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Design Patent Protection in the United States

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Tools for Protecting Product Design

- Design Patents
 - Examination process required
 - Limited term (14 years)
- Trade Dress
 - Federal registration helpful, but not required
 - Must be non-functional & distinctive
 - If used, potentially indefinite protection
- Copyright
 - Creative expression must be separate from useful article
 - Period of protection depends on many factors

Layering A Product with IP Protection

Trademark –
name, word,
logo, product
design

Utility patents –
electronics,
methods of
operation

Copyright –
description of
product,
instructions,
advertising

Trade secret –
source code

Design patents –
shape, user
interface



Business Reason for Employing Design Patents

- Protection from counterfeits
 - Complete copying of the entire product design
- Protecting replacement parts
 - Razor handle v. replaceable razor cartridge
 - Automobiles v. replacement auto body parts
- Protecting the basic, unique characteristics of your design
 - Source identification and differentiation goal
 - Consider the value of portion claiming

Protection from Counterfeits

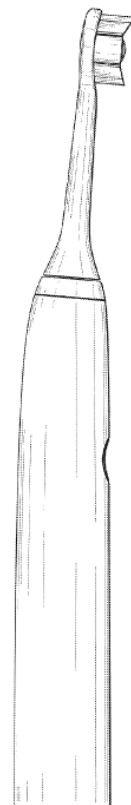


FIG. 4

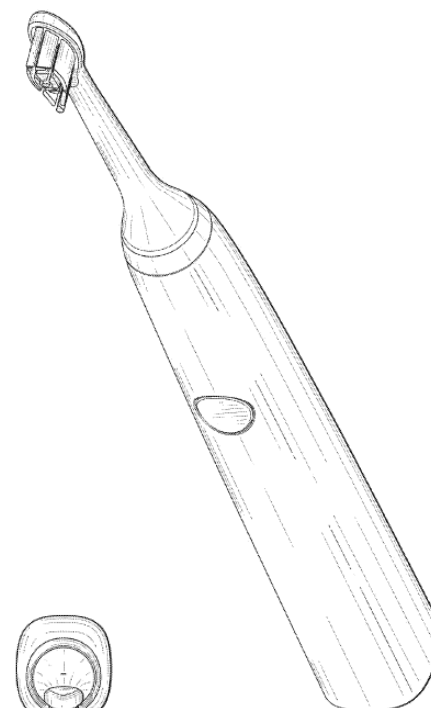


FIG. 1

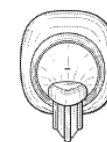
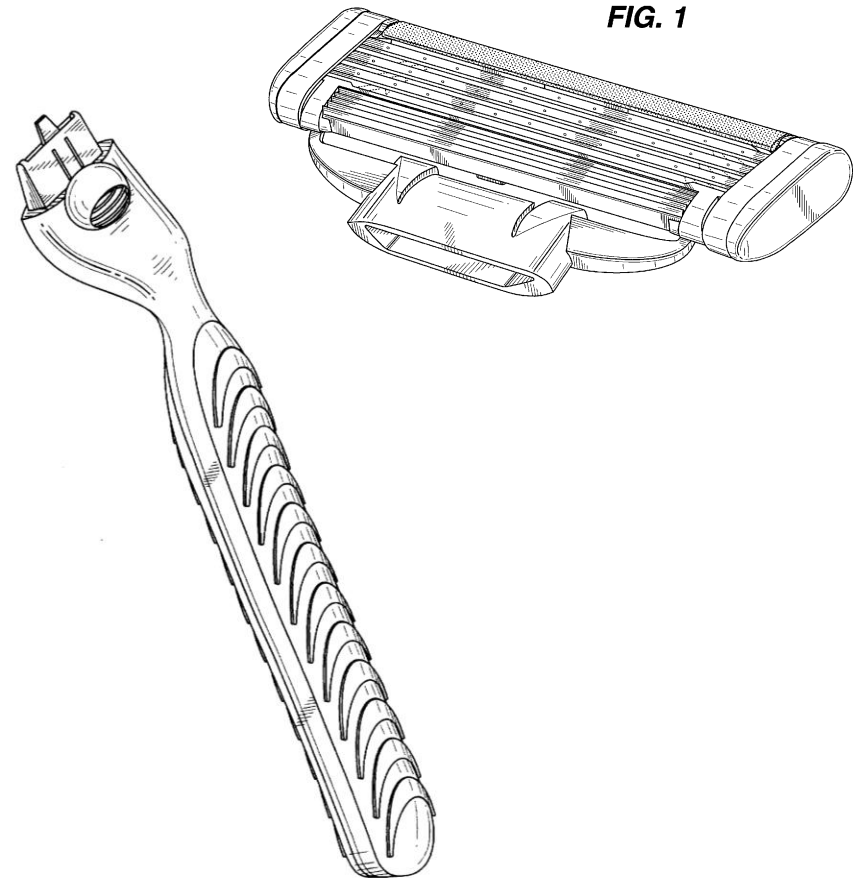
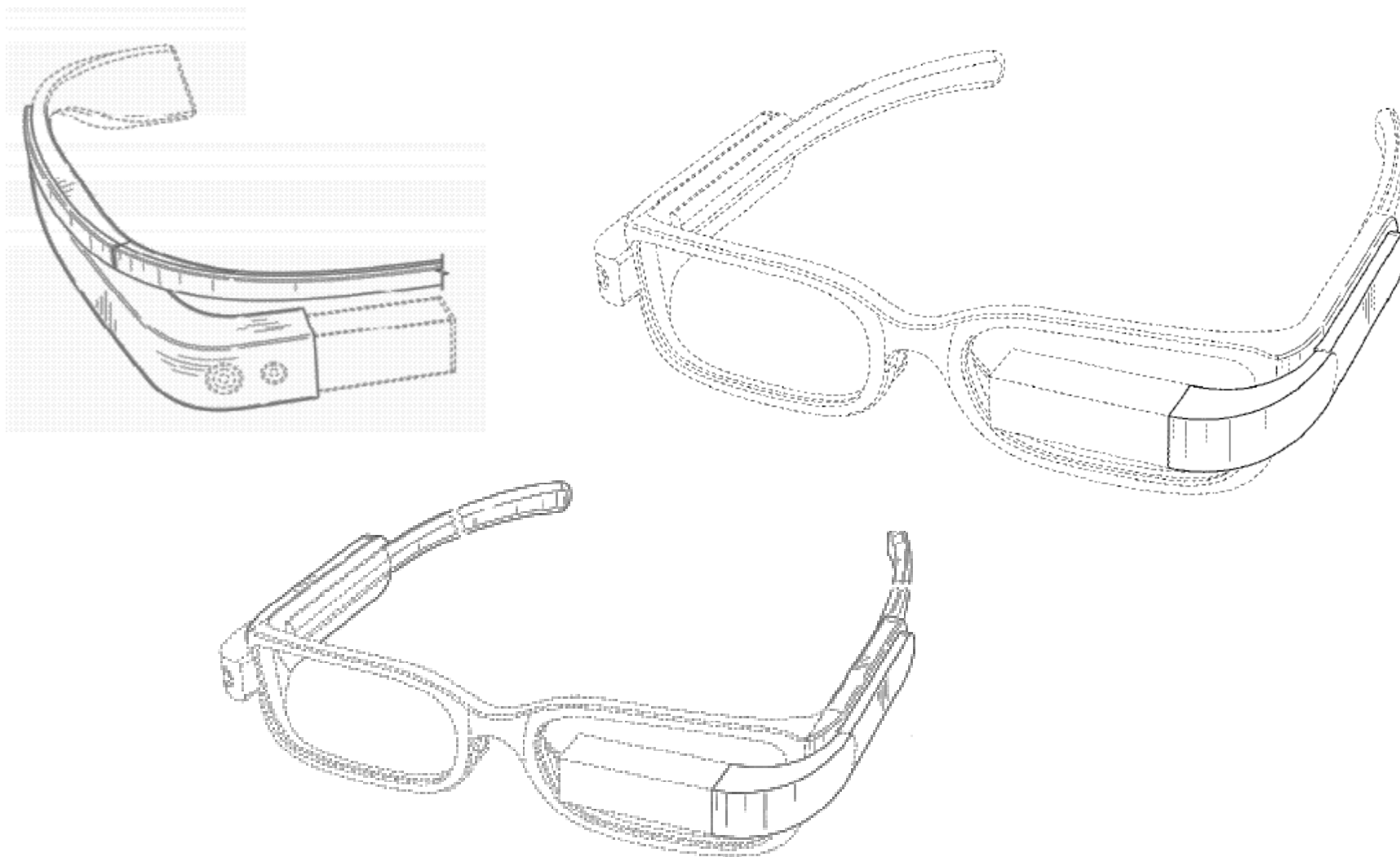


FIG. 6

Protect Replacement Parts



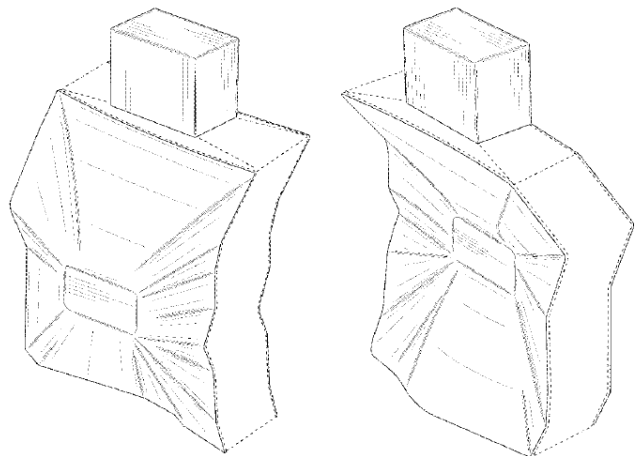
Protect Your Design “DNA”



U.S. Design Patent System

- Examination, not registration (like in EU)
- The scope of the design patent claim relies on the drawings
 - Quality is KEY
 - Need “sufficient” views of design
 - May claim only part of an article
- Rejections
 - Most based on indefiniteness
 - Occasionally functionality
 - Rarely on prior art (3.5%)

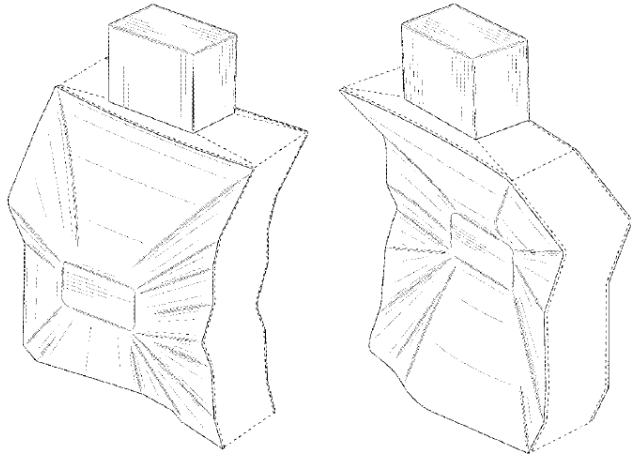
Marc Jacobs Bang Cologne



U.S. Design Patent
No. D675,529



Marc Jacobs Bang Cologne



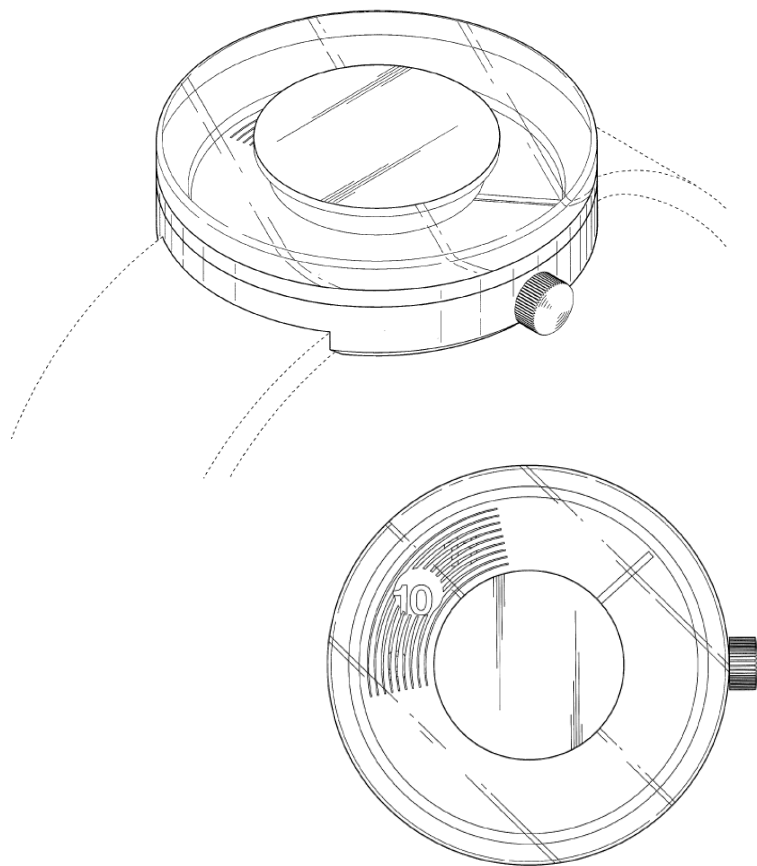
U.S. Design Patent
No. D675,529



Depict figures in black &
white line drawings,
without colors or
reflections.



The Vue Watch by Yves Behar for Issey Miyake

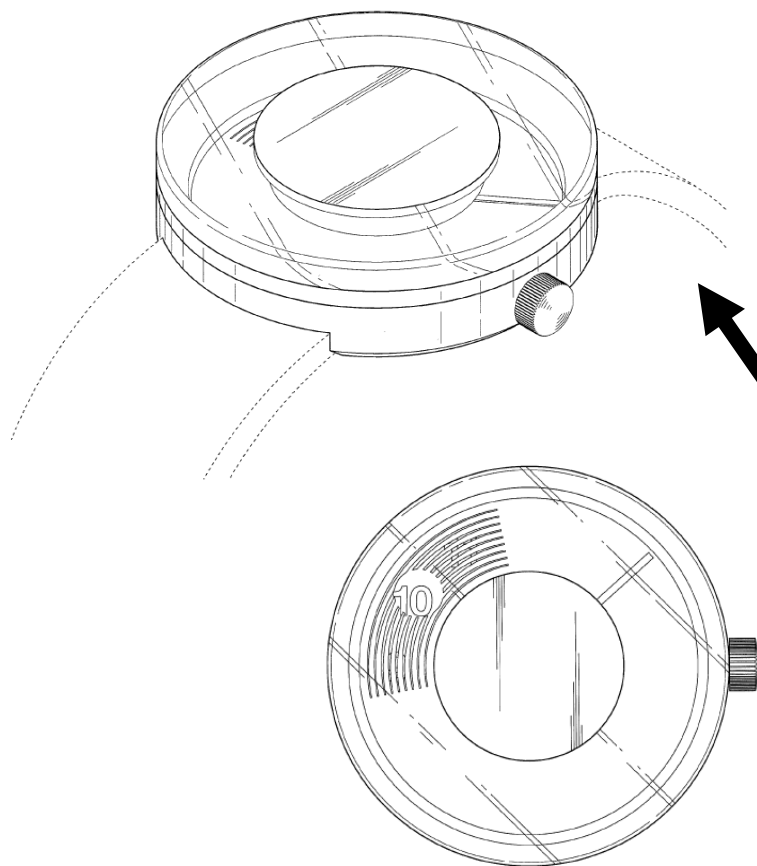


ISSEY MIYAKE
VUE
YVES BEHAR



U.S. Design Patent
No. D672,256

The Vue Watch by Yves Behar for Issey Miyake



ISSEY MIYAKE
VUE
YVES BEHAR



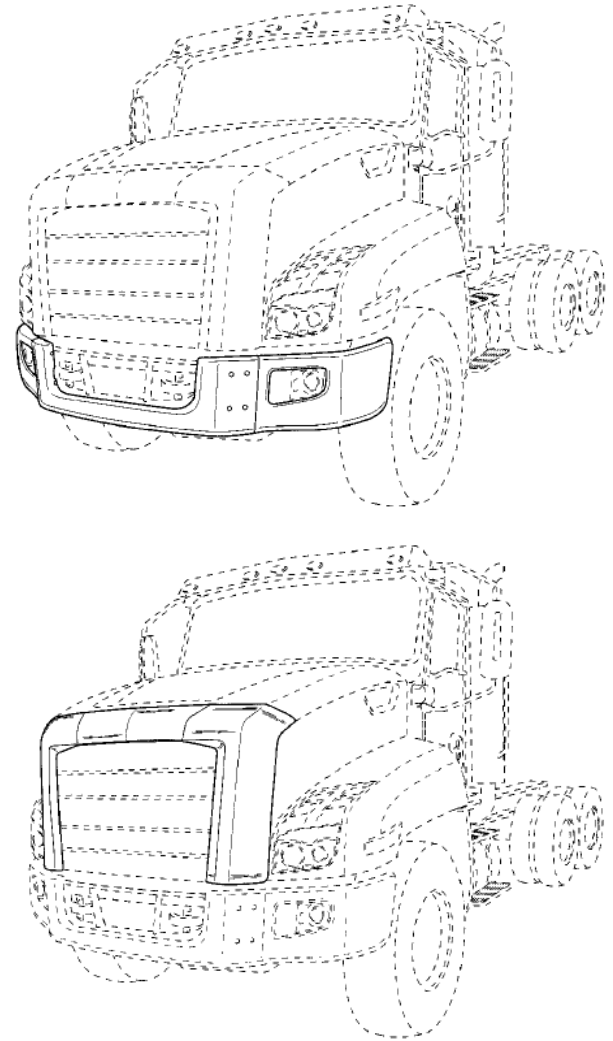
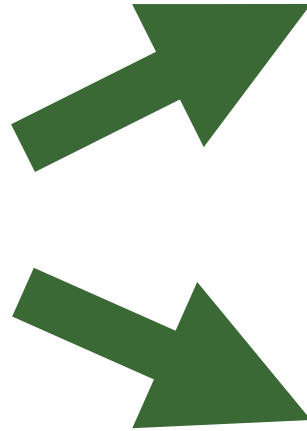
Claim the innovative
portions of the product.

U.S. Design Patent
No. D672,256

Caterpillar Vocational Truck

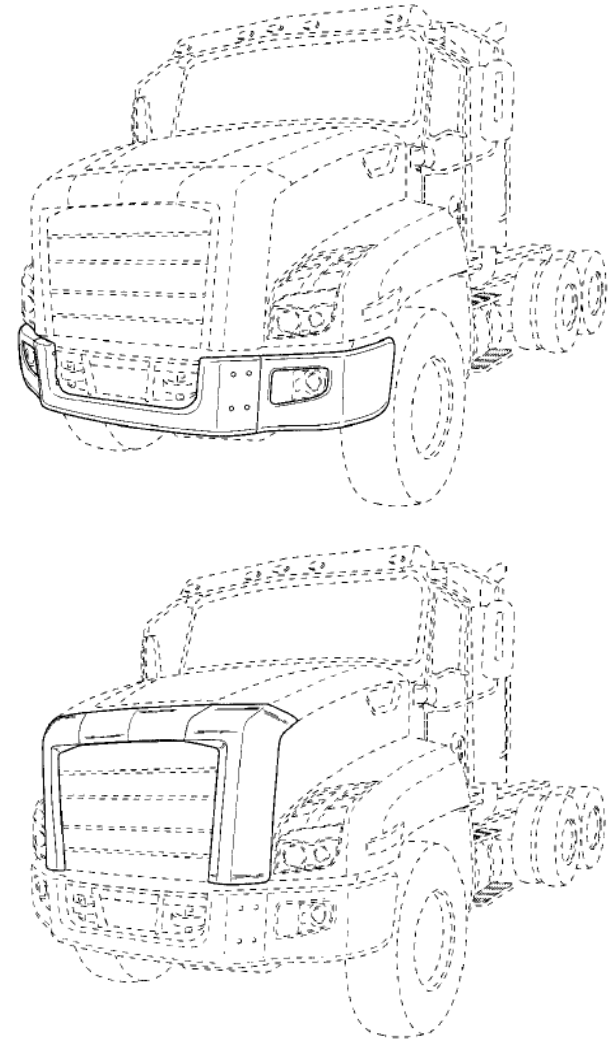
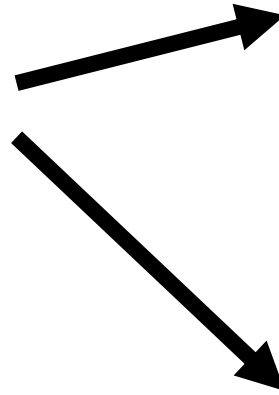


Caterpillar Vocational Truck

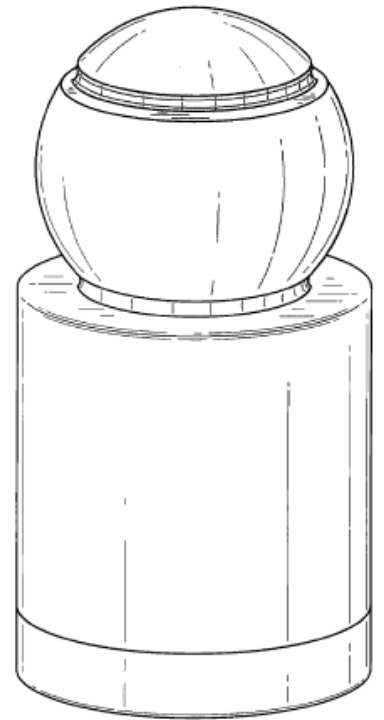


Caterpillar Vocational Truck

File multiple design patents for a single product.



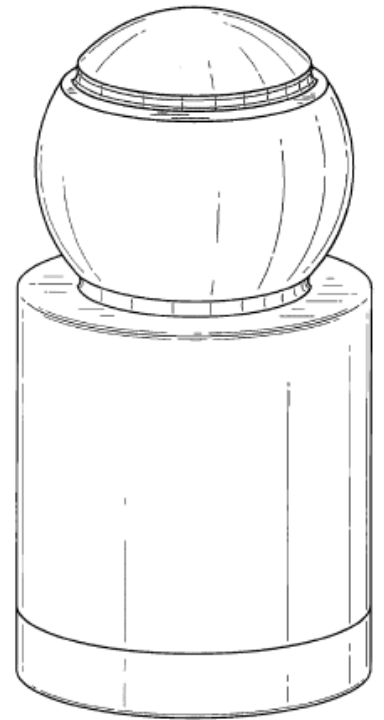
Sports Cooler



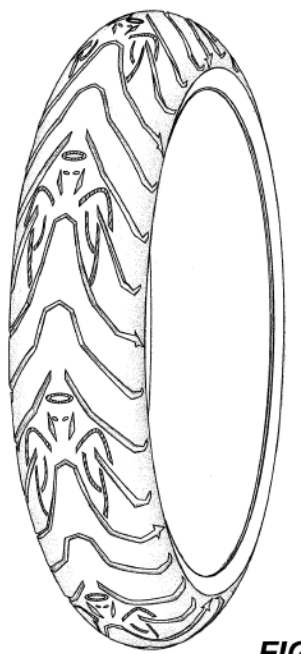
Sports Cooler



Eliminate
extraneous
details



Pirelli Angel ST Motorcycle Tire



U.S. Design Patent
No. D638,349



ANGELST

The First Tyre with a Double Soul

Angelic endurance.
Angel ST matches the evolution of new generation sport tourers using specifically developed technology to achieve the best compromise between performance, durability and safety. Its innovative design and use of the latest compounds ensures even wear across the tread pattern and high mileage in all temperatures – even under heavy loads.

Demonic performance.
The latest 0° steel belt construction techniques are used in the Angel ST providing faster warm up, even heat distribution and greatly improved high speed stability. High dispersion silica compound and a contact patch that's maximised at all lean angles combines to give exceptional feedback and unbeatable grip.

ANGEL
or
DEMON
You decide.

PIRELLI

POWER IS NOTHING WITHOUT CONTROL

Pirelli Angel ST Motorcycle Tire

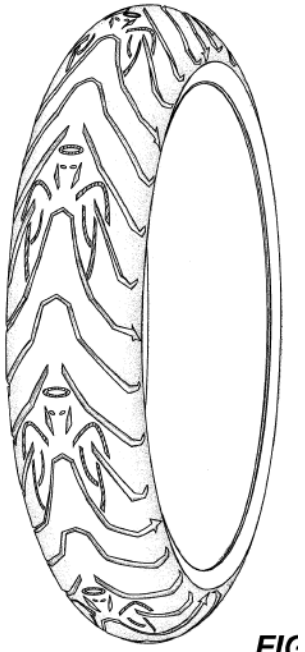


FIG.

U.S. Design Patent
No. D638,349



Claim the product
as sold.

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Speaker Information



Rob Wells focuses his practice on patent litigation, patent prosecution, and client counseling involving various intellectual property issues. He has experience in various matters before the U.S. Patent and Trademark Office (USPTO), and in cases before the U.S. International Trade Commission (ITC) and federal trial courts. Mr. Wells works with a wide variety of technologies, including robotics, laser diodes, LEDs, optometric devices, smartphones, and other computing technologies.

Thank you

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