
The Federal Circuit's New Nonobviousness Standard For Design Patents

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For the first time in decades, the Federal Circuit has a new standard to assess the nonobviousness of design patents. *LKQ Corp. v. GM Global Tech. Op. LLC*, No. 2021-2348 (Fed. Cir. May 21, 2024).

Instead of its rigid, 30-year old *Rosen-Durling* test, which required the references and challenged design to be “basically the same,” the Federal Circuit will now apply the utility patent nonobviousness standard to design patents. This new approach is more flexible and aligns with Supreme Court precedent, including *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007).

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