

## DESIGN PATENT USE

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The owner of a design patent has, among other things, the exclusive right to “use” the patented invention. However, there has been little case law or commentary on what, exactly, it means to “use” a patented design. One particularly important unanswered question is whether the use of a design on a different article of manufacture constitutes infringement. This Article concludes that it should not, arguing that the patented invention should be conceptualized as the design as applied to a specific type of product—not the design in the abstract. Accordingly, the design should remain free to be adapted to different types of products. This conclusion is supported by the nature of product design and policy goals including the promotion of the decorative arts and protection of free expression. This Article will also consider the potential implications of this conclusion for—and problems created by the PTO’s approval of—computer icon/GUI design patents.