

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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LKQ Corporation and Keystone Automotive Industries, Inc.,

*Petitioners,*

v.

GM Global Technology Operations LLC,

*Patent Owner.*

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PGR2020-00022

U.S. Design Patent No. D850,341

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**PETITIONER'S MOTION  
FOR REHEARING**

## TABLE OF CONTENTS

|     |   |    |
|-----|---|----|
| I.  | LEGAL STANDARD .....  | 1  |
| II. | ARGUMENT .....  | 2  |
| A.  | The Petition’s Claim Construction Correctly Captured the Visual Impression Created by the Claimed Design as a Whole.....          | 3  |
| B.  | The Decision’s Analysis of Whether the 2015 ATS Anticipated the Claimed Design is Deficient and Legally Wrong. ....               | 8  |
| 1.  | The Decision Failed to Apply the Ordinary Observer Test.....  | 8  |
| 2.  | The Decision Failed to Consider the Claimed Design as a Whole, Instead Focusing Only on Minute, Immaterial Distinctions.....      | 9  |
| 3.  | The Petition Makes Clear that the 2015 ATS is More Likely than Not to be Almost Identical to the Claimed Design in Planview. .... | 12 |
| C.  | The Petition Identified a Valid <i>Rosen</i> Reference.....   | 14 |

## TABLE OF AUTHORITIES

### CASES

|  |          |
|--|----------|
| <i>Aristocract Techs., Inc. v. IGT</i> ,<br>IPR2016-00767 (PTAB Sept. 14, 2016) .....                      | 14       |
| <i>Crocs, Inc. v. Int’l Trade Comm’n</i> ,<br>598 F.3d 1294 (Fed. Cir. 2010).....                          | 1, 5, 11 |
| <i>Dobson v. Dornan</i> ,<br>118 U.S. 10 (1886) .....  | 5        |
| <i>Egyptian Goddess, Inc. v. Swisa, Inc.</i> ,<br>543 F.3d 665 (Fed. Cir. 2008) ( <i>en banc</i> ) .....   | 1, 5     |
| <i>Gorham Mfg. Co. v. White</i> ,<br>81 U.S. 511 (1871).....   | 8        |
| <i>High Point Design v. Buyers Direct, Inc.</i> ,<br>730 F.3d 1301 (Fed. Cir. 2013).....                   | 14       |
| <i>In re Gartside</i> ,<br>203 F.3d 1305 (Fed. Cir. 2000).....   | 2        |
| <i>In re Nalbandian</i> ,<br>661 F.2d 1214 (C.C.P.A. 1981) .....   | 15       |
| <i>Int’l Seaway Trading Corp. v. Walgreens Corp.</i> ,<br>589 F.3d 1233 (Fed. Cir. 2008).....              | 8, 11    |
| <i>Jore Corp. v. Kouvato, Inc.</i> ,<br>117 Fed.App’x 761 (Fed. Cir. 2005).....                            | 15       |
| <i>MRC Innovations, Inc. v. Hunter Mfg., LLP</i> ,<br>747 F.3d 1326 (Fed. Cir. 2014).....                  | 14, 15   |
| <i>Sealy Tech. LLC v. SSB Mfg. Co.</i> ,<br>No. 2019-1872, 2020 WL 5033045 (Fed. Cir. Aug. 26, 2020) ..... | 15       |

PGR2020-00022

Patent D850,341 S

*Smith v. Whitman Saddle Co.*,

148 U.S. 674 (1893) .....8

**OTHER AUTHORITIES**

*Manual of Patent Examining Procedure* § 1503.01 (8th ed. 2006) .....5

**REGULATIONS**

37 C.F.R. 42.71 .....1

PGR2020-00022  
Patent D850,341 S

Petitioners LKQ Corporation and Keystone Automotive Industries, Inc. (collectively “Petitioners” or “LKQ”) respectfully request rehearing pursuant to 37 C.F.R. 42.71(c)–(d) of the Board’s decision denying post-grant review (“Decision”) in PGR2020-00022, challenging U.S. Design Patent No. D850,341 (“the ’341 Patent”). Paper 8. The Decision is based upon a cardinal error that the Federal Circuit “has cautioned and continued to caution” against: “an excessive reliance on a detailed verbal description” of a design patent, resulting in “undue emphasis on particular features of the design rather than examination of the design as a whole.” *Crocs, Inc. v. Int’l Trade Comm’n*, 598 F.3d 1294, 1302 (Fed. Cir. 2010) (citing *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 679 (Fed. Cir. 2008) (*en banc*)). Each of the Decision’s findings as to the Petition’s prior art-based grounds rests upon an erroneous interpretation of law and lacks substantial evidence. The Petition established that the claimed fender design is more likely than not invalid. Thus, LKQ respectfully requests that the Board reconsider its decision and institute review.

## **I. LEGAL STANDARD**

Pursuant to 37 C.F.R. 42.71(c)-(d), within 30 days of the institution decision, Petitioners file this Motion for Rehearing identifying matters the Board misapprehended, where the matters were previously raised, and how the Board abused its discretion. An abuse of discretion occurs when a decision is based on an erroneous interpretation of law, a finding of fact lacks substantial evidence, or if the

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