

Identifying Information

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Paper Information

Title:	Whole Designs
Abstract:	In contemporary U.S. design patent practice, an applicant can claim any visual characteristic (or set of characteristics) of a product design as a separate “design.” This “anything goes” approach has created numerous practical and legal problems. This Article argues that the concept of what constitutes a patentable “design” needs to be reworked. Utilizing insights from design theory, this Article proposes a new conception of what constitutes a patentable “design.” Specifically, it argues that a “design for an article” of manufacture should be interpreted to mean a whole design for an article of manufacture. It then lays out a framework for how this would apply for each of the three long-recognized types of protectable designs.