jar. For example, the base of the jar appears frosted preventing me from seeing the interior of the jar and from determining anything about the shape of the interior of the jar beyond the rim. The technical drawings do not indicate an internal cavity of any kind.

McKernan	McKernan Tech Drawing
	

57. Because the photographs that I received of the McKernan jar are fairly low in resolution and depict a jar with a frosted base, I tried to rely on the technical drawings to assess features of the McKernan jar. Unfortunately, the technical drawings are not very helpful. In the picture above of the McKernon jar taken from the technical drawings, I removed some of the dimension lines in the image above so the object lines are clearer. The images below show the two sheets of dimensioned technical drawings from EX1003.

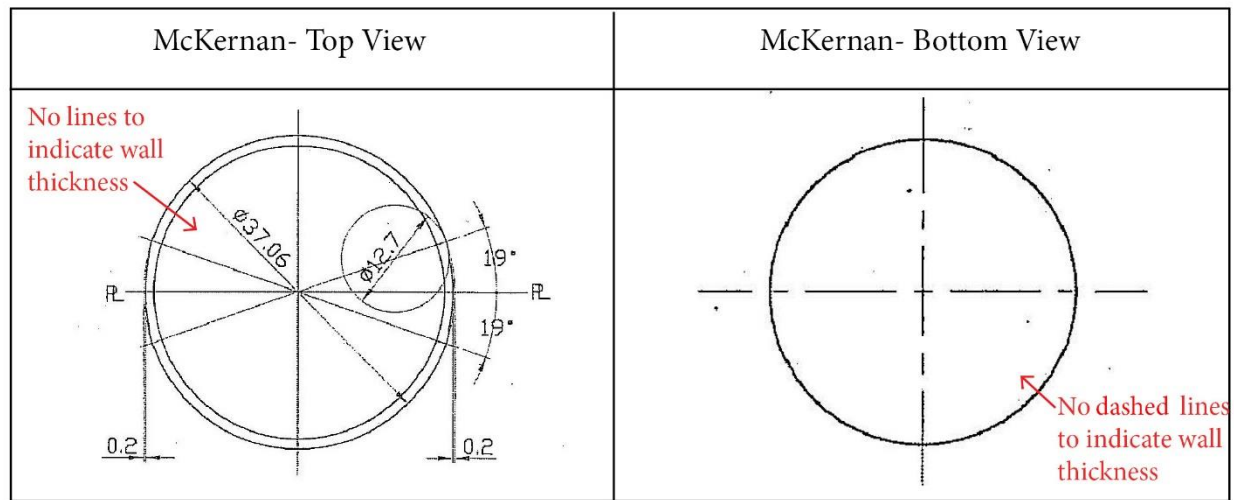


58. I believe, although I am speculating, that the dashed line of the McKernan jar technical drawings reflects a concave feature on the bottom of the jar. Significantly, there are no other lines, whether dashed lines or solid lines, that would indicate wall thickness or the interior depth or shape of the McKernon jar.



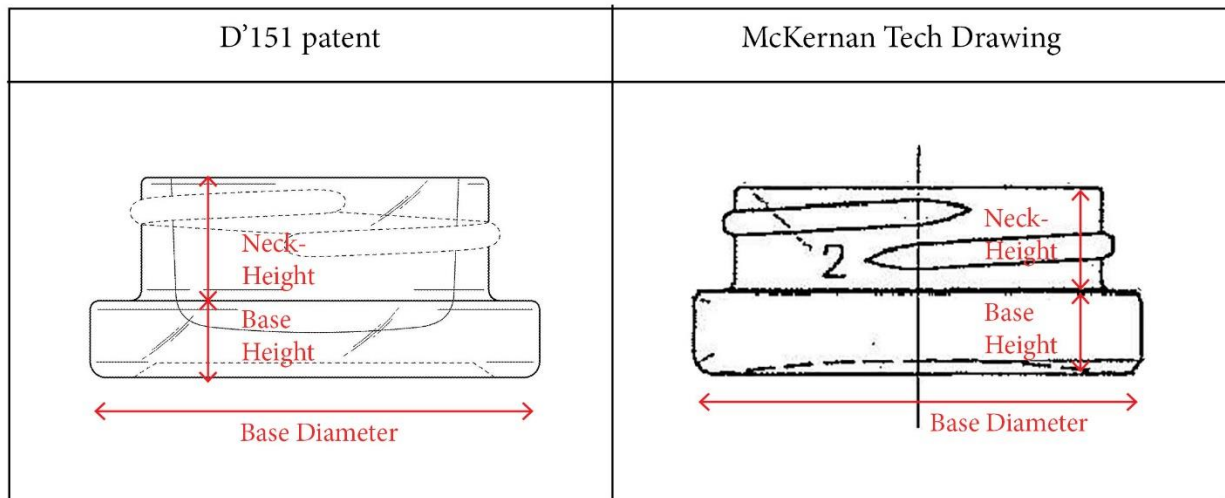
59. The above-left photograph of the McKernan jar shows a wall in the threaded neck portion but the thickness beyond the rim cannot be determined. The engineering drawing (on the left above) includes a dimension that might be calling out a hole size at the rim of the jar, but without hidden lines, I cannot be sure what the design of the interior below the rim actually is. To add to the confusion, what is apparently the top view drawing of the McKernan jar (below left) shows a double circular line. From the indicated dimensions, the outside circular line represents the outer diameter of the threads. The inside circular line appears to represent the outside surface of the neck. The inside surface of the neck, which would show the thickness of the wall, is not shown. Also, on what is apparently the bottom view

(below right), I don't see any indication of the bottom concave surface referenced in the side view. I also don't see hidden lines that would show wall thickness or any other internal design features of the McKernan jar.



60. In comparing the McKernon jar, as best understood, to the jar of the D '151 patent, the exterior proportions are noticeably different. The height of the neck portion of the McKernon jar is slightly greater than the base height. Referencing the dimensional drawings, the neck height is about 20% higher than the base height. The neck of the D '151 jar is noticeably longer, with a height slightly greater than 1 ½ times the base height, e.g., about 50% . The McKernan jar neck is noticeably wider than that of the D'151 jar with a wider mouth as well and the McKernan jar has a shoulder that is about half as wide as the base height, which is in comparison to the more pronounced shoulder of the D '151 jar and that has a width about 2/3 the base height .

61. The interior shape of the McKernan jar, as stated above, is completely unknown. Moreover, if I gauge the diameter of the interior cavity at the rim from the McKernan jar photograph, I cannot tell how deep it is. I also cannot tell if the side walls straight or tapered. And, importantly, I cannot tell if it extends into the base portion of the jar, and if so, how far.



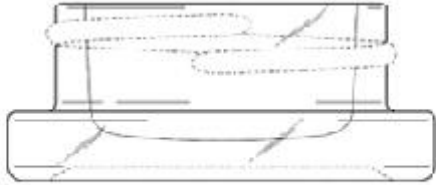
VII. Fletcher's Grounds for Obviousness

62. In the Fletcher Declaration, he uses the above mentioned alleged prior art in various combinations to conclude that the jar design of the D '151 patent would have been obvious to a designer of ordinary skill in the art as of the priority date of the D '151 patent. (pp.82, Fletcher Declaration). As discussed in detail below, Fletcher's conclusion is unsound and flawed.

A. Ground 1: Neutrogena Jar and the D'891 Patent

63. According to Mr. Fletcher, the first ground for obviousness is the combination of the Neutrogena jar and the bottle of the D '891 Patent. Earlier in my declaration, I pointed out differences between the design of the D '151 patent and each of these two references. I will here discuss reasons why a combination of the two would not have made the design of the D '151 Patent obvious to a designer of ordinary skill in the art.

64. An image of the jar from the D'151 patent is shown below in comparison to a picture of the Neutrogena jar. Mr. Fletcher believes that the Neutrogena jar is visually similar to the design of the D '151 patent. In fact, he states that “the overall visual appearance between the Neutrogena jar (without the cap) and the D '151 Patent is essentially the same”. (Fletcher Declaration, p. 84). As a designer of ordinary skill in the art, I am quite baffled by this statement. If he would have said the two designs have some of the same features (meaning a cylindrical base and a narrow neck), I would tend to agree. But to say the overall *visual* appearance “is essentially the same” is absurd! Proportions matter in design. When there are so few features, small changes in proportion will have a huge impact on the overall appearance.

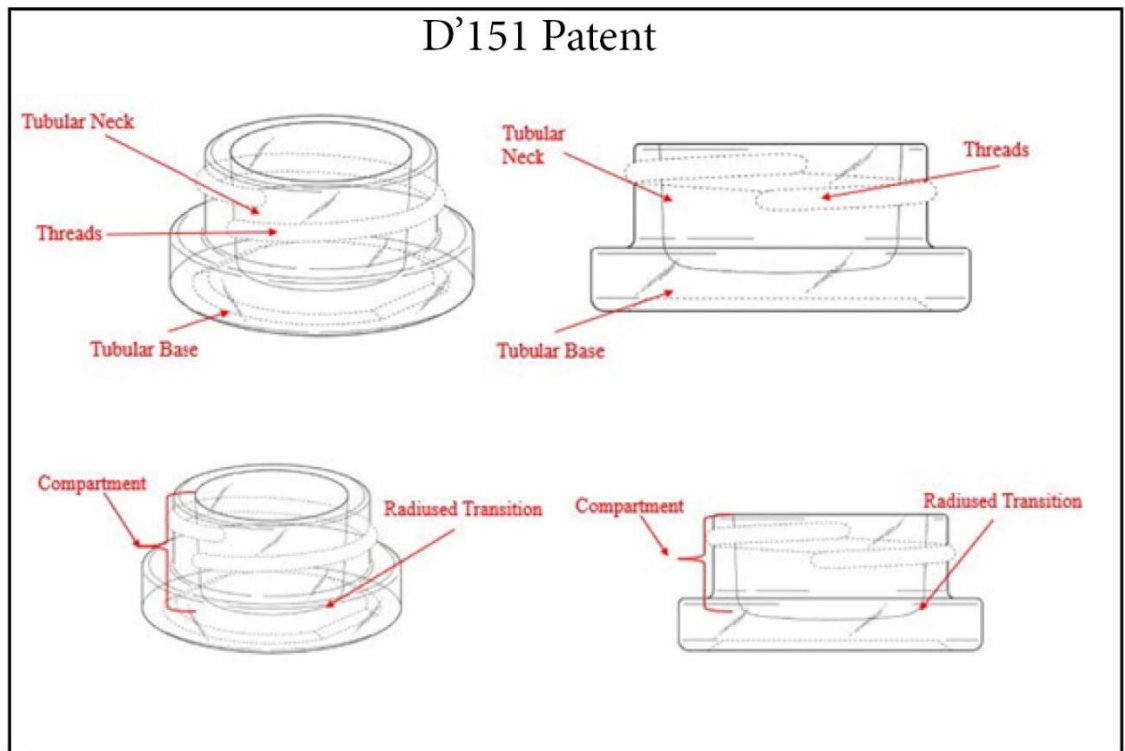
D'151 Patent	Neutrogena
	

65. There is a distinct difference between the *features* a thing has, and the *appearance* a thing has. For example, a donkey and a giraffe each has four legs, a body, a neck, and a head. They have the same features, but a completely different appearance. A designer of ordinary skill in the art would not suggest that a donkey and a giraffe have the same overall visual appearance, because they do not look the same.

66. Fletcher explains his opinion this way, “First, at a high level, both designs include what I have defined as a concentrically positioned tubular neck portion disposed above a generally tubular base portion, with a negative space, e.g., compartment, disposed within the container/jar and extending from the top of the neck portion into the base portion.” (Fletcher ¶84). He uses the images below to illustrate the features he is comparing.



(Fletcher, EX 1011 ¶87)



(Fletcher, EX 1011 ¶84)

67. I do not understand at all how Mr. Fletcher sees these two designs as “essentially the same” as I find them fundamentally very different in appearance!

- The diameter of the neck is different.
- The height of the base is different.
- The height of the neck is different.
- The shoulder width between the base and the neck is different.
- The interior cavity shape is different.

68. As I understand it, the test for obviousness is a visual test, not a verbal one, and should focus on the visual impression of the claimed design as a whole, and not on selected individual pieces. Mr. Fletcher points out in ¶84 of his declaration that the D ‘151 patent and the Neutrogena jar both have a “Tubular Base”. This sounds like they are the same, but they clearly do not *look* the same. They don’t have similar proportions. The base of the D ‘151 jar looks very low and wide, whereas the base of the Neutrogena jar is much taller. The “Tubular Neck” of the Neutrogena jar is identified, even though it is unseen beneath the cap, or only partially visible in a perspective photograph. The interior “compartment”, as Fletcher calls it, cannot be seen accurately through the outside wall of the Neutrogena jar. What appears to be a compartment, and as best seen in the side view on p. 1 of Ex. 1016, extends deep into the base, which is very different than

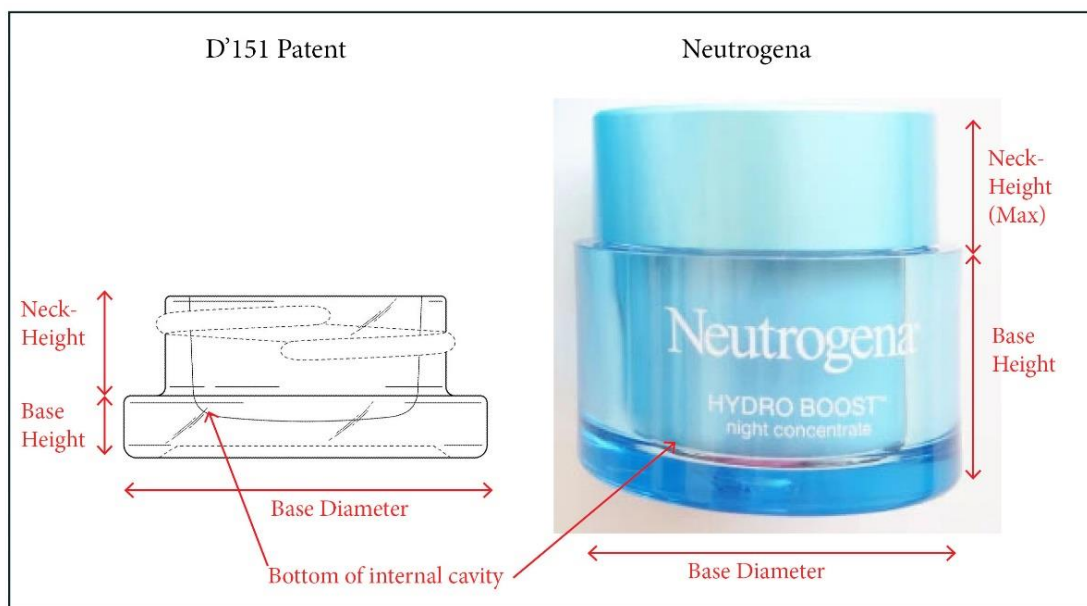
the interior of the D '151 jar. Fletcher also compares the threads feature, which is unclaimed in the D '151 patent. The liner material, which completely masks any view of the interior space, is regarded as irrelevant by Fletcher, who even speculates without evidence that “if the liner was removed, Neutrogena would look like the design claimed in the '151 Patent, and therefore, possess the same visual appearance”. (Fletcher ¶188)

69. In my opinion, the design of the Neutrogena jar cannot be fully understood based on the images that have been provided. As stated earlier, the neck portion is only partly visible, and then only at an extreme angle. The only straight-on side view I have seen is a small vignette from an image in EX1016. I can't see the neck in this view, because it is hidden by the cap. I believe the image below is the only one that might be considered a true side view, because I see the bottom of the jar as a straight line.



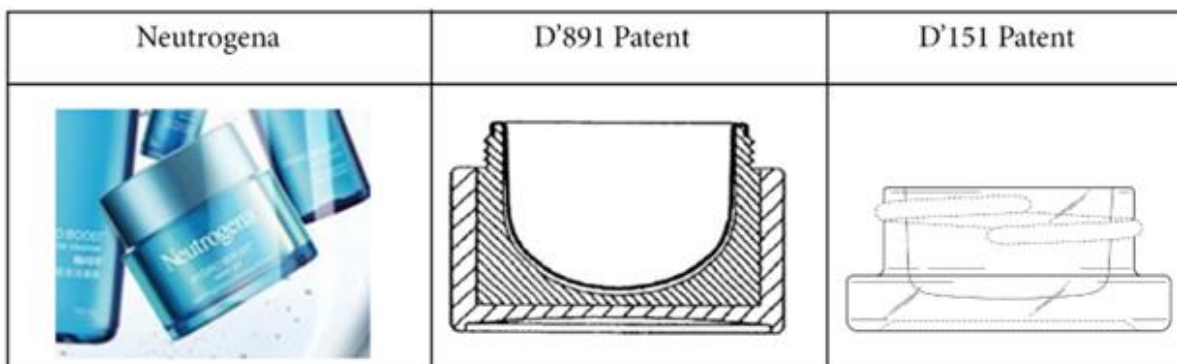
70. I still can't say with any certainty that I can determine the true shape of the bottom of the internal cavity, because I am looking through curved glass, which I know can distort images.

71. The only thing I can see for certain from the Neutrogena jar images is the exterior shape of the base. There are no clear images of the entirety of the neck or the internal cavity. An annotated side-by-side comparison, with an image of the D '151 patented jar and of the Neutrogena jar are scaled to the same base diameter, shows how dramatically different these two designs are.



72. As I've said previously, the most obvious differences between the visual appearance of the D '151 jar and the design of the Neutrogena jar are the dramatic differences in proportions. And what is disclosed in the D '891 patent does not overcome these differences. The proportion of the height of the neck

compared to the height of the base in the D ‘891 patent is worth noting specifically. In the image below, I show a side view of the Neutrogena jar with side views of the D ‘891 patent and the D ‘151 jar.. Differences in proportion are readily apparent, and in no way could a designer of ordinary skill could put the *visual* features of the Neutrogena jar together with the *visual* features of the D ‘891 bottle and come up with a design with the same overall *visual* appearance as the D ‘151 jar. I strongly disagree with Mr. Fletcher’s characterization at ¶ 90 of his declaration that the differences between the design of the D’151 jar and the Neutrogena jar are “slight” or “minimal”.



73. The side-view image of the Neutrogena jar tells me that the internal cavity of the jar might have a flat bottom, but I can’t tell for sure. The D ‘151 patent figures illustrate a jar with a round cavity that goes through the neck and extends slightly into the base. The bottom of the cavity is gently concave. In a section view, I can see the shape of the interior cavity of the D’891 bottle. It leaves

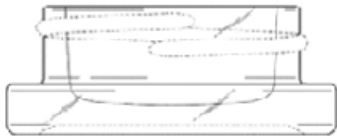
a very thin wall at the neck, extends through the neck, and then extends deeply into the base. The bottom surface is considerably concave.

74. Fletcher suggests at ¶98 that the Neutrogena jar could be modified to have an interior cavity that looked like that of the D'891 bottle. While combining the design of the D '891 bottle Patent and the Neutrogena jar (either by modifying the Neutrogena jar to include features from D '891 or the reverse) could arguably result in a transparent body with an offset neck and a deep interior cavity with a considerably concave bottom, the combination could not result in the design of the jar depicted in the D '151 patent, but would have to be something very different. In comparison to the D'151 jar, both the bottle of the D '891 patent and the Neutrogena jar have necks that are far too short, bodies that are far too tall, and interior cavities that are much too deep! I don't see how a designer of ordinary skill in the art could put together the visual elements of these two designs and arrive at the overall visual appearance of the jar of the D '151 patent.

75. Mr. Fletcher further argues in ¶¶ 90 and 98-100, that a designer of ordinary skill would have found it obvious to increase the neck height and proposes various reasons why this could be justified. I understand that to mean even though neither the Neutrogena jar of the D'891 bottles have proportions anywhere close to that of the D'151 jar, a designer of ordinary skill in the art

would somehow be motivated to change the height of the neck for various reasons not in the cited prior art. If the goal is to increase the volume of the interior, this could be done in many ways. The base height could be increased without changing the neck height, the neck height could be increased without changing the base height, both base and neck height could be varied, including increasing in a way that preserves the ratio of the base height to neck height in the Neutrogena jar. Volume could also be altered by changing the depth and shape of the interior without changing the base and neck. Of course, the dimensions can be changed. Proportions can be changed. But what would motivate the designer to make the specific changes that would result in the design of the D'151 patent? Fletcher is silent in this regard.

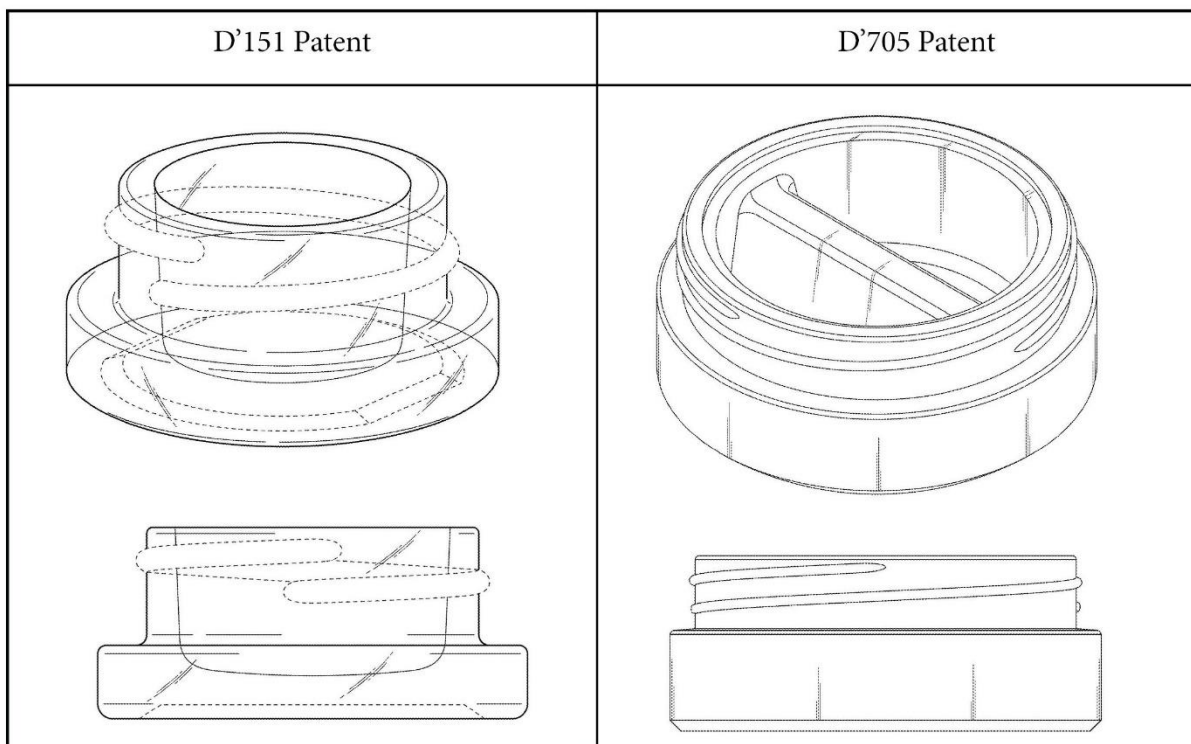
76. Also, modifying the neck height as Fletcher proposes, without changing the proportions of other design features of the Neutrogena jar would result in a jar design that was at least as, if not more, visually different from the design of the D'151 jar as the original. To illustrate this, in the image below shows one of the Neutrogena jar pictures modified so that the height of the cap (which is the tallest the neck in the cap could be) is about 1 ½ times the height of the base. This modified design looks ridiculous.

D'151	Neutrogena with increased neck height
	

77. Similarly, in ¶98, Fletcher argues a designer of ordinary skill in the art “would be capable to modify and adjust the degree of curvature of the bottom surface to optimize its design as it is a known design and functional aspects of containers.” Again, the mere fact that a designer could modify the shape of the interior for various reasons does not provide any reason, other than hindsight, for a designer to modify the shape of the interior in a way that would result in the design of the D'151 patent. Nor would this modification address the significant differences in the exterior design as a whole between the Neutrogena jar and the D'151 jar.

B. Ground 2: The D '705 Patent and the D '891 Patent

78. Mr. Fletcher opines that the design of the D '151 Patent would be obvious to a designer of ordinary skill in the art in view of the D'705 patent in combination with the D;891 patent. Earlier in my declaration, I pointed out differences between the design of the D '151 patent and each of these two references. I will here discuss reasons why a combination of the two would not have made the design of the D '151 Patent obvious to a designer of ordinary skill in the art. Comparison of Figures from these two patents are shown below:



79. According to Mr. Fletcher ¶103, “the overall visual appearance between the '151 Patent and the '705 patent is essentially the same. Generally, both include what I have defined as neck portions, bottom portions, and a negative

space disposed within the respective container/jar. EX1001; EX1007. Moreover, both references include the same overall design that positions the neck portion concentric with respect to the base portion and the compartment concentric with respect to the neck portion.” While I agree that both designs have neck portions, base portions, and internal cavities, these *designs* are not “essentially the same”. Instead, they do not look at all alike primarily because the relationships between these various design elements are very different. The design features of the D ‘151 jar that account for much of its overall visual appearance or “stance” are its proportions - a low, wide base and a tall, narrow neck with a prominent shoulder. These features cannot be broken apart for analysis; they must be considered together. For instance, the height of the neck of the D ‘151 jar emphasizes the shortness of the base. Indeed, from a side-by-side comparison of the D ‘705 container and the D ‘151 jar the D ‘705 container patent looks “stubbier” than the jar of the D ‘151 patent. The neck of the of the D ‘705 container looks short and wide. Because the height of the neck and the height of the base of the D’705 container are similar, there is a symmetry and balance to the container of the D ‘705 patent. Because the height of the neck of the D ‘151 jar is so much greater than the height of its base, the jar of the D ‘151 patent presents a much lighter visual appearance, but with a less balanced look and feel in comparison to the D’705 container.

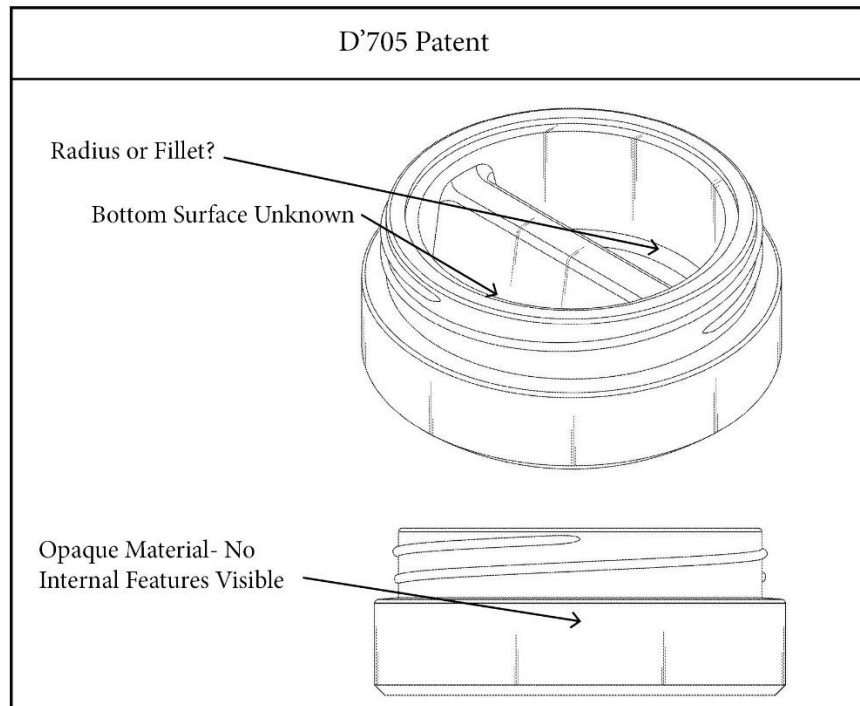
80. As discussed earlier in this declaration, the container of the D '705 patent has a thick dividing wall in the interior cavity. Because the D '705 patent drawings show the container as opaque, I don't know what most of the bottom of the cavity might look like - at least half of it is not shown at all. I do not understand at all how Mr. Fletcher sees these two designs as "essentially the same" as I find them substantially very different in appearance.

- The diameter of the neck is different.
- The height of the base is different.
- The height of the neck is different.
- The shoulder widths are different.
- The interior cavity shape is different.
- The opacity of the material is different.

81. Mr. Fletcher goes on to say in ¶107 of his Declaration regarding the differences in the interior compartment of the D '705 container that "a designer skilled in the art would understand them to not be fully divided. Furthermore, removal of the divider from the '705 Patent would result in a compartment having the same overall visual impression of the '151 Patent and would importantly not require any modification to the design or functionality of the remainder of the container shown in the '705 Patent." I strongly disagree. Because we cannot see

the bottom of each chamber, removing the center divider would clearly not result in a similar overall visual impression. Importantly, I note that the D '705 patent is called "Compartmentalized Container", it therefore follows that central to the overall design of the D '705 patent is the fact that the container is divided into multiple compartments. A designer of ordinary skill in the art would therefore understand that the divider is the most prominent feature of the design!

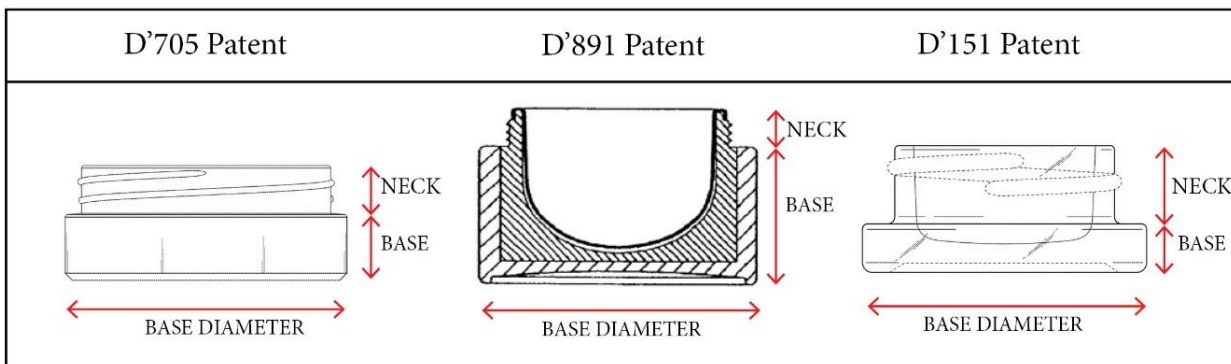
82. The container of the D '705 Patent is shown as being opaque. Because of this, I don't know what the depth is of the interior cavities or their relation to the exterior surface of the container. The lack of transparency, in this case, obscures a substantial part of the D '705 patent's design.



83. In ¶109, Mr. Fletcher admits that the designs of the D’705 Patent and the D ‘151 Patents differ in the relative length of the neck portions, which he, without any support, describes as a “functional limitation”, but nevertheless says that a “a designer skilled in the art would still not find that it diminished the similarity in overall visual appearance between the references”. In other words, Fletcher opines that no matter how long or short the neck is, a designer skilled in the art would think the designs look essentially the same. Once again, Fletcher’s opinion makes no sense. Proportions do matter. Fletcher already has said “the relative heights are essentially equal” ¶109. So, if a designer of ordinary skill lengthened the neck, would not he or she have to also increase the height of the base? If a designer were motivated to lengthen the neck “without adjusting the relative diameters of the neck and base portions” to increase the volume of the chamber(s), would they not also increase the base height for the same reason ? If the goal is to increase the volume of the interior, the base height could be increased without changing the neck, the neck height could be increased without changing the base height, or anything in between, including increasing both to preserve the ratio of the base height to neck height, or making the interior wider and/or deeper without changing the base and neck. Of course, the dimensions can be changed. Proportions can be changed. But what would motivate the designer to make the

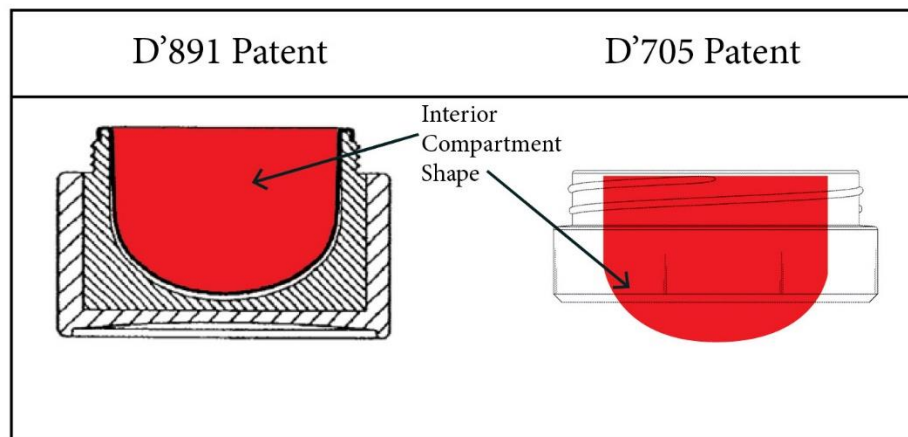
specific changes that would result in the design of the D'151 patent? Fletcher is silent in this regard.

84. Mr. Fletcher believes that a combination of the design of the D '705 patent and the design of the D '891 patent would make the design of the D '151 patent obvious in the eye of a designer of ordinary skill in the art. Mr. Fletcher is wrong. While it is true that the bottle of the D '891 patent has a single interior compartment, compared with the container of the D '705 patent, the compartment in the D '891 bottle, in stark contrast to the compartment of the D '151 jar, is much more rounded along the bottom and penetrates very deeply into the base. Moreover, the bottle design of the D '891 patent does nothing to address the differences in overall proportions of the D '705 container as compared to the D'151 jar, such as neck height in comparison to body height as discussed above.



85. It is also unclear just how the interior of the D'891 flask would be put into the D'705 container. The concave surface of D '891 patent is huge and the

interior was designed to extend almost all of the way through a very high base portion. To fit this interior into the D'705 container, the base of the D'705 container jar would need to be significantly taller.



86. In ¶118, Fletcher says that it would have been obvious to a designer of ordinary skill in the art to “substitute all of the beveled transitions of the ’705 Patent with radiused transitions shown in the ’891 Patent” because it “was a known and common feature”. This again focuses on details while ignoring the design as a whole. In my opinion, whether the corners of the D'705 container have a very small radii or very small bevels does not change my conclusion that the overall visual appearance of the D'705 container is very different from that of the jar of the D'151 patent because the overall proportions of the designs are different.

87. Neither the D'705 container nor the D'891 bottle is transparent. In ¶¶118-119, Fletcher says that it would have also been obvious to further modify the resulting hypothetical design of the combination of D'705 and D'891 to be

transparent based on the D '202 patent (Zamberlan). Even if I assume that this was done, the D'202 patent does not address the differences in proportion and overall visual appearance that clearly differentiate the design of the D '151 patent from the combination of appearance features of the D'705 and D '891 patents. Fletcher also references U.S. Patent D563,221 to Ashiwa (EX 1018) as another example of a transparent container. This patent discloses a cosmetic container that looks very different from the D'151 jar and is not relied on by Fletcher for any reason other than that it is transparent.

C. Ground 3: The D '705 Patent and Neutrogena

88. Mr. Fletcher opines that the design of the D '151 Patent would be obvious to a designer of ordinary skill in the art in view of the D'705 patent in combination with the Neutrogena jar. Earlier in my declaration, I pointed out differences between the design of the D '151 patent and each of these two references. I will here discuss reasons why a combination of the two would not have made the design of the D '151 Patent obvious to a designer of ordinary skill in the art.

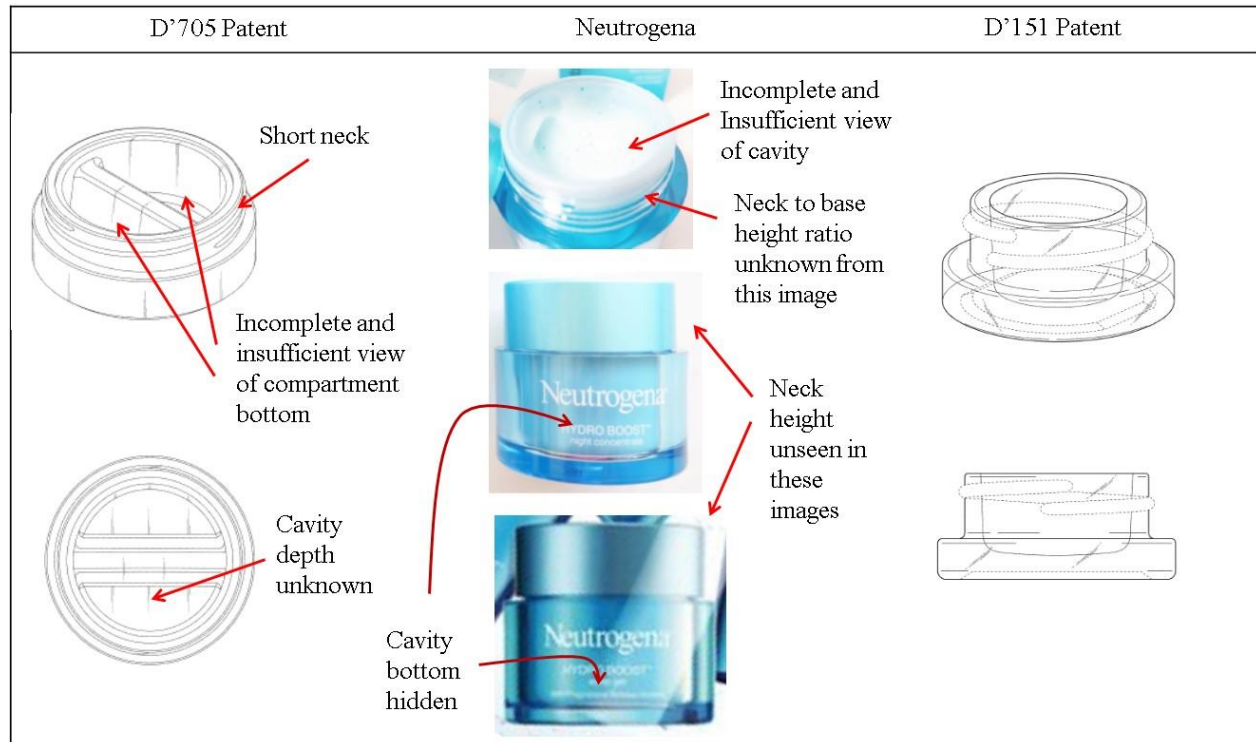
89. In ¶123, Mr. Fletcher opines that “a designer of ordinary skill in the art would find the '705 Patent to have essentially the same visual appearance as the '151 Patent and therefore be considered more visually similar.” I do not understand at all how Mr. Fletcher sees the designs of the D '705 patent and the D '151 patent

as “essentially the same”. It is my opinion that a designer of ordinary skill in the art would find the container of the D ‘705 Patent to have essentially the same structural components as the D’151 jar, but a substantially different *appearance*. The differences between the D’705 container and the D’151 jar are described in detail above and include differences in base height, differences in neck height, differences in the ratio of the neck height to the base height, different shoulder widths, and differences in shoulder width relative to base height. The interiors are also entirely different.

90. The container of the D ‘705 patent has a neck that is slightly shorter than the base in proportion. On the other hand, the D ‘151 patent has a neck is proportionally taller than the base by slightly greater than 1 ½ times.. The design of the Neutrogena jar does not help address this difference, in large part because the neck of the Neutrogena jar is, like the D’705 container, proportionally shorter than the base.



91. When comparing both side views and perspective views side-to-side, and as discussed above, a designer of ordinary skill would be unable understand key design features of the interior of the D'705 container and the interior of Neutrogena jar, based on the images provided, without a great deal of speculation.



92. Mr. Fletcher argues starting at paragraph 132 that the D'705 container should be modified to have the internal cavity of the Neutrogena jar. The Neutrogena reference arguably teaches the *concept* of a single cavity, but the design. The Neutrogena cavity extends through most of the base, unlike the jar design depicted in the D '151 patent which extends only slightly into the base. The bottom of the Neutrogena jar cavity is not disclosed. The combination would result in the D'705 container with a cavity that extends through most of the base and has

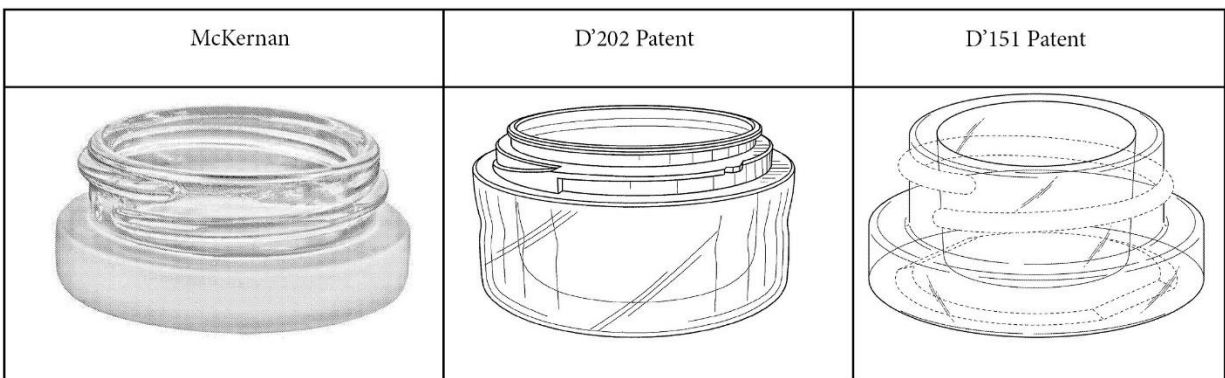
an undefined bottom. Further modifying D'705 to be transparent and have radiused transitions as Mr. Fletcher also argues should be done starting at Par. 132, would still leave the basic proportions of the D'705 container unchanged and so still result in a container with a completely different overall visual appearance than the D'151 jar as discussed above. This combination clearly does not present the same visual design as a whole as the jar design of the D'151 patent.

93. Similar to the arguments presented in Grounds 1 and 2, Fletcher, in Pars. 138-140, proposed that a designer of ordinary skill would have found it obvious to modify the relative height of the neck, the concavity the bottom of the interior, and the shape of the transitions between edges. He further argues after making these changes, any further changes needed to produce the jar design of the D'151 patent would also have been obvious. As discussed, above, of course each of these design features *could* be changed, and changing them would impact the overall visual appearance of the design. However, Fletcher does not explain how or why, out of all of the possible changes that could be made, a designer would chose to make the specific changes needed to produce the jar design of the D'151 patent. More specifically, how would an ordinary design know to modify the combination of The D'705 container and the Neutrogena jar to (1) reduce the height of the base, (2) change the neck height from being shorter than the base to being around 1 ½ times taller than the base, and (3) make the neck width narrower relative to the

base width to increase the shoulder size;? How would an ordinary design arrive at a cavity that extends only slightly into the base and transitions to a slightly concave surface on the bottom when this feature is not shown in either reference? Only through hindsight and working backwards from the target design would a designer of ordinary skill arrive at the design of the D ‘151 patent.

D. Ground 4: McKernan Jar and the D ‘202 Patent

94. Mr. Fletcher opines that the design of the D ‘151 Patent would be obvious to a designer of ordinary skill in the art in view of the McKernan Jar and the D ‘202 patent (Zamberlan) ¶142 A&A Exhibit 1011. Earlier in the declaration, I pointed out differences between the design of the D ‘151 patent and each of these two references. I will here discuss reasons why a combination of the two would not have made the design of the D ‘151 Patent obvious to a designer of ordinary skill in the art.



95. As discussed above, the McKernan jar has exterior proportions that are noticeably different from the D'151 jar, with a shorter and wider neck, a narrower shoulder, and larger mouth at the top of the neck as compared to the D'151 jar. The base of the McKernan jar is frosted, so I cannot see the depth of the internal cavity, the contour of the side wall, or any indication of what the bottom surface of the cavity might look like. The base of the McKernan jar also has a softer, rounder look than the base of the D'151 jar. The McKernan jar is noticeably different from and does not present the same overall visual appearance as the jar of the D'151 patent.

96. The base of the D '202 flask is much higher than the other two designs and has a distinctive depression that completely encircles the base at the middle. Most importantly, the flask of the D'202 patent has a very short neck portion as compared to its base and a cavity that extends more than halfway into the base and has a flat bottom, again completely unlike the proportions of the D '151 jar. The base of the D'202 flask is also very soft and rounded at the bottom, unlike the design of the D'151 jar. No matter how the features of the flask in the D '202 patent and the McKernan jar are combined, there is no way a designer of ordinary skill in the art could arrive at a design that was the same as the D '151 patent.

97. In ¶145 of his declaration, Mr. Fletcher opines that “[t]he primary difference between the design of the McKernan Jar and the design of the ’151 Patent is that only the neck portion of the McKernan Jar is transparent rather than the entirety of the McKernan Jar. In other words, the base portion of the McKernan Jar, unlike its neck portion, is frosted and thus not see-through.”

98. Mr. Fletcher argues, in ¶ 146 that transparency is functional, and goes on, in ¶ 149, to argue that the McKernan Jar could be modified to be clear, like the flask of the D ’202 patent. While transparency does have a functional aspect, deciding how much of a jar is transparent verses. frosted is very much a design choice.

99. In my opinion, there are several major differences which Fletcher ignores and which account for a different overall visual appearance even if the McKernan jar was transparent, which , again it is clearly not.

100. The first is a difference in proportions as described above. The narrower, longer neck of the D ’151 jar combined with a low, flat, crisp-edged base gives the D ’151 jar an elegant but solid character, as compared to the McKernan jar which has a shorter, wider neck, giving it a lower, wider look.

101. Another major difference is the interior cavity. The jar of the D ’151 patent has a clearly defined cavity that goes through the neck and slightly into the base. I cannot see the bottom of the cavity in the McKernan jar, and there is no

way to tell from the documents how the cavity might look beyond the neck of the jar. The D '202 patent, on the other hand does show the interior of the flask, but it is nothing like the design of the interior shown in the D '151 patent. The interior of the flask of the D '202 patent extends through the neck and almost completely through the base. Since the interior of the McKernan jar is undefined, a designer of ordinary skill combining the McKernan jar with features from the D'202 flask would have no choice but to select the cavity of the D'202 flask, resulting in a jar that also has an internal cavity that extends more than halfway into the base, has straight sides, and a flat bottom. While this modified combination of references would now define a jar having a complete interior, the overall visual impression of the design as a whole would be materially different from that of the jar design in the D'151 patent, and the design as a whole would not present the same visual impression as the design in the D'151 patent, both because of the different exterior proportions and because of the very different configuration of the interior.

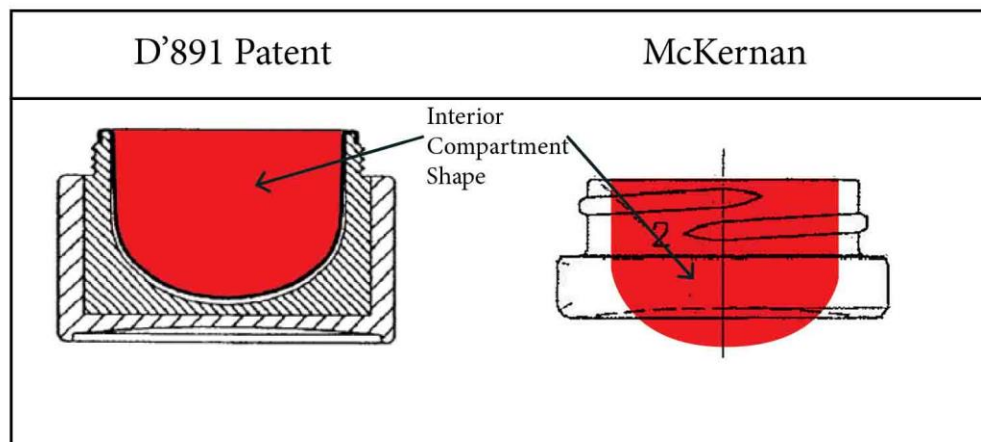
102. In ¶152, Fletcher tries to explain how the combination of these two references can be further modified to create the same design as in the D'151 patent. “For example, to the extent that the combination of the McKernan Jar and Zamberlan [D'202] is considered to fail to explicitly show that the interior compartment thereof has a sloped sides with a concave bottom surface like that of the design of the '151 Patent, a skilled designer would have been motivated to

incorporate such a concave shape for at least the simple function of pooling the contents of the jar to ensure use of and accessibility to all of the contents, especially to facilitate access to the contents, such as when using a finger.” Again, as he has done in Grounds 1, 2, and 3, though this feature is not shown in either reference, Fletcher opines that a designer of ordinary skill would still be motivated to completely redesign the product to include a feature design not even suggested in the references. And, if a designer did want to add a concave bottom to the interior, how concave would it be? How deep would the cavity go into the interior? How thick would the walls be and would they be straight or tapered and, if tapered how steeply? These questions are never addressed by Mr. Fletcher.

103. While arguing obviousness based on the McKernan jar combined with D ‘202 patent, at Par. 152-153, Mr. Fletcher references the D ‘891 bottle (EX 1008) as showing the concept of an interior compartment with a concave bottom surface. It is not clear if he is proposing modifying the McKernan Jar combined with the D’202 patent to use the interior cavity design of the D’891 patent or simply to show that a concave bottom was generally known. If his argument is just that concave bottoms were known, his argument still suffers from the same problems as discussed above in that it leaves it to the designer to decide how concave the bottom would be. And redesigning the bottom of the D’202 flask’s

interior to have some unspecified amount of concavity would still leave an interior cavity that extends more than half way into the base.

104. If, on the other hand, he is proposing to replace the interior of the D'202 flask with the design of the interior of the D'891 bottle, similar to the proposed modification of the D'705 container in Ground 2, the interior compartment of the D'891 would have to be drastically altered even just to fit the outside shape of the McKernan jar. As noted, the concave surface of D '891 patent is huge. It was designed to extend through a very high base portion, not the lower profile of the McKernan jar. It also extends through almost all of the base. To fit this interior into the McKernan jar, the base of the McKernan jar would need to be significantly taller.



105. In ¶155, Fletcher states: “To the extent that the interior compartment of the combination of the McKernan Jar and Zamberlan [D'202] is considered to

be deeper than that of the design of the '151 Patent, it would have been an obvious design choice to select any desired depth (shallow or deep) for the compartment based on the desired volume of contents to be held within the jar. Moreover, in view of the truncated nature of the base portion of the McKernan Jar, a skilled designer would recognize the advantage of limiting the depth of the interior compartment into the base portion to maintain a solid base for the jar and avoid damage.” I understand that to mean even though certain features are not shown in any of the prior art references, a designer of ordinary skill in the art would somehow be motivated to change the combined design and add features of their own as needed to solve design problems that the references never even address.

106. In ¶156 and 157, Fletcher further sees the proportions of neck height to base height as functional features that can be randomly adjusted to change the volume of the jar. He believes that making the neck taller makes sense in order to increase volume. Changing neck height by itself would change the volume, but volume can also be changed by making the neck wider or making the base wider or taller, or the walls of the jar thinner, or changing how deep the cavity extends into the base, or how flat or curved the base of the cavity is, or the angle of the cavity side walls, or any combination of these

107. . Clearly, any of these features *could* be changed and all of these changes would impact the overall visual appearance of the design. With all of these

options to choose from, there is no one right, or best, or optimal design. To produce the jar design of the D' '151 patent, the combination of McKernan and the D' '202 patent would need to be modified to (1) make the neck taller relative to the base, (2) make the neck narrower relative to the base, (3) change the depth of the interior from going mostly through the base to going only slightly into the base, (4) change the contour of the interior from a flat bottom to having not just a concave bottom, but rather a gently concave bottom, and change the interior sidewalls from being straight to slightly A designer of ordinary skill could only arrive at the D' '151 patent through hindsight.

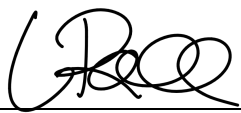
108. In my opinion, the jar design of D' '151 patent is all about proportion. When there are so few features, the proportions become very critical and small changes in proportion will have a huge impact on the overall appearance. The overall visual appearance is the result of design decisions that were made about the proportional relations between the base, neck, and interior cavity, including the height and width of the base, the height and width of the neck compared to the height and width of the base, and (particularly since the jar is transparent), the proportional diameter and depth of the cavity relative to the top of the base, etc., etc. These proportions cannot be dismissed as mere functional inevitabilities. In a very real way, while all of the design features contribute to the visual impression of

the claimed design as a whole, the proportions are the crux of the exterior jar design of the D '151 Patent.

VIII. Reservation Of Rights

109. Although my current opinions are set forth in this report, I reserve the right to supplement or modify my opinions based upon any new information or evidence that is made available to me or to respond to any arguments, evidence, or opinions submitted on behalf of the defendants regarding the issues in this report. I also reserve the right to provide, reply or supplemental reports as my analysis continues, and I understand that I may be asked to provide rebuttal or reply testimony as this case continues.

I declare under penalty of perjury that the foregoing is true and correct, and if called as a witness would testify competently thereto.



Prof. Lance Rake

Dated: October 25, 2024, Lawrence, Kansas

APPENDIX A

LANCE RAKE

PROFESSOR DESIGN
785 424 3117

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LANCERAKE.COM

For nearly 50 years, I have been learning, practicing, and teaching industrial design, often at the same time. Honored as a Fulbright Senior Scholar in 2015 and again in 2018, I am currently Professor of Industrial Design at the University of Kansas. I have also taught full-time at Auburn University and Carrington Technical Institute in Auckland, New Zealand. Additionally, I have taught short courses at Konstfackskolan in Stockholm and been a visiting professor at Staffordshire University in Stoke-on-Trent, England, Halmstad University in Sweden, the Royal Melbourne Institute of Technology in Australia, Kathmandu University in Nepal, and the Indian Institute of Technology-Bombay in Mumbai, India. My design research has been supported by private and public grants, and findings presented at national and international design conferences and institutions. For several years I have been using my experience as both teacher and practitioner of design to serve as an expert witness in design patent infringement and product liability cases. I was a signatory to the “133 Distinguished Industrial Design Professionals and Professors” Amicus Brief supporting Apple in its case against Samsung before the Supreme Court.

Working alone or in collaboration with other professionals, I have designed numerous commercial products, consumer products, aircraft and boat interiors, graphics, packaging, and exhibits. I was chosen by the editors at ID Magazine as one of the “Design 50”.

Recently, my research efforts have been focused toward using design to create sustainable craft-based enterprises in rural communities in the US, Africa, Nepal, and India.

EDUCATION

Master of Product Design (renamed Master of Industrial Design), 1982

B.F.A. Industrial Design, 1974

University of Kansas, Lawrence, KS

LICENSURES, CERTIFICATIONS, AND PROFESSIONAL TRAINING

ICSID (International Congress of Societies of Industrial Design) City Move Interdesign workshop, Malmberget, Sweden. One of 40 designers, planners, artists, doctors and students invited to conceive of a new town and to develop a process for relocating cities that could be scaled and exported. 2009

IDSA Continuing Education Certificate, “How to Serve as an Expert Witness in Design Patent Litigation” Taught by Perry J. Saidman and Cooper C. Woodring, 2008

ACADEMIC APPOINTMENTS

University of Kansas, Lawrence, KS

Professor of Design, School of Architecture & Design, 2005 - Present

Associate Professor, School of Fine Arts, 1991 - 2005

Assistant Professor, School of Fine Arts, 1987 – 1990

The Royal Melbourne Institute of Technology, Melbourne, Australia

Visiting Professor, Industrial Design, 2019 – Present

Kathmandu University, Kathmandu, Nepal

Visiting Professor, Mechanical Engineering Department, 2019 – Present

The Indian Institute of Technology-Bombay, Mumbai, India

Honorary Visiting Professor, Bamboo Studio, Industrial Design Center, 2016 – Present

Högskolan i Halmstad (Halmstad University), Halmstad, Sweden

Visiting Professor, Industrial Design, 2016 - Present

The Indian Institute of Technology-Bombay, Mumbai, India

Visiting Professor, Bamboo Studio, Industrial Design Center, 2012

**Carrington Technical Institute (subsequently renamed UNITEC Institute of Technology),
Auckland, New Zealand**

Tutor & Course Supervisor, Product Design, 1985 – 1986

Auburn University, Auburn, AL

Assistant Professor, Industrial Design, 1980 - 1984

ADMINISTRATIVE ASSIGNMENTS

Founder & Acting Director, Center for Design Research, Department of Design, 1994-2005.

Created the CDR to focus our graduate program to realign research efforts in collaboration with regional and national industry partners. I was solely responsible for the effort, establishing an effective design team, securing funding and research projects from industry partners including Learjet and H-P.

Associate Chairperson, Department of Design, 1990-1991

Challenged to improve the Design Department's interaction with industry and to initiate cooperatives, collaboratives, and professional relationships.

UNITEC Institute of Technology, Auckland, New Zealand

Course Supervisor, Design, 1985 – 1986

Essentially the chairperson of Product Design, I was responsible for rewriting the curriculum and reorganizing the area. Our graduating students were remarkably successful- starting their own offices in New Zealand, but also working in major studios in the US, UK and Europe.

HONORS AND AWARDS FOR SCHOLARSHIP

2022 Lifetime Achievement Award. University of Kansas School of Architecture and Design for exceptional contributions to the design profession.

Fulbright Global Scholar Award. “Reimagining the Future of Mobility with a Sustainable Bamboo Bicycle”. I will be working with colleagues in Melbourne Australia and Kathmandu Nepal to design and prototype a bicycle for use by smallholder farmers in rural Nepal. (2019-2020)

Fulbright-Nehru Academic and Professional Excellence Award, Fulbright Senior Scholar Program. Professor Rake's Fulbright research project, "Using Design Thinking to Create Sustainable Craft-Based Enterprise in India", will investigate strategies that explore how to use design thinking to take traditional craft skills into the future, using innovative design and technology to improve the income of rural craftspeople and help create transformational change. (January 2016 - June 2016)

ID Magazine "Design 50". The editors at ID chose to profile the work of 50 US designers in their January/February 2004 Issue- one from each state. I was honored as the designer chosen to represent Kansas. (2004)

PROFESSIONAL EXPERIENCE

Infusion Design, Bonner Springs, KS
Consultant, 2000 - 2016

The New Deal Playing Card Company, Leawood, KS
Vice President Strategic Product Development, 1995 - 2005

Leon Paul, Ltd, London, England
Design Consultant (sabbatical leave), 2001

Hans Skillius Design, Halmstad, Sweden
Design Consultant (sabbatical leave), 1993

Interface Design Group, Milwaukee, WI
Manager, Industrial Design, 1979 - 1980

Stan Johnson Design, Milwaukee, WI
Design Director, 1978 - 1979

Anacomp (div Bell & Howell Co.), Hartford, WI
Manager, Design Services, 1975 - 1978

Prism, Inc., Racine, WI
Industrial Designer, 1974 – 1975

PUBLICATIONS: BOOKS

Bielenberg, J., Burn, M., & Galle, G. (n.d.). In E. E. Dickinson, *Think Wrong*. 127, 193-200. ISBN: 9780692693322, 2016 Think Wbook about design innovation, and shares a story about my design process, and how I developed one of my product design ideas.

E. Zijlstra (Ed.), *Booming Bamboo*. Materia (Netherlands).
Images of my design "Woven Bamboo Bicycle" appear in this compilation of contemporary bamboo design.

Schütz, F. (in press). *Innovative Bambus Materialien*. arundoobiomaterials.
Images of my design "Woven Bamboo Bicycle" appear in this compilation of contemporary design featuring bamboo use in composites.

PUBLICATIONS: CONFERENCE PROCEEDINGS

Rosen, B. G., Bergman, M., Skillius, H., Eriksson, L., & Rake, L. (2010). *On Linking Customer Requirements to Surfaces*. In Proceedings of the 13th International Conference on Metrology and Properties of Engineering Surfaces, National Physical Laboratory, London, UK.

Rake, L. (1990). *Industrial Design: Learning to Live Without Modernism*. In Proceedings of the Industrial Designers of America Conference on Design Education, Pasadena, California.

Rake, L. (1989). *Design is the Problem*. In Proceedings of the School of Visual Arts' third annual National Conference on Liberal Arts and the Education of Artists, New York.

Rake, L. (1989). *Taking Another Look at Design Education*. In Proceedings of the Industrial Designers of America Conference on Design Education, Minneapolis.

PUBLICATIONS: MULTIMEDIA

Rake, L. G. (1984). *Sketching Techniques for Industrial Designers*. Auburn University: Learning Resource Center.

PUBLICATIONS REFERENCING MY RESEARCH/CREATIVE WORK MAGAZINES & VIDEO

Dickinson, Elizabeth E. "The Pit That Swallowed a City" *Architect*. (October 2010)
Article written about the ICSID 2009 Interdesign workshop held in Malmberget, Sweden. I was quoted several times about the role designers play when we consider how to move populations as the result of natural or ecological events.

Saenz, Yvonne. "Beacon Alley Boards" Vimeo. video. (2014)
Reference to my design work in collaboration with HERObike, Greensboro, AL, 2011

Selden, Ben. "Semester Bike" Vimeo. video. (2013)
Reference to my bicycle design work, and my efforts to leverage design to create social impact in rural Alabama, HERObike, Greensboro, AL, 2011

WEBSITES/BLOGS

Zeitoun, Lea "[Inspired by the Abari bamboo bicycle, Lance Rake designs Barrel Stave bikes](#)" designboom, .February, 2022.

Walia, Nona "[Bamboo-zled!](#)" timesofindia (March 15, 2020)
Reference to my work research developing cargo bicycles out of local resources

Meisenzahl, Mary "[This electric bike was designed in Nepal using local Bamboo to transport tourists and packages- here's how it works](#)" Businessinsider, (June 22, 2020)

Redaksi "[Becak 'Lucu' Kathmandu dari Bambu](#)", majalahcsr (21 Februari, 2020)

Sexty, Jack “[Introducing the Habre Eco Bike: a Nepalese e-cargo machine built from bamboo to beat the climate crisis](#)”, ebiketips (February 23, 2020)

Jewell, Nicole “[Bamboo electric bike is designed for Kathmandu locals and tourists](#)”, inhabitat (February 19, 2020)

Myers, Lynne “[habre eco bike is made from local bamboo and is designed to ease pollution in kathmandu](#)”, designboom (February 12, 2020)

Reference to my work research developing Bicycles out of Wine Barrels

Sousa, Marcia “[Designer Cria Bicicleta com Madeira de Barril Usado](#)” CicloVivo, February, 2022.

Hernandez, Daisy “[This Designer Repurposed Wine Barrels to Create a One-of-a-Kind Ride](#)”, Bicycling (March 21, 2019).

Coxworth, Ben, “[The Classy Cooper Bicycle is made from Old Wine Barrels](#)” New Atlas (March 18, 2019).

Pomranz, Mike. “[This Designer Turned a Wine Barrel into a Bicycle](#)”, Food and Wine (March 22, 2019).

King, Tierney, “[Designing Bikes from Old Wine Barrels](#)”. ECN (March 20, 2019).

Reference to my work research developing designs of bicycles, skateboards, and paddleboards made from bamboo or bamboo composites, in collaboration with HERO, a not-for-profit located in rural Greensboro, AL.

Kristen Moses, “[The HEROs of Greensboro, Alabama: How One Nonprofit Is Changing Bike Design and Community Development](#)” Design Good Design (2017)

Harper, Brad. “[Bamboo Bikes Spur Economic Development in a Struggling Alabama County](#)” momentummag.com Momentum. internet. (May 2, 2017)

Underwood, Allison. "Heroes of the Blackbelt" Good Grit...The Character of the South Good Grit (goodgritmag.com). internet. (December 1, 2016)

Reference to my work research developing advanced designs of bicycles using woven bamboo composite tubes. Describes the continued development of a craft-based enterprise, HERObike-a result of a collaboration with HERO, a not-for-profit located in rural Greensboro, AL.

Bauman, Kat. “[Can Braided Bamboo Shift Bike Frame Design?](#)” CORE77 Website CORE 77. internet. (May 30, 2017)

“A Bamboo Road Bike Born from the Collaboration between Lance Rake and HeroBike.”
designdiffusion.com. (May 4, 2017)

Lea Zeitoun “[lance rake's HERObike is fitted with woven bamboo tubes](#)” designboom.
(May 2, 2017)

Turner, Troy. “A Boost of Bamboo” Yanko Design Yanko Design. Internet. (May 2015)
This article describes the development of a woven bamboo/composite e-bike.

Alabama Public Radio “[Made in Alabama: A Look at Alabama Makers.](#)” (July 2017)

Market success of the Semester bike and Beacon Alley Skateboard created demand for skilled craftspeople in the region.

Boram, Brian. “Wanted for Hire: Bamboo Bicycle Builders in Hale County, Alabama” Arcade
Arcade (arcadenw.org). internet. (Fall 2014)

Reference to my work as a result of designing Beacon Alley Skateboard HERObike, Greensboro, AL, from 2013 - 2014

“A Skateboard To Bring Back Local Manufacturing In The South Is Made From . . . Bamboo?”
fastcoexist.com (Fast Company). internet. (2014)

“A Skateboard To Bring Back Local Manufacturing In The South Is Made From . . . Bamboo?”
fastcoexist.com (Fast Company). internet. (2014)

“Art Pics: Bamboo Skateboards” Fad: Cool Art & Stuff. internet. (2014)

“Beacon Alley Skateboard: eco-friendly bamboo skateboard by makelab and HERObike”
wowozine (Wow Trend Magazine). internet. (2014)

“Beacon Alley Skateboards” CORE 77. internet. (2014)

“Beacon Alley Skateboards” Fancy. internet. (2014)

“Beacon Alley Skateboards” theawesomer.com. internet. (2014)

“Beacon Alley Skateboards Kickstarting in Alabama” Impact Design Hub. internet. (2014)

“Beacon Alley Skateboards’ Woven Bamboo Deck” geekalabama.com. internet. (2014)

“Beacon Alley Skateboards’ Woven Bamboo Deck” Original Paperbacks. internet. (2014)

“Makelab & HERObike – Beacon Alley Skateboards” hellocoton.fr. internet. (2014)

“Makelab & HERObike – Beacon Alley Skateboards” Whitezine.com. internet. (2014)

“makelab + HERObike weave durable bamboo composite skateboards” designboom.com. internet. (2014)

"Woven Bamboo Composite Skateboards" compositestoday.com. internet. (2014)

"Woven Bamboo Skateboard Muscle" Common Marketplace. internet. (2014)

Television segment that featured the Semester bicycle and the process of making bamboo bikes in rural Alabama.

Oldmixon, Rachelle. Aljazeera America. "A fixie made out of oversized grass" TECHKNOW blog. (January/February 2014).

Reference to the Semester Bike design and the development of HERObike-a result of consulting with HERO, a not-for-profit located in rural Greensboro, AL. Details the positive social change that can come from using design thinking to leverage local skills and resources.

Estes, Cary. “Elegantly Designed Bicycle Business” Business Alabama. internet. (September 2014)

“A Bamboo Bike Designed to Lift People from Poverty” Wired.com. internet. (2013)

“Semester Bicycles- Hextube bamboo composite frames made in the rural South” In J. Thomas (Ed.) Bicycle Design.net. internet. (2013)

“Semester Bike designed to create jobs in Alabama” Fast Company. internet. (2013)

“The Semester Bicycle represents a new take on sustainable design, while supporting the local community of Greensboro in Alabama, USA.” Design Indaba. internet. (2013)

“The Semester Bicycle: An Environmentally and Socially Responsible Bike” ambikamelville.com. internet. (2013)

“Semester Bike built to drive positive change”. Design Boom. (August 2013)

“Semester Bike Project” CORE 77. (2013).

INVITED PRESENTATIONS/LECTURES: INTERNATIONAL

Rake, L. (2023). *Footwear Production- Using Digital Fabrication Tools*. Presentation at Halmstad University, Halmstad, Sweden.

Rake, L. (2020) *The Kathmandu Project*. Fulbright Commission Presentation. Kathmandu, Nepal. (International, Invited)

Rake, L. (2019) *Learning to "Think Wrong"*. Mechathon at Kathmandu University. Dhulikhel, Nepal. (International, Invited)

Rake, L. (2019, 23 August). *Designs in Tall Grass*. Presentation for Design Students at RMIT, Melbourne, Australia.

Rake, L. (2016). *Designing in Bamboo*. Presentation at Halmstad University, Halmstad, Sweden.

Rake, L. (2016, 24 April). *Design Hacks*. Presentation before faculty and student body for The Department of Architecture and Urban Planning, Institute of Engineering, Tribhuvan University, Pulchowk Campus, Kathmandu, Nepal.

Rake, L. (2016). *7 Words You Should Never Use in Design School*. Presentation before faculty and undergraduate student body at The Industrial Design Center, Indian Institute of Technology, Mumbai, India.

Rake, L. (2015, July 10). *Symbiotic Relationship Between Design & Engineering*. Med By SCE - Shamoon College of Engineering, Department of Mechanical Engineering, Beer-Sheva, Israel.

Rake, L. (2015, December 15). *Learning to Make, Making to Learn*. Konstfacksolan, Stockholm, Sweden.

Rake, L. (2012, October). *Think Wrong*. Presentation before faculty and graduate student body at The Industrial Design Center, Indian Institute of Technology, Mumbai, India.

Rake, L. (2012, September). *Why Design Matters*. Presentation before faculty and graduate student body at Orchid International School, Nashik, India.

Rake, L. (2012, April). *What Little I Have Learned*. Presentation, before faculty and design student body at Nelson Mandela Metropolitan University, Port Elizabeth, South Africa.

Rake, L. (2008). *Unapologetically American*. Presentation, SVID Designdagen conference at Halmstad University, Halmstad, Sweden.

Rake, L. (2007). *Industrial Design, Learning to Live Without Modernism*. Paper, for Industrial Design and Innovation Engineering graduate students and faculty at Halmstad University, Halmstad, Sweden.

Rake, L. (2007). *My Life Aboard the Titanic*. Presentation, Konstfackskolan, the national art & design school, Stockholm, Sweden.
Attended by Industrial Design faculty, undergraduate, and graduate students.

Rake, L. (2007). *Towards Reality in Industrial Design*. Presentation, Institute for Design, Umeå University, Umeå, Sweden.
Attended by faculty and graduate students Industrial, Transportation, and Interaction Design.

Rake, L. (2005). *The Future of Graduate Design Education*. Presentation for “Designdagen”- Swedish Design Day, SVID, Swedish Society of Industrial Design, Halmstad, Sweden. 2005 has been designated as “Design Year”.

Rake, L. (2004). *Industrial Design Education and Practice in a Multidisciplinary and International Context*. Presentation for administrators, faculty, and students, Halmstad University, Halmstad, Sweden.

Rake, L. (1986). Panelist, National Art and Design Education Symposium, Auckland, New Zealand.

Rake, L. (1985). *Experiential Learning in Industrial Design Education*. Presentation, New Zealand Society of Industrial Designers regional meeting, Auckland, New Zealand.

INVITED PRESENTATIONS/LECTURES: NATIONAL

Rake, L. G. (2023, 14 Nov). *Bike Design on a Mission*. Auburn University lecture for Industrial Design in Modern Society class.

Rake, L. G., Durkin, T.-G. G., & Gajewski, D. A. (2022, February22). *Navigating Functionality in Design Patent Prosecution and Litigation*. Strafford Publishing webinar.

Rake, L. G., Durkin, T.-G. G., & Gajewski, D. A. (2015, December 8). *Navigating Functionality in Design Patent Prosecution and Litigation*. Strafford Publishing webinar.

Rake, L. (2003). *Ergonomics: A Commonsense Approach for Industrial Designers*. Presentation, 9th Annual National Ergonomics Conference and Exposition, Las Vegas.

Rake, L. (1994). *The Beauty of Chaos; the Chaos of Beauty*. Presentation, Symposium Design Thinking- Expressive Solutions, Helsinki, Finland.

Rake, L. (1991). *Toward Reality in Industrial Design*. Presentation, Product Semantics and Visual Semiotics in Design Conference, Helsinki, Finland.

Rake, L. (1990). *Industrial Design: Learning to Live Without Modernism*. Presentation, Industrial Designers of America Conference on Design Education, Pasadena, CA. Published in the proceedings.

Rake, L. (1989). *Design is the Problem*. Presentation, School of Visual Arts’ third annual National Conference on Liberal Arts and the Education of Artists, New York. Published in the proceedings.

Rake, L. (1989). *Taking Another Look at Design Education*. Presentation, Industrial Designers of America Conference on Design Education, Minneapolis. Published in the proceedings.

GRANTS/AWARDS: EXTERNAL

Fulbright IIE Centennial Fellowship, *Cargo Bikes to Empower Smallholder Farmers in Rural Nepal*, (2021)

Fulbright IIE Centennial Fellowship, *Designing an Education and Training Center for the Indigenous Chepang of Nepal*, (2020)

Fulbright Senior Scholar Program, Fulbright Global Scholar Award. “*Reimagining the Future of Mobility with a Sustainable Bamboo Bicycle*”, is a project that began with a research and design phase in Melbourne, Australia and moves to a prototype and testing phase in Kathmandu, Nepal. Designed a bamboo cargo bike to improve the congestion and pollution in urban Kathmandu and hopefully leads to new employment opportunities for rural craftspeople in Nepal. (July 2019 – January, 2020)

Fulbright Senior Scholar Program, Fulbright-Nehru Academic and Professional Excellence Award. “*Using Design Thinking to Create Sustainable Craft-Based Enterprise in India*”, investigated strategies that explore how to use design thinking to take traditional craft skills into the future, using innovative design and technology to improve the income of rural craftspeople and help create transformational change. (January 2016 - June 2016)

Rake, L. *Adventure Travel Luggage*. Bass Pro Shop, Springfield, MO (2006).

Rake, L. *Exploring Innovations in Fan Design*. Hunter Fans, Memphis, TN (2006).

Rake, L. *New Product Ideas for Family Camping Tents*. Wenzel, St. Louis, MO (2005).

Rake, L. *Milner Aircar*. DAR, Lawrence, KS (2004).

Rake, L. *Short-range Wireless Interconnection of Electric Devices*, Bluetooth, Kansas City, MO (2004).

Rake, L. *Portable Outdoor Exhibition Space*. Big Dog Motorcycles, Wichita, KS (2003).

Rake, L. *New Product Ideas for the Scrapbook Market*. Cardinal Brands, St. Louis, MO (2002).

Rake, L. *Back to School Product Design. Investigation, Analysis, and Design*. Cardinal Brands, St. Louis, MO (2001 - 2002).

Rake, L. *New Product Opportunities in the Recreational Boat Industry*. Investigation, Analysis, and Design. Infusion Design, Bonner Springs, KS (2001 - 2002).

Rake, L. *Recreational Vehicle Design for a New Market Segment. Investigation, Analysis, and Design*. MountainHigh Coachworks, Ontario, CA (1999 - 2000).

Rake, L., & Geil, D. M. *Fencing Shoe Design*. United States Olympic Committee (1998). Consultant with Dr. Geil.

Rake, L. *Design of a Closed System Bearing Oiler*. Trico Manufacturing, Pewaukee, WI (1995 - 1998).

Johnson, J., Rake, L., *Design of Motor Assist Standing Wheelchairs*. Small Business Innovation Research Program Grant. FENA DESIGN, St. Cloud, MN. (1995 - 1998).

Nagengast, D., & Rake, L. *DIY In Field Refrigeration for Small Organic Farms* North Central Region Sustainable Agriculture Research and Education Program. U.S. Department of Agriculture (1995).

Rake, L. *Laptop Computer Design*. Compaq Computers, Houston, TX (1994).

Rake, L. *Interior Concepts, 31-A*. Learjet, Wichita, KS (1994).

Rake, L. *3D Modeling Hardware & Software, Equipment Grant*. Intergraph Corporation, USA, and Intergraph Sverige, AB (1993).

Rake, L. *Using Traditional Materials and New Technologies in an Alternative Design Strategy*. SOR, Inc. Olathe, KS (1988).

GRANTS/AWARDS: INTERNAL

Sabbatical. Rake, L. “*Making Custom Footwear through Global FabLab Network*”(2023) Halmstad, Sweden.

General Research Fund. Gore, N. & Rake, L. “*Electrifying the Dotte Mobile Grocer Demonstration Kitchen*.” University of Kansas (2019)

Faculty Support Grant Fund from the Office of Study Abroad. Herstowski, A. & Rake, L. *Mapping Study Abroad to the Major*, (2016). Connecting with Study Abroad partners in Finland, Sweden, and Denmark.

Sabbatical. Mumbai, India. Conducted research at the Bamboo Studio, Industrial Design Center, Indian Institute of Technology-Bombay. (2012)

Hallmark Faculty Enhancement Fund. Rake, L. *A Pilot Project to Develop and Implement the Alodia Afrika Design Office*. University of Kansas (2011). Using Design Thinking to open new product and market possibilities for a woman’s textile co-op in Hamburg, South Africa.

Transportation Research Institute. Rake, L. *Driving Without Distraction: We Have an App for That*, The University of Kansas (2010).

Rake, L. *Design of the Next Generation General Aviation Aircraft Interior*. University of Kansas (2004).

Sabbatical. Stratford-upon-Avon, England. Conducted research at the Leon Paul office in London, England to design and test fencing equipment including weapons, scoring equipment, and footwear. (2001)

Research and Development Fund. Rake, L., & Ewing, D. M. Proposal Development for NASA's University Earth System Science (UnESS) Program. *Mapping Greenland Ice.*, the University of Kansas (2000 - 2001).

Rake, L. *Design of High- Performance Titanium Sabre using 3D Solid Modeling, Testing, and Evaluation Technologies.* University of Kansas (1999).

Sabbatical. Halmstad, Sweden. Professional design practice in the office of Hans Skillious, Halmstad, Sweden. (1993)

Rake, L. *The Electronic Mock-up as a Conceptual Tool for Industrial Designers.* University of Kansas (1993)

Rake, L. *Product Development Using an Alternative Design Strategy.* University of Kansas (1989).

Rake, L. G., & Taylor, D. J. B. *The Efficacy of Training on the Development of Creative Thinking Ability.* Research Grant-In-Aid, Auburn University (1984).

SELECT RECENT DESIGN WORK

Rake, L. *Palaver Chair, (December, 2023-Present)*

Since late 2023, I have been working with Farm to Fabric in Port Elizabeth, South Africa on chair designs based on traditional Palaver chairs from West Africa. Graphic surfaces are woven and applied to plywood substrate with resin. Currently being prototyped.

Rake, L. *ElectricTravel Guitalele, (December, 2023)*

Using Virtual Reality and Digital Fabrication technologies, I designed and built a headless portable travel guitar. The entire instrument was 4" X 5" X 20". The top was 3D printed, the body machined of ash on a CNC bed router. (December, 2022)

Rake, L. *Footwear Explorations, (January-July, 2023)*

During my sabbatical, I conducted research on the potential of using digital fabrication technologies to locally manufacture functional products in a FabLab makerspace in Halmstad, Sweden. The goal of this research was to explore how digital fabrication technologies can be used to empower individuals and communities to create and produce their own products, regardless of their location or resources. To this end, I designed several shoes, modeled them in Gravity Sketch and Rhino, and 3D printed them using filaments of different durometers. The prototypes were tested and evaluated to determine their functionality, durability, and overall suitability for local production.

Rake, L. *Messenger Bags, (December, 2022-Present)*

Working with Dolpo in Kathmandu, I have designed 2 messenger bags to be made locally by local weavers and leatherworkers.

Rake, L. *Abari Sling Chairs, (December, 2022-Present)*

I have been working with the Abari Foundation in Kathmandu, Nepal on 2 chair designs to be made in bamboo and fabric. These are planned for production in Chitwan, Nepal. The fabric could be simple, inexpensive cotton canvas, or locally woven designs from local artisans.

Rake, L. *Travel Guitalele*, (December, 2022)

Using Virtual Reality and Digital Fabrication technologies, I designed and built a headless portable travel guitar. The entire instrument was 4" X 5" X 18". The body was designed in Gravity Sketch and machined in maple on a CNC bed router. Currently being field tested. (December, 2022)

Rake, L. *Electric Whiskey Barrel Stave Bicycle*, (December, 2021)

Following the success of the Whiskey Barrel Stave Bicycle from 2019, I designed and built a new version with a Bosch mid-drive electric motor, disk brakes, NuVinci CVT, and custom frame bag. It will be shown at the North American Handmade Bicycle Show in Denver, September, 2022.

Rake, L. & Adhikary, N. *Habre Eco Bike*, (May 2016 – September, 2017).

Designed in collaboration with Nripal Adhikari, the habre eco bike is a response to issues of urban congestion and pollution that plague the city of Kathmandu, Nepal. It is made by local artisans using regional bamboo and provides a green alternative to gas-guzzling transport vehicles, reducing air pollutants and therefore improving the health of citizens.

Rake, L. Mass Production Bamboo Bicycle for Bikeshare System, IIT-Bombay Campus, Mumbai, India, (February 2016 – April, 2017). This bike was designed to be easily, quickly, and reliably manufactured in large numbers. It was also designed to be easily repaired and adjusted in the field.

Rake, L. *Whiskey Barrel Stave Bicycle*, (June, 2019)

After executives at Buffalo Trace Distillery in Frankfort, KY saw images of the Wine Barrel Stave Bicycle, they asked me to prototype a bicycle made from whiskey Barrel Staves. It is currently being considered as a fleet bike for tours of their Canadian distillery.

Rake, L. *Wine Barrel Stave Bicycle*, (December, 2018- March, 2019)

Presented at the 2019 North American Handmade Bicycle Show. It is currently being considered as a fleet bike for wine tours in Napa, California.

Rake, L. & Adhikary, N. *Abari Bamboo Bike*, (May 2016 – September, 2017).

Design and development of a new generation bamboo bicycle initially designed and prototyped at the Abari architecture studio in Kathmandu, Nepal in April, 2016 as part of my Fulbright research. Rake, L. Mass Production Bamboo Bicycle for Bikeshare System, IIT-Bombay Campus, Mumbai, India, (February 2016 – April, 2017). This bike was designed to be easily, quickly, and reliably manufactured in large numbers. It was also designed to be easily repaired and adjusted in the field.

Rake, L. *Sidekick*, HERObike, Greensboro, AL. (September, 2015- February, 2016)

I designed the Sidekick Balance Bike for HERO, a not-for-profit located in Greensboro, AL, as a way to create quality craft-based jobs. Most of my design work for HERO explores the use of bamboo- a local resource in rural Alabama. The Sidekick is designed for easy fabrication in the Greensboro workshop. The Sidekick was further developed and prototyped in India at the Industrial Design Center at the Indian Institute of Technology-Bombay in Mumbai in spring, 2016 as part of my Fulbright research.

Rake, L. *Sidekick Senior*, IIT-B, IDC, Mumbai, India (January, 2016- May, 2016)

I designed the Sidekick Senior at the Industrial Design Center at the Indian Institute of Technology-Bombay in Mumbai in spring, 2016 as part of my Fulbright research. I leveraged the simplicity of design of the Sidekick Balance bike to create a pedal-powered version with 20" wheels.

Rake, L. *Inframe Storage System*, IIT-B, IDC, Mumbai, India (January 2016- May, 2016) The Inframe Storage System is a woven bamboo basket designed to ride inside the main triangle structure of a commuter-style bicycle. It was designed at the Industrial Design Center at the Indian Institute of Technology-Bombay in Mumbai in spring, 2016 to create job opportunities for rural and urban bamboo artisans in India as part of my Fulbright research.

Rake, L. *Whalebone Stand Up Paddleboard*, HERObike, Greensboro, AL. (June 2014 - July 2015) I designed the Whalebone Stand Up Paddleboard for HERO, a not-for-profit located in Greensboro, AL, as a way to create quality craft-based jobs. The Whalebone is an innovative skin-on-frame design that uses an inexpensive but strong structure made of bamboo, covered with inexpensive sign vinyl. Whalebone was designed to be made in weekend workshops in the Greensboro workshop.

Rake, L. *Woven Tube Road Bike*, HERObike, Greensboro, Alabama. (August 2012 - February 2013). I designed the Woven Tube Bike for HERO, a not-for-profit located in Greensboro, Alabama, as a way to create quality craft-based jobs. Most of my design work for HERO explores the use of bamboo- a local resource in rural Alabama. The Woven Tube bike is an innovative bamboo/carbon fiber composite that is extremely lightweight. The Woven Tube Road Bike was shown in the North American Handmade Bicycle Show in Louisville, KY in March 2014.

Rake, L. *Bamboost*, HERObike, Greensboro, Alabama. (August 2012 - February 2013). I designed the Bamboost e-Bike for HERO, a not-for-profit located in Greensboro, Alabama, as a way to create quality craft-based jobs. Bamboost is an innovative bamboo/carbon fiber composite bike that utilized the same aviation-inspired sandwich composite technology developed for the Beacon Alley Skateboards. It was shown in the North American Handmade Bicycle Show in Louisville, KY in March 2015.

Rake, L. *Beacon Alley Skateboards*, HERObike, Greensboro, Alabama. (January 2013 - December 2014) I designed the Beacon Alley Skateboard for HERO, a not-for-profit located in Greensboro, Alabama, as a way to create quality craft-based jobs. The skateboard is a bamboo composite design that is a fusion of handcraft and aviation-inspired high tech sandwich composite materials and techniques.

Rake, L. *Flatpack Bicycle*, HERObike, Greensboro, Alabama. (August 2012 - February 2013). I designed the Flatpack Bike for HERO, a not-for-profit located in Greensboro, Alabama, as a way to create quality craft-based jobs. Most of my design work for HERO explores the use of bamboo- a local resource in rural Alabama. The Flatpack is a bamboo composite design that also uses waterjet cut aluminum panels. The entire bicycle arrives in a small box and can be easily assembled with minimal tools. The Flatpack was shown in the North American Handmade Bicycle Show in Charlotte, NC in March 2014.

Rake, L. *Semester Bicycles*, HERObike, Greensboro, Alabama. (January 2012 - February 2014)

I designed the Semester Bike for HERO, a not-for-profit located in Greensboro, Alabama, as a way to create quality craft-based jobs. Most of my design work for HERO explores the use of bamboo- a local resource in rural Alabama. The Semester is a bamboo composite design. The Flatpack was shown in the North American Handmade Bicycle Show in Denver in February, 2013.

EXHIBITIONS: DESIGN

“Sustainable Revolution” Architecture Biennale 2021, Zuecca Project Space, Venice, Italy, September, 2021 (postponed because of Covid-19)

“Wine Barrel Stave Bike” introduced. North American Handmade Bicycle Show, Sacramento, CA, March, 2019.

“Keep Moving: Shifting Gears!” Design Museum of Chicago. Two of my bamboo bikes featured in this show. November 2018- March, 2019.

Dharavi bikeshare bicycle design introduced. North American Handmade Bicycle Show in Hartford, CT. in March 2018.

Semester bicycle design featured in *Engaged: Campus and Community Scholars Working Together for the Public Good*—an exhibit to recognize and celebrate community engagement and engaged scholarship at the University of Kansas. 2017

Bamboost e-bike design introduced. North American Handmade Bicycle Show in Louisville, KY in March 2015.

Woven Tube bicycle design introduced. North American Handmade Bicycle Show. Charlotte, NC in March 2014.

Semester & Flatpack bicycle designs introduced. North American Handmade Bicycle Show in Denver, CO in February 2013.

PERMANENT COLLECTIONS

Rake, L. *New Deal Playing Cards*, Stuart and Marilyn R. Kaplan Playing Card Collection, the most comprehensive collection in the United States (1998) Designed in 1995.

Rake, L. *New Deal Playing Cards*, Deutsches Spielkarten-Museum, permanent collection, Leinfelden-Echterdingen, Germany (1998) Designed in 1995.

PATENTS

Professor Rake has been awarded 10 patents, 8 of which are still active.

Rake, L., Patent. "Process for Making Braided Bamboo Laminated Composite Tubing US Provisional Patent" (abandoned)

Rake, L., Patent. "Process for Making Structural Tubing with Bamboo and Reinforcing Fiber Material US Provisional Patent" (abandoned)

Rake, L., Patent. "Power System", US Utility Patent US20090152944. (Approved: 2009).

Rake, L., Patent. "Extension for a Golf Club Shaft and Method of Installing the Same", US 20080081708. (Approved: 2008).

Rake, L., Patent. "Fishing Bobber", US Utility Patent Pending. (Approved: 2007).

Rake, L., Patent. "Footstool/Ladder", US Utility Patent Pending. (Approved: 2007).

Rake, L., Patent. "Temperature Gauge/ Barometer", US Design Patent D 538694. (application: 2005, Approved: 2006).

Rake, L., Paul, B., Patent. "Protective Fencing Mask", US 20030070202; US 20020157167; US 6,701,536 B2; US 6,820,286 B2. (Approved: 2003).

Rake, L., Patent. "Playing Cards with Gripping Surface", US 5,490,676. (Approved: 1998).

Rake, L., Patent. "Guitar Case", D 265146. (Approved: 1982).

EXPERT WITNESS: DESIGN

Professor Rake has served as an expert witness on numerous patent infringement/validity cases. Case length varies from months to years. The responsibilities include researching, writing reports, rebutting reports, depositions and when needed court testimony.

McGeary Cukor LLP, Design Expert, Bernardsville, NJ (2023)
Dynamite v. WowLine, Inc.

Carstens, Allen & Gourley LLP, Design Expert, Plano, TX (2022-Present)
Torvent v. Techtronic, Ltd.

Arnold Porter, Design Expert, San Francisco, CA (2021-Present)
Valentino v. Mario Valentino

Thompson Coburn LLP, Design Expert, St. Louis, MO (2021-Present)
JPT Group, LLC v. Tapestry, Inc.

Winston & Strawn LLP, Design Expert, Los Angeles, CA (2021-Present)
Cambria Company LLC v. Hirsch Glass Corp.

Glacier Law, LLP, Design Expert, New York, NY (2021-2022)
Hangzhaou Chic Intelligent Technology Co.

Dorsey & Whitney, LLP, Design Expert, Minneapolis, MN (2021-Present).
Chanel, Inc. v. Molo Design, LTD

Carsten & Calhoon, LLP, Design Expert, Dallas, TX (2021-Present).
Torvent LLC v. WalMart; Home Depot; Homelite Consumer Products; et al

Arnold & Porter, Design Expert, Los Angeles, CA (2021-Present).
Valentino S.p.A. v. Mario Valentino S.p.A.

Woodard, Emhardt, Moriarity, McNett & Henry, LLP, Design Expert, Indianapolis, IN (2020-Present). Representing Knauf Insulation v. Johns Manville

Godfrey & Kahn, S.C., Design Expert, Madison, WI (2021).
Expedite International v. Edmonds Outdoors, LLC

Whitaker Chalk Swindle & Schwartz PLLC, Design Expert, Representing Delta T v. Dan's Fan City (2021)

Marchant & Gould, Design Expert (2021)
Liaigre v. California Furniture Collection

Lewis Roca Rothgerber Christie, LLP, Design Expert, Glendale, CA (2021-Present).
Caravan Canopy v. WalMart

Fish & Richardson P.C., Design Expert, Austin, TX (2018-2019).
Representing Kingston v. PAVO

Sterne, Kessler, Goldstein & Fox, Expert Witness, Washington, DC (2018-2019).
Representing Juul in an ITC matter.

Morgan Lewis, Design Expert, Palo Alto, CA (2018-2019)
Representing Gavrieli v. Soto Massini

Ice Miller, LLP, Design Expert, Philadelphia, PA. (2018).
Representing Regalo International v. Summer Infant

Fish & Richardson P.C., Design Expert, Dallas, TX. (2018).
Representing Amazon v. JumpSport, Inc,

Thompson Coburn, Design Expert, St. Louis, MO. (2017).
Representing Wesfield Outdoors v. Haingaertner and Walsh

Kirkland & Ellis, Design Expert, Chicago, IL (2018).
Representing The Chamberland Group v. Techtronic Industries

Lewis Roca Rothgerber Christie, LLP, Design Expert, Glendale, CA (2018).
Representing Blumenthal Distributing v. Herman Miller

Thompson Coburn, Design Expert, St. Louis, MO. (2017).
Representing Post v. General Mills

Perkins Coie, Design Expert, Seattle, WA (Sept 2016).
Representing Amazon v. Daimler AG

Woodard, Emhardt, Moriarty, McNett & Henry, LLP, Design Expert, Indianapolis, IN (Winter 2016 - Present). Representing Knauf Insulation v Johns Manville

Banner & Witcoff, Design Expert, Chicago and Portland, OR (Winter 2015).
Representing Nike v. Sketchers

Blakely Law Group, Design Expert, Manhattan Beach, CA (2016).
Representing Deckers/ Uggs Australia in a design patent dispute

Sterne, Kessler, Goldstein & Fox, Expert Witness Testimony, New York, NY (2015). Design
Expert for Reexamination of Apple iPhone Design Patents

Orrick, Herrington & Sutcliffe LLP, Design Expert, Menlo Park, CA (2016). Represented Belkin
in a patent infringement case versus Acrox

Alston & Bird, LLP, Expert Witness Testimony, Palo Alto, CA (2014). Expert witness for light
reflectors design patent case before the ITC

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Expert Witness Testimony, Washington
DC (2014). Design Declaration before the Appeal Board, USPTO (housewares)
Kelly IP, LLP, Expert Witness Testimony, Washington DC (2013 - 2014). Design Declaration
before the Appeal Board, USPTO (electronic cables)

Winston & Strawn, LLP, Expert Witness Testimony, Los Angeles, CA (2013 - 2015). Design
Analysis for utility patent infringement case (laptop and tablet accessories)

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, Expert Witness Testimony, Washington
DC (2013). Design Analysis for design patent infringement case (cameras).

Oblon, Spivak, McClelland, Maier & Neustadt, L.L.P., Expert Witness Testimony, Alexandria,
VA (2013). Design Analysis for design patent infringement case (bedroom slippers).

Amster Rothstein & Ebenstein LLP, Expert Witness Testimony, New York, NY (2012). Design
Analysis for design patent infringement case (bedroom slippers).

Miller Canfield, Expert Witness Testimony, Chicago, IL (2011 - 2012). Design Analysis, Report
for a design patent infringement case (bedroom slippers).

White & case, LLP., Expert Witness Testimony, New York, NY (2011 - 2012). Design Analysis,
Report, and Deposition Testimony for USB Drive design patent case before the ITC.

Baker Botts L.L.P., Expert Witness Testimony, Houston, TX (2010 - 2011). Design Analysis,
Report, for a design patent infringement case (juice bottle caps).

Polsinelli Shughart, P.C., Expert Witness Testimony, St. Louis, MO (2010 - 2011). Design
Analysis, Report, for a design patent infringement case (refrigerated floral cases).

Husch Blackwell Sanders LLP, Expert Witness Testimony, St. Louis, MO (2009). Color Analysis, for a trade dress case.

Wooten, Honeywell, Kimbrough, Gibson, Doherty and Normand, P.A., Expert Witness Testimony, Orlando, FL (2007 - 2009) Design Analysis, Testing, for a product liability case (consumer seating).

Allen & Vellone, P.C., Expert Witness Testimony, Denver, CO (2008). Design Analysis, for a design patent infringement case (footwear).

Allen, Dyer, Doppelt, Mibrath & Gilchrist, P.A., Expert Witness Testimony, Orlando, FL (2008). Design Analysis, for a design patent infringement case (apparel).

Holbrook Law Office, Expert Witness Testimony, Orlando, FL (2000 - 2001). Design Analysis, Testing, for a product liability case (contract seating).

Rausch Hendicks German May, Expert Witness Testimony, Kansas City, MO (1999 - 2000). Defense expert for design patent infringement case.

Skepnek & Maddox, Expert Witness Testimony, Lawrence, KS (1998). Center for Design Research, The University of Kansas. Created forensic computer animation for a medical malpractice case.

Purdy & Flynn, Expert Witness Testimony, Fort Lauderdale, FL (1994 - 1996). Design Investigation, Analysis, Modeling for a product liability case.

Holbrook & Hardy, Expert Witness Testimony, Orlando, FL (1992 - 1994). Design Investigation, Analysis, Modeling for a product liability case.

PROFESSIONAL DESIGN PROJECTS/CLIENT LIST

For nearly 50 years, Professor Rake has worked as a professional designer; working in corporate design studios, consulting offices, or as a freelance designer on a very broad range of projects. This includes the design of motorcycles, air circulators, aircraft interiors, micrographic readers, orthopedic traction systems, knives, space heaters, furniture, power tools, retail fixtures, electronic controls, playing cards, games, work environments, cranes, lawn and garden tractor, trade show exhibits, string trimmers, snowmobiles, VHS cassettes, medical products, audio amplifiers, industrial electrical control housings, bags, back to school products, electrical substation enclosures, excavator cabs, bird houses and feeders, fence posts, tool cabinets, boat interiors, motor coach interiors, and plumbing fixtures.

Abari, Kathmandu, Nepal
Bicycle, e-Cargo Bike Design, Furniture

Armani/ Embraer, São José dos Campos, São Paulo, Brazil
Aircraft Interior Design.

ADS, Huntsville, AL

Branding, Research and Design.

Adams Aircraft, Mojave, CA
Aircraft Interior Design.

Aerion, Dallas, TX
Supersonic Business Jet interior design

Aeroflex, Wichita, KS
Product Design

Aero Nimbus, Malaysia
Asian Airshow Exhibition Design.

Aladdin Industries, Nashville, TN
Camping Products.

Alberta Aerospace, Alberta, Canada
Design Proposal, Aircraft Interior Design.

Alfa-Laval, AB, Stockholm, Sweden
Agricultural Product Design.

Auburn University School of Pharmacy, Auburn, AL
Pharmacy Patient Consultation Booth.

Auckland University School of Medicine, Auckland, NZ
Asthma Inhaler.

Baker Electronics, Miami, FL
Aircraft IFE Switches.

Beauty Brands, Kansas City, MO
Interior/ Fixture Design.

Bell Helicopter, Dallas, TX
Helicopter Shuttle Interior

Bell & Howell, Lincolnwood, IL
Communications and Office Product Design.

Bergström, Halmstad, Sweden
Promotional Products Design.

Birkenstock, USA, Novato, CA
Store Fixture Design.

Bolens, Port Washington, WI
Lawn Tractor Design, Product Graphics.

Bombardier, Montreal, Canada
Business Jet Interior Design.

Bose Research, Boston, MA
Store Fixture Design.

Brian Russell Designs, Auckland, NZ
Highchair Design.

Briggs & Stratton, Milwaukee, WI
Exhibit Design.

Bruning International, Itasca, IL
Office Product Design, Product Graphic Design.

Bucyrus-Erie, Milwaukee, WI
Heavy Equipment Design, Product Graphic Design.

Bushnell, Lenexa, KS
Night Vision Monocular Design.

Cardinal Brands, St. Louis, MO
Office Products, Softgoods Design, Water Bottle Design

Caterpillar, Peoria, IL
Footwear Display System.

Chicagofest, Chicago, IL
Festival Graphic Design.

Collins Communications Technologies, Milwaukee, WI
Branding, Graphic Design.

Coleman, Wichita, KS
Product Design/ Furniture

Crabtree Music, Milwaukee, WI
Graphic Design.

Cramer, Inc, Kansas City, MO
Office Furniture Design.

Cubcrafters, Yakima, WA
Aircraft Interior Design.

Cutler-Hammer, Milwaukee, WI
Exhibit Design.

Dolpo, Kathmandu, Nepal
Softgoods Design

Drott Manufacturing, Wausau, WI
Heavy Equipment Design, Product Graphic Design.

Eagle Creek, San Diego, CA
Store Fixture Design.

Embraer, São Jose, Brazil
Aircraft Interior Design.

Fairchild-Dornier, Oberpfaffenhofen, Germany
Paint schemes, Product Graphic Design.

Faultless, Kansas City, MO.
Garden Tool Design.

Filer & Stowell, Milwaukee, WI
Heavy Equipment Design, Product Graphic Design.

Fischer & Paykel, Auckland, NZ
Control Design.

Furminator, Blacksburg, VA
Product Design

Företagsutvecklingarna, Växjö, Sweden
Gas Candle Design.

Galaxy Aerospace, Dallas, TX
Aircraft Interior Design.

Gametime, Inc., Fort Payne, AL
Outdoor Furniture Design.

Global Express, Montreal, Canada
Regional Jet Interior Design.

Grahm Transmissions, Milwaukee, WI
Product Graphic Design.

Harley-Davidson, Milwaukee, WI
Motorcycle Design, Model Building.

Hawker/Beechcraft, Wichita, KS
Aircraft Interior Design.

Helio, Bristol, TN
Aircraft Interior Design Proposal

HERO, Greensboro, AL
Bicycle Design, Furniture Design, Footwear Design

Hustler/ Excel, Hesston, KS
Commercial Lawnmower Design, Side-by-Side Vehicle Design

Huhtamaki, Desoto, KS
Commercial Product Design.

ICOR, AB, Stockholm, Sweden
Medical Product Design.

IKEA, Stockholm, Sweden
Clothes Hanger Design, Recycling Bin Design.

Interface Design Group/ Fibresin, Milwaukee, WI
Modular Furniture/ Storage

J.I. Case Company, Racine, WI
Heavy Equipment Design, Product Graphics.

Jockey International, Kenosha, WI
Exhibit Design, Store Fixture Design.

Kohler, Kohler, WI
Exhibit Design.

Larson/Glastron, Little Falls, MN
Leisure Boat Design.

Learjet div of Bombardier, Wichita, KS
Corporate Aviation Interior Design.

Leon Paul, London, England
Fencing Mask, Footwear, Scoring Box Design.

Marathon Electric, Wausau, WI
Store Fixture Design.

Martin Industries, Florence, AL
Electric Space Heater Design.

Matthews Heater Co., Albertville, AL
Electric Space Heater Design.

Micro Design, Hartford, WI
Product Design, Corporate Identity, Strategic Planning.

Micron Corporation, Iron Ridge, WI
Product Design, Corporate Identity, Strategic Planning.

Minder Systems, Auckland, NZ
Electronic Control Design.

Nauter's Swan, Pietarsaari, Finland
Yacht Design.

New Deal Playing Cards, Leawood, KS
Product Design, Corporate Identity, Strategic Planning.

Newell Motorcoach, Miami, OK
Motorcoach Design, Product Planning.

Pantone, New York, NY
Bag, CD Case, Softgoods, Notebook Design

Perceptive Software, Kansas City, KS
Trade Show Design.

Perm-a-Store, Wichita, KS
Product Design.

Pivot, International, Kansas City, Mo.
Voting Booth Design.

Polaris, Roseau, MN
Snowmobile Design, Product Graphic Design.

Poulan, Shreveport, LA
String Trimmer Design, Lawnmower Design.

Raaco, Copenhagen, Denmark
Plastic Toolbox Design.

Raetheon, Wichita, KS
Aircraft Interior Design.

Ranger Boats, Flippin, AR
Boat Design

Rayovac, Madison, WI
Product Design.

Rubbermaid, Huntersville, NC
Product Design.

Schroeder & Tremayne, St. Louis, MO
Product Design- Brushes, Cleaning Products

S.O.R. Inc., Olathe, KS
Pressure Switch Design, Workstation Design Planning.

Singapore Airlines, Singapore
Corporate Aircraft Interior Design.

Snorkel, Kansas City, MO
Paintscheme, Product Graphic Design.

Spectrum, San Diego, CA
Aircraft Interior Design

Sutherland Engineering, Lawrence, KS
Audio Amplifier Design.

The North Face, Oakland, CA
Store Fixture Design.

Trek Bicycles, Baraboo, WI
Product Graphic Design.

Wal-Mart, Bentonville, AR
Point-of-Sale Design, Interior Design.

Walker Manufacturing, Racine, WI
Exhibit Design.

Weed Eater, Houston, TX
String Trimmer Design, Lawnmower Design.

Western Publishing, Racine, WI
Exhibit Design.

Xerolet, Carson, CA
Product Design.

Xikar, Kansas City, MO
Product Design, Strategic Product Design.

TEACHING AWARDS

Educator Award, Industrial Design Society of America (IDSA).

“The IDSA Education Award is presented in recognition of significant, distinguished, and long-term contributions of career or tenured faculty to the field of industrial design academia. Further, these individuals have earned the respect and admiration of colleagues and students for their method and practice of teaching industrial design. Individuals are nominated by a peer or student for this distinction and a nomination must be accompanied by letters of recommendation on behalf of the candidate. All candidates who qualify are rigorously evaluated by IDSA's Awards Committee and subsequently approved by IDSA's Board of Directors before being bestowed with this great honor.” From the IDSA website (2019)

CTE Teaching Award, The University of Kansas. Selected by students for effective teaching, communication of expectations and efforts to help students meet these expectations, evaluation of students' work, use of interactive activities to enhance the classroom experience and the role of the teacher in one-on-one or small group interaction. (2010)

STUDENT EXPERIENTIAL LEARNING

spring 2023. Designing Footwear in VR. This new design course is a unique opportunity for students at KU to collaborate with their peers at Halmstad University in Sweden and industry partners Bogs Boots, Columbia, and New Balance. The course focusses on using AI image programs during the ideation phase of the design process and will utilize VR sketching and modeling with the help of equipment donations from Gravity Sketch.

One of the key components of the course is the use of AI image programs to generate ideas and inspiration for the students' designs. These programs analyze existing designs and trends to help the students identify potential opportunities for innovation. Additionally, the students are able to use these programs to create mood boards and concept sketches for their designs. With the help of equipment donations from Gravity Sketch, the students are able to create detailed 3D models of their designs, allowing them to visualize and refine their ideas in a more immersive way. Finally, the course provides an opportunity for the students to work with industry partners such as Bogs Boots, Columbia, and New Balance.

spring, 2022, fall 2021, spring 2020, fall 2018, fall 2017. Designing Footwear. Cross-Disciplinary course for Architecture and Design students. This course familiarizes students with the basic knowledge and teaches the fundamental skillset needed to succeed as a footwear designer. Working with professional designers at major footwear companies such as Timberland, Adidas, and New Balance, KU students solve complex problems that occur when merging fashion and performance in an ever-changing marketplace. Graduates have gone on to find professional positions at Wolverine, Timberland, Vans, Bogs, and others.

fall 2021, spring 2018, spring 2017, fall 2015. Electric Guitar Design and Theory. Cross-Disciplinary course for Architecture and Design students. Primarily a digital fabrication class, our students work with luthiers and management at Mass Street Music in Lawrence to design, prototype, and test their electric guitars. Final presentation is before and audience at Mass Street Music and validates the aesthetics, function, and playability of their designs.

november 18-19 2019. Mechathon at Kathmandu University. National competition open to any University Design/ Engineering student in Nepal. I was invited as a judge and keynote speaker for the event. Student teams worked for 48 hours to respond to the theme of “Innovation for Impact”

winter 2019. Short Course. Cross-Disciplinary course held in East Palo Alto, CA. 10 Architecture and Design students spent 14 days in East Palo Alto, CA working with the non-profit Live in Peace. The recently gutted warehouse space was transformed into a working community bike shop call 2524 Raven Riders. The students spent first days building benches, painting the space, designing and organizing the bike shop. Next they learned how to take apart a bike, fix it, paint it, put it back together, and teach someone else how to do it.

Fall, 2017. Global Studio-Haiti. I was a faculty member (ARCH600) on a design/build graduate architecture team that is worked to make a new community center in Haiti. I went with the team to Haiti in January 2018 to complete on a demonstration construction.

spring 2017. 48-hour Repack Competition. National competition open to any University/Collage student around the country. Students received the prompt Friday at 6pm. Students created a solution, prototype it, brand it, create a video, edit and upload to it to youtube by the Sunday 6pm deadline.

winter 2017. Short Course. Cross-Disciplinary course held in Greensboro, Alabama. 12 Design students spent 14 days in Greenboro proto-typing, testing and building push bikes for toddlers and stand up paddle boards. Co-directed the class with Visual Communication professor Andrea Herstowski. Hale Empowerment and Revitalization Organization (HERO) works as a catalyst for community development to end rural poverty in the Alabama Black Belt (Hale County).

february 14-15, 2016. Hackathon at Indian Institute of Technology-Bombay in Mumbai, India. Make in India Hackathon is organized as part of the Make In India week. IIT-Bombay invited proposals from students across the country and chose 30 projects(10 in each theme) in three core areas of Urban Development: Water (To save water and to save from water), Transportation (User Friendly road Intersection), Energy (Smart Approaches to Sustainable Energy). I was invited as a judge to help students with their projects, but also to evaluate results. There were about 95 students working in teams to build prototypes, models and simulations of their respective ideas.

may 2016. Blitz/Workshop. 2-Week Short Course. Several Graphic Design students who had seen a school-wide presentation of my work at the Indian Institute of Design’s Industrial Design Centre, wanted me to conduct a short summer course where they could design and build their own bamboo bicycles. The students had very limited mechanical skill, but deep enthusiasm for building their own bikes. The process was very interesting as we had to improvise needed tools and facilities, and the process involved multiple trips to the Dharavi slum to buy bamboo and needed components. At the end of the workshop, we all rode around the IIT-B campus on our bamboo bicycles.

fall 2016. Blitz/Workshop. 48-Hour Blitz/Spring. Cross-disciplinary group of students work together over the weekend to Think Wrong about how to solve the problem “The Average American owns 19 pairs of shoes. How do we reduce this obvious over-consumption and waste?” 20+ students from the University of Kansas and the Kansas City Art Institute followed the Blitz process of Thinking Wrong lead by professional advisors John Bielenberg (Future Partners), Jamie Koval (VSA partners) and Read Worth (Oregon Design Lab) and KU Professors Andrea

Herstowski and Lance Rake. (A Blitz is set in an intensive, chaotic, energizing, workshop environment for prototyping, researching, doing, designing, and exploring that, while thinking wrong, produces a project or service that uses design thinking for the greater good.)

spring 2016. Blitz/Workshop. 48-Hour Blitz. Cross-Disciplinary group of over 20 University of Kansas students in Architecture and Design participated in a 48 Hour Blitz with John Bielenberg. The students worked together, gave up part of their first weekend back to school, sleep and egos. They were encouraged to get out in the community, talk to people, “Think Wrong” addressing the subject of “What is the movie theater experience in a multi-device world? Co-directed with John Bielenberg and professors Jeremy Shellhorn and Andrea Herstowski.

spring 2016. 48-hour Repack Competition. National competition open to any University/Collage student around the country.

spring 2015. Wayfinding Workshop. Cross-Disciplinary wayfinding workshop with Dietmar Gatzelmann.

july, 2015. DeadSea15. 5- day Design/Engineering blitz at Shmoon College of Engineering in Beer Sheva, Israel. I was invited to keynote the conference in the era of “Creative Product Design”, and to present also some of our KU students’ work. I was invited to be member of their international jury of “ME Excellence” and “DeadSea15” competitions; and to run “CreaTeam” workshop with professors from Spain, India, and Israel for the SCE department students. The final competition was judged in the Dead Sea.

winter 2015. Short Course. Cross-Disciplinary course held in Greensboro, Alabama. Cross-disciplinary group of 12 University of Kansas Students spent two weeks in Greensboro, AL weaving, prototyping, and testing skateboards woven out bamboo. The work continued throughout the spring where the final two designs were refined and a successful Kickstarter campaign was launched. Proceeds went to HERO. Co-taught the class with Visual Communication professor Andrea Herstowski. Hale Empowerment and Revitalization Organization.

fall 2013. Blitz/Workshop. 48-Hour Blitz. Cross-disciplinary group of over 35 University of Kansas students in Architecture and Design participated in a 48 Hour Blitz with John Bielenberg. They were encouraged to get out in the community, talk to people, “Think Wrong” and come up with ideas that address the subject of “Water”.

summer 2013. Short Course. Cross-Disciplinary course held in Greensboro, Alabama. Cross-disciplinary group of students spent 3 weeks living and working together on the development of a bicycle using existing bikes and bamboo. Co-directed the class with Visual Communication professor Andrea Herstowski. Hale Empowerment and Revitalization Organization.

spring 2012. Blitz/Workshop. 48-Hour Blitz. Cross-disciplinary group of over 35 University of Kansas students in Architecture and Design participated in a 48 Hour Blitz with John Bielenberg. The students worked together and were encouraged to get out in the community, talk to people, “Think Wrong” and come up with ideas that address the subject of “Food Waste”.

spring 2011. Blitz/Workshop. 48-Hour Blitz. The students worked together in cross-disciplinary groups were encouraged to get out in the community, talk to people, “Think Wrong”. The students had less than 2 days to produce a 48 second video.

TEACHING & PROFESSIONAL DEVELOPMENT

Ongoing interest in the impact of creation tools on the industrial design process - from the use of the analog tools of drawing and sketch modeling in temporary materials through 3D modeling, digital fabrication and VR.

Fall, 2023- Present

Vizcom AI, a sketching/ visualization tool that that utilizes AI to generate alternative designs from my analog sketches. Learning the tool and working with students to design products, particularly footwear, using a workflow that incorporates Vizcom, Gravity Sketch, and 3D printing. Worked with Vizcom to acquire Pro-level licences for KU students and faculty.

Fall, 2021- Present

Gravity Sketch, a VR sketching/ modeling tool that that initiates in a digital 3D environment and remains 3D throughout the process all the way through to final delivery. Learning the tool and working with students to design products in Gravity Sketch. Worked with Gravity Sketch to acquire Pro-level licences for KU students and faculty.

Summer, 2021

Shoe Surgeon. Took an online course to learn to make footwear. I am combining this skillset with Gravity Sketch and digital fabrication tools such as 3D printing, laser cutting, and CNC machining to develop a program to teach students to make their own custom footwear using design and fabrication tools found commonly in FabLabs or Makerspaces in communities all over the world.

Spring 2019

I worked with with senior Industrial Design and Graphic Design faculty at RMIT in Melbourne, Australia to set up project based student and faculty design/build opportunities. This program would likely be in place already except for COVID-19 shutdowns.

Spring 2019

I worked with with faculty members in Mechanical Engineering at Kathmandu University in Nepal and a prominent architect in Kathmandu to develop industrial design and architecture design/build projects for study abroad opportunities for our students in Nepal. This program would likely be in place already except for COVID-19 shutdowns.

UNIVERSITY OF KANSAS: RECENT TEACHING

Fall 2023

INDD 284	Basic Industrial Design Studio
ADS 560	Digital Fabrication- Guitar Workshop

Fall 2022

INDD 284	Basic Industrial Design Studio
ADS 560	Gravity Sketch

Spring 2022

INDD 378 Special Problems in Design, Footwear Design
INDD 302 Intermediate Industrial Design Studio

Fall 2021

INDD 284 Basic Industrial Design Studio
INDD 312 Drawing for Industrial Design
INDD378 Special Problems in Design- Guitar Workshop

Spring 2021

INDD 378 Special Problems in Design, Footwear Design
INDD 302 Intermediate Industrial Design Studio
INDD212 Basic Industrial Design Drawing

Fall 2020

INDD 284 Basic Industrial Design Studio
INDD 312 Drawing for Industrial Design

Spring 2020

INDD 302 Intermediate Industrial Design Studio
INDD 378 Problems in Industrial Design:Footwear Design

Spring 2019

INDD 378 Special Problems in Design, Bicycle Design
INDD 302 Intermediate Industrial Design Studio

Winter, 2019

INDD 378 Problems in Industrial Design: East Palo Alto Multidisciplinary Workshop

Fall 2018

INDD 284 Basic Industrial Design Studio
INDD 378 Footwear Design

Spring 2018

ADS 531 Internship
ARCH600 Special Topics- Haiti
ARCH600 Special Topics- Utility Bicycle Design
INDD 302 Intermediate Industrial Design Studio (2 sections)
INDD 378 Problems in Industrial Design: Electric Guitar Design & Theory

Fall 2017

ADS 531 Internship
INDD 284 Basic Industrial Design Studio (2 sections)
INDD 378 Problems in Industrial Design: Designing Footwear
INDD 715 Industrial Design- Graduate Studio

Spring 2017

ADS 560	Topics in Design: Push Bikes and Paddleboards (Alabama)
ADS 560	Topics in Design: Electric Guitar Design & Theory
ADS 580	Special Problems in Design
INDD 302	Intermediate Industrial Design Studio

Fall 2016

INDD 284	Basic Industrial Design Studio
INDD 378	Problems in Industrial Design: Photoshop ID Product Design
INDD 446	Advanced Industrial Design Studio
INDD 580	Senior Industrial Design Studio

Spring 2016

ADS 560	Topics in Design: Push Bikes and Paddleboards (Alabama)
INDD 378	Problems in Industrial Design: Push Bikes and Paddleboards

Fall 2015

INDD 284	Basic Industrial Design Studio
INDD 378	Problems in Industrial Design: Guitar Design and Theory
INDD 446	Advanced Industrial Design Studio

Spring 2015

INDD 302	Intermediate Industrial Design Studio
INDD 555	Portfolio

Fall 2014

ADS 560	Topics in Design: Drawing for Industrial Design II
INDD 284	Basic Industrial Design Studio
INDD 378	Problems in Industrial Design: Guitar Design and Theory
INDD 446	Advanced Industrial Design Studio

Summer 2014

ADS 560	Topics in Design: Bamboo, Alabama
INDD 378	Problems in Industrial Design: Bamboo, Alabama

Spring 2014

ADS 560	Topics in Design:
ADS 580	Special Problems in Design
INDD 302	Intermediate Industrial Design Studio
INDD 378	Problems in Industrial Design: Bamboo Skateboard Workshop
INDD 555	Portfolio

Fall 2013

ADS 560	Topics in Design: Basic Transportation Design
ADS 580	Special Problems in Design
INDD 378	Problems in Industrial Design: Basic Transportation Design
INDD 446	Advanced Industrial Design Studio

SERVICE: UNIVERSITY

University of Kansas University Senate.

Member (Elected)

(August 2016 - July 2019)

University of Kansas Faculty Senate.

Member (Elected)

(August 2016 - July 2019)

Ad Hoc Committee on Post-Tenure Review.

Member (Appointed by KU Faculty Senate President) Reviewed Procedures for KU Post Tenure Review Process (Fall 2015 - Spring 2016)

SERVICE: SCHOOL OF ARCHITECTURE & DESIGN

School Council.

Chair (Appointed)

The School Council advises the Dean on strategic and administrative issues and serves as a sounding board for the Dean regarding any planned initiatives and University directives that affect the School. (February 2021 -2022)

Faculty Affairs Committee. (August 2020 – 2024)

Common Shop. (Fall 2016 - Spring 2018)

Ad-Hoc Committee Post-Tenure Review. Analysis and review of KU post-tenure review procedures. (Spring 2015)

Ad Hoc Maker Space. (Fall 2014 - Spring 2015)

SERVICE: DEPARTMENT OF DESIGN

Design Chair Faculty Affairs Committee. (August 2023 - present)

Design Chair Review Committee. (August 2020 - June 2021)

Faculty Evaluation Committee. (August 2020 - June 2021)

Industrial Design Search Committee. Chair (Appointed). (Fall, 2017-Spring, 2018)

Industrial Design Area Coordinator. Representative (Appointed).(Fall 2017 - Spring 2019)

Promotion & Tenure. Member (Appointed) (Fall 2017 - Spring 2019)

Undergraduate Studies. Member (Appointed) (Fall 2016 - Spring 2019)

Departmental Bylaws. Member (Appointed). (Fall 2016 - Spring 2018)

SERVICE: TO THE PROFESSION

Industrial Designers Society of America. Vice Chair of the Design Protection Section
(2019 - 2024)

Fulbright US Scholar Program

Design National Screening Committee (2021-2023)

I was on a committee of 3 to review all of the design-related proposals from US senior (faculty & professional) applicants- reviewing over 30 applications

Fulbright US Student Program

Art & Design National Screening Committee (2021-2022)

I was on a committee of 3 to review all of the art and design-related proposals from US student applicants- reviewing over 40 applications

Fulbright Egyptian Scholar Program

Art & Design Technical Review (2021-2023)

Binational Fulbright Commission in Egypt

Design Technical review, Fulbright Student Program (2021)

APPENDIX B

MATERIALS CONSIDERED

Document name	Exhibit/Paper number
Petition For Inter Partes Review	1
U.S. Patent No. D781,151, filed June 8, 2016	1001
Ex Partes Reexamination of D781,151 File History – 90/014,262	1003
U.S. Patent No. D795,705 to Huang	1007
U.S. Patent No. D578,891 to Canamasas Puigbo	1008
U.S. Patent No. D781,151 – Prosecution File History	1010
Declaration of T. Fletcher	1011
U.S. Patent Application Publication 2010/0307521 to Pires	1012
U.S. Patent No. D634,202 to Zamberlain	1013
Our History & Our Story _ NEUTROGENA®	1014
Say Tioco – Neutrogena Hydro Boost Press Launch	1015
Neutrogena Hydro Boost Launch – Publicity PR	1016
Neutrogena Hydro Boost Water Gel SPF 15 - Tried and True	1017
U.S. Patent D563,221 to Ashiwa	1018
T. Fletcher Curriculum Vitae	1020
T. Fletcher Publications and Courses	1021
Internet Archive Affidavit of N. Frank-White	1022
Appendix A to Internet Archive Affidavit of N. Frank-White	1023
Internet Archive-URL http://mckernan.com/store/images/D/EL-28595.jpg	1025
WayBack Web Archieve_web.archive.org-web_20150606135050.pdf	1026
Updated Guidance and Examination Instructions for Making a Determination of Obviousness in Designs in Light of <i>LKQ Corp. v. GM Global Technology Operations LLC</i> , dated May 22, 2024	

APPENDIX C

Lance G. Rake

Patent cases in which I've written reports and given testimony at trial:

<u>Date</u>	<u>Case Name</u>	<u>Case Number</u>
2023	Dynamite Marketing, Inc v. The Wowline, Inc	Eastern District of New York Civil Action 2:9-cv-03067-GRB-AYS
2020	Pavo Solutions, LLC v. Kingston Technology, Inc	Central District of California Case No. 8:14-cv-1352-JLS (KES)
2019	Gavrielli Brands, LLC v. Soto Massini Corp.	District of Delaware Civil Action No.: 18-462-GMS)

Patent cases in which I've written reports and given deposition testimony:

<u>Date</u>	<u>Case Name</u>	<u>Case Number</u>
2024	Valentino S.p.A. v. Mario Valentino S.p.A. LLC	Central District of California Case No.: 19-CV-06306-JAK (GJSx)
2022	Chanel, Inc v. Molo Design, LTD	USPTO Patent Trial and Appeal Board Case IPR2021-00543
2022	Hangzhou Chic Intelligent Partnerships	Northern District of Illinois Case No. 1:20-cv-05905
2022	JPT Group v. Tapestry, Inc	Southern District of Texas Case No.: 4:21-cv-1919
2022	Johns Manville Corp v. Knauf Insulation, LLC	Southern District of Indiana Case No. 1:15-cv-00111-TWP-MJD
2021	Walmart Inc v. Caravan Canopy International, Inc	USPTO Patent Trial and Appeal Board Case IPR2020-01026
2021	Liagre, Inc v. California Furniture Coll., Inc., et al.	Central District of California Case No. 8:19-cv-01160 JAK-KES
2019	Herman Miller, Inc v. Blumenthal Distributing, Inc., et al.	Central District of California Case No. 2:17-cv-04279 JAK-SP
2016	Johns Manville Corp v. Knauf Insulation, LLC	USPTO Patent Trial and Appeal Board Case IPR2015-01453
2015	Acrox Technologies Co. Ltd v. Belkin International, Inc.	Northern District of California Case No. 3:14-CV-04956 JD

2012	In the Matter of CERTAIN UNIVERSAL SERIAL BUS ("USB") PORTABLE STORAGE DEVICES, INCLUDING USB FLASH DRIVES AND COMPONENTS THEREOF	U.S. ITC Investigation No. 337-TA-788
2011	Barker Company, Limited v. Air Innovations, Inc.	Southern District of Iowa Case No. 3:09-cv-00016-JAJ-CFB
2009	Lumber Liquidators v. Mountain Carpet	Eastern District of Virginia Stone Case No. 08 cv 00573
2008	Crocs v Australia Unlimited	District of Colorado Civil Action No. 07-cv-221

Patent cases in which I've been retained and/or written expert reports:

2024	Blenderbottle v. Hydra Cup.	Eastern District of California Civil Action No. 2:22-cv-02222-TLN-CKD
2024	simplehuman, LLC. v. Volume Distributors	Central District of California Civil Action No. 2:23-cv-2219
2021	Cambria Company v. Hirsh Glass Corp.	Eastern District of Virginia Case No. 1:21-cv-143
2022	2660722 Ontario, Inc Vanpak Ltd	Canada Federal Court Court File No. T-512-20
2021	Expedite International v. Edmonds Outdoors	Western District of Wisconsin Case No. 3:20-cv-00995-wmc
2021	Delta T, LLC v. Dan's Fan City, Inc.	Middle District of Florida Case No. 8:19-cv-1731- T- 33SPF
2019	Juul Labs, Inc.	Juul Patent Litigation Matters
2019	The Chamberlain Group, Inc. v. Techtronic Industries N.A., Inc.	Northern District of Illinois, Eastern Division Civil Action No. 16-CV-6113
2018	Amazon.com, Inc v. Jumpsport, Inc	USPTO Patent Trial and Appeal Board Case IPR2018-00714

2018	Regalo International, LLC v. Summer Infant, Inc.	District of Delaware Case No. 1:17-cv-01074-GMS
2018	Haingaertner and Walsh v. Westfield Outdoors, Inc.	Western District of Arkansas Case No. CV-17-5079
2017	In the Matter of: CERTAIN PASSENGER VEHICLE AUTOMOTIVE WHEELS	U.S. ITC Investigation No. 337-TA-1006
2017	Post Consumer Brands v. General Mills, Inc.	District of Minnesota Civil Action No. 17-cv-04915
2017	Beats Electronics, LLC v. Steven Lamar	Central District of California Case No. 2:14-cv-7537
2017	Po-Hsun Lin v. Belkin International, Inc.	Central District of California Case No. 8:16-cv-00628-JLS-DFM
2016	Fatboy the Original B.V. v. EMRG, LLC	Northern District of Texas, Dallas Division Civil Action No. 3:16-cv-02520
2016	NIKE, Inc v. Jezing Licensing, LLC	USPTO Patent Trial and Appeal Board Case IPR-
2016	NIKE, Inc v. Skechers USA, Inc	District of Oregon, Portland Division Case No.
2016	Deckers Outdoor Corporation v. Romeo & Juliette, Inc.	Central District of California Case No.: 2:15-cv-02812-ODW(CWx)
2015	Cyber Acoustics, LLC v. Belkin International, Inc.	District of Oregon, Portland Division Case No. 3:13-cv-001144 SI
2014	Sensio Inc., v. Select Brands, Inc.	USPTO Patent Trial and Appeal Board Case IPR2013-00580
2014	Design Declaration Monster, Inc.	USPTO Patent Trial and Appeal Board
2014	In the Matter of: CERTAIN TIRES AND PRODUCTS CONTAINING SAME	U.S. ITC Investigation No. 337-TA-894
2014	Cyber Acoustics, LLC v. Belkin International, Inc	District of Oregon, Portland Division Civil Case No.: 3:13-cv-001144 SI

2013	High Point Design LLC v. Buyer's Direct Inc	Southern District of New York Civil Action No. 11-CIV-4530-KBF
2013	Nikon Corporation and Nikon, Inc v. Sakar International, Inc	Southern District of New York Civil Action No. 13-CV-7228
2012	Buyer's Direct, Inc v. Belk, Inc.	Civil Action No. 5:10-cv-00065-H
2012	Knoll, Inc, v. Moderno, Inc.	Southern District of New York Civil Action No. 11-CV-0488
2011	The Coca-Cola Company, v. PepsiCo, Inc.,	Plaintiff Civil Action No. 4:10-cv-0418
2008	Capsmith, Inc v. James S. Wysopal	Middle District of Florida Case No. 6:07-cv-01572-Orl-22KRS

Product liability cases in which I've consulted, written reports, and/or provided deposition testimony:

2015	Marlin Ward, v. St. Francis Health Center, Inc.	District Court of Shawnee County State of Kansas Case No. 13 C 001316
2015	Cayce Kavnar and Krissa Cavnar, v. The Saxon Group, Inc.	District Court of Cleveland County State of Oklahoma
2015	Marlin Ward, v. St. Francis Health Center, Inc.	District Court of Shawnee County State of Kansas Case No. 13 C 001316
2009	Jim Traweek v. Resin Partners, Inc US Leisure	9th Judicial Circuit Orange County, Florida Case No. 08-CA-0002229-0
2000	Design Analysis Report Chromecraft Furniture Advantage Series Guest Chair	Wooten, Honeywell, Kimbrough, Gibson, Doherty & Normand
1995	Scott Smith and Andrea Smith v. Meubles Morigeau Ltd	7th Judicial Circuit Broward County, Florida Case No. 95-350 (Div. 27)
1994	Binnie M. Hicks v. Ashley Furniture Industries Rent-A-Center	Circuit Court in Orange County, Florida Case No. CI 92-4747