



Federal Circuit Refuses to Create Separate Exhaustion and Repair Rules for Design Patents

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The Automotive Body Parts Association (ABPA) sued Ford in district court, seeking a declaratory judgment that two of Ford's design patents were invalid or unenforceable. The two patents covered designs for the hood and headlamps of Ford's F-150 trucks. ABPA argued that the design patents were (1) invalid because they failed to comply with the ornamentality requirement, which bars a design patent from claiming a "primarily functional" design, and (2) unenforceable because of the patent exhaustion and permissible repair doctrines. The district court entered summary judgment for Ford, rejecting both of ABPA's arguments.

On appeal, the Federal Circuit affirmed the district court on all counts. The court first rejected ABPA's argument that the designs were functional because they aesthetically matched the F-150 truck, determining that consumer preference for a design that matches "other parts of [the] whole" does not render that design functional. The court then focused on the patent exhaustion and repair doctrines. With respect to patent exhaustion, the court noted that the doctrine applied to the components actually sold as part of the F-150 trucks, but not to the new replacement components sold by ABPA member companies. With regard to permissible repair, the court concluded that the doctrine did not apply because although the "sale of the F-150 truck permits the purchaser to repair the designs as applied to the specific hood and headlamps sold on the truck, the purchaser may not create new hoods and headlamps using Ford's designs."

Practice Tip:

When building a patent portfolio, patent owners should consider the importance of patent protection for individual components that are likely to be replaced during the life of a product. Such patent protection should include not only utility patents, but also design patents, which can be just as powerful in a patent owner's arsenal.

Auto. Body Parts Assoc. v. Ford Global Techs., No. 2018-1613, slip op. (Fed. Cir. July 23, 2019)

Categories

Federal Circuit

Patent Exhaustion Doctrine

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