
PREFACE TO THE SECOND EDITION

In the years since we wrote the First Edition of this book, the intellectual property law of designs has witnessed transformative changes. The Second Edition of this book reflects those changes. It might go too far to suggest that the Second Edition is a new book presented under the old title, but the Second Edition does include a great deal of new content. It feels to us more like “Trade Dress and Design: The Sequel,” retaining the spirit of the original and reintroducing many familiar characters, but placing them in a legal landscape that is much different today than it was a dozen years ago.

Design patent law has changed most profoundly. The *Apple v. Samsung* litigation brought design patents into the public discourse, and new decisions from the Federal Circuit have wrought important changes in virtually every major doctrine in design patent law. In U.S. copyright law, the Supreme Court’s *Star Athletica* decision rekindled interest in the use of copyright protection as a significant component of a design protection strategy. The implications of the case will be felt for many years to come. We have made substantial changes to this edition of the book to reflect these important changes in the law. The design patent chapters (Chapters 5 and 6) and the chapter on E.U. design protection (Chapter 8) include significant amounts of new material.

We have also had the benefit of teaching from these revised materials to students in the U.S. and overseas, in many different class formats. That experience has reaffirmed that the existing overall structure of the book works well both for comprehensive trade dress and design courses and for other courses and seminars that may focus on one or more of the individual intellectual property regimes. Thus, we have retained that overall structure, and (we hope) have preserved those aspects of the First Edition that made it versatile in so many different class settings.

The intellectual property laws protecting design have, if anything, become even more challenging for students to grasp in the last decade. With that in mind, we have reorganized and revised the introductory materials in Chapter 1, reducing some detail and emphasizing important overarching themes.

We have appreciated feedback over the years from fellow scholars who have taught from the text or have used it to inform their scholarship, and from practitioners who have found the book useful as a reference.

We are also pleased to announce the addition of a new co-author. Jason Du Mont has studied design law at Chicago-Kent, the Max Planck Institute (Munich), Indiana, and Stanford, and is an expert on the history of design patent law and on comparative aspects of design law.

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