Insights: Publications

The Nonobviousness Requirement for Design Patents: What is the Standard and Why Shouldn't it Obviously be Modified After KSR

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Design patents are becoming increasingly popular as well as increasingly litigated-in part due to the significant light shined upon them by the global litigation between Apple and Samsung over the design of smartphones and tablets, where the jury awarded Apple over $1 billion in damages. Design patents protect the value of designs and have become increasingly important in giving a company a competitive advantage in the market. The number of design patent applications filed in the United States has increased from approximately 5,000 in 1975 to about 35,000 in 2013, but this general increase has been at a faster pace within the last-few years.