

DESIGN PATENT PERSPECTIVE: Use of Experts in Design Patent Cases

PART 2



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In part one we considered potential issues for expert witness testimony under the ordinary observer infringement test. Now we will consider additional areas that may be appropriate for expert testimony. We also will analyze how courts have reacted to experts in design patent cases and offer tips on how to overcome some common admissibility problems.

Let's begin with validity. Any effort to invalidate a design patent by either anticipation or obviousness requires analysis of the prior art. The prior art typically will include patents, publications, and articles of manufacture. A court can take judicial notice of prior art patents,¹ but identifica-

tion and authentication of prior art publications and articles usually will require testimony - and this is where an expert can be useful. For example, in *Ashley Furniture Industries v. Lifestyle Enterprise*,² a case involving furniture designs, the defendant's expert identified a dresser, bed, and mirror as putative primary prior art references. When using an expert to authenticate prior art, it is important that the expert have some form of personal knowledge that the reference is indeed prior art.³

Determining anticipation is usually fairly straightforward because anticipation "requires a showing that a single prior art reference is 'identical in all material respects' to the claimed invention."⁴ However, obviousness is a different story. Using the section 103 obviousness standard for design patents always has been problematical⁵ and the standard for obviousness currently is unsettled.⁶ But regardless of whether the determination is made from the perspective of an ordinary designer, ordinary observer, or a mixture of both, expert witness testimony can be helpful. For example, in *Yokohama Rubber Co. v. Stamford Tyres Int'l PTE LTD*,⁷ a case involving an automobile tire design, a defense expert declared that a prior art tire reference was basically the same as the patented design and that a designer of ordinary skill could have combined the teachings of two other closely related prior art tire patents to arrive at the patented design. Based on the expert declaration, the court denied plaintiff's motion for summary judgment on the issue of patent validity.

A design patent also is invalid if the overall design is dictated by function.⁸ If there are other functionally equivalent designs available, then the design likely is not invalid.⁹ An expert can be helpful with these issues. In *Martec Engineering Corp. v. Michigan Wheel Co.*,¹⁰ a case involving boat propeller designs, the court denied summary judgment of invalidity stating it was "necessary to have expert testimony in the field of mechanics to make clear whether or not the design of the patented article is dictated by its functional requirements."¹¹ In *PHG Techs., LLC v. St. John*

Cos.,¹² an expert testified there were alternative designs for a medical label sheet that would function just as well as the patented design. When defendant did not come forward with contradictory evidence that the design was primarily functional, the court entered summary judgment for plaintiff on the issue of patent validity.

Experts also can be helpful when other functionality tests are used. In *Colgate-Palmolive Co. v. Ranir L.L.C.*,¹³ the court used the functionality test from *Inwood Laboratories*¹⁴ of whether the design is "essential to the use or purpose of the article or if it affects the cost or quality of the article." The court stated "[t]hese are considerations that this court views as inherently factual and not likely to be evident from the intrinsic record, but rather, the type of factors on which trial courts routinely hear experts opine."¹⁵ In *Cheng v. AIM Sports, Inc.*,¹⁶ the court found that a wrench design was dictated by function when plaintiff's own expert confirmed that "moving the various wrenches to different locations on the tool would likely affect a user's ability to generate torque, thus affecting the tool's usefulness."¹⁷

Functionality also is important when construing a design patent claim. Only ornamental features should be considered in an infringement analysis and functional features should be "factored out" in the comparison.¹⁸ An expert can be helpful in identifying which design features are functional. In *Black & Decker (U.S.) v. Pro-Tech Power*,¹⁹ a case involving a miter saw design, both parties offered expert testimony concerning which features were ornamental and which were functional. The court found the issue to be a question of fact for the jury because the court when considering the issue would "have to consider extensive conflicting expert witness testimony."²⁰ In *Cheng v. AIM Sports, supra*, an expert stated that the width of recoil grooves on firearm accessories were dictated by function due to compatibility standards. Based on the expert's opinion, the court concluded that the recoil grooves should be factored out of the design.

Expert analysis of feature functionality also can assist when an inventorship issue exists. In *Safco Products Co. v. Welcome Products*,²¹ the court stated "the question of who conceived of which particular ornamental feature requires that this Court first identify the ornamental, as opposed to the functional, features [and the expert's] discussion of the distinction between the patentable ornamental features of a design and the non-patentable functional features

could likely assist the jury in resolving both inventorship and infringement issues.”²²

Expert testimony can be helpful when determining whether a statutory bar is present. In *Schreiber Mfg. Co. v. Saft America, Inc.*,²³ a case involving a battery pack design, the plaintiff argued that the on sale bar did not apply because the pre-critical date sales were of battery packs with a different design. The defendant countered with an expert declaration that the products on sale embodied the design features of the patented design. The court granted summary judgment in favor of defendant, stating “[a]s expert witnesses are allowed to give opinion evidence under Fed. R. Evid. 702, [the expert’s] opinion as to whether the claims in the patents-in-suit are embodied in the battery packs sold prior to [the critical date] is admissible evidence.”²⁴

A design patent may be invalid as indefinite under the second paragraph of 35 U.S.C. § 112 if the drawings are ambiguous or inconsistent. Expert witness testimony can help support a section 112 defense. In *Seed Lighting Design Co. v. Home Depot*,²⁵ a case involving a lamp design, the defendant’s industrial design expert pointed out numerous mistakes and ambiguities in the patent drawings. The inventor admitted that because of the ambiguities even he could not determine the precise scope of the patent. The court granted summary judgment in favor of defendant, noting that the expert report had not been rebutted and could not be rebutted at trial because the plaintiff failed to retain or disclose a rebuttal expert on the issue.

With regard to inequitable conduct, an expert witness with extensive experience as a patent examiner has been found qualified to testify regarding a reasonable examiner’s opinion on materiality.²⁶ Note, however, that a court may limit an expert’s opinion to PTO policy and procedures and not allow an opinion as to inequitable conduct when the expert is not an attorney.²⁷

Design patent drawings have certain drafting conventions such as broken lines, shading for opaque and transparent surfaces, stippling, and symbol patterns for different colors. When there is a dispute over the meaning of a symbol, expert testimony may be used to determine what the meaning is and whether the meaning is clear.²⁸

Now let’s turn our attention to admission and exclusion. As we discussed in part 1, the case law on expert witnesses is somewhat inconsistent and unpredictable because admission and exclusion is in the discretion of the court and may be met with different levels of resistance by your oppo-

nent. But for our purposes, let’s assume that your adversary is vigorously opposing your effort to use an expert.

The statements and testimony of an expert witness can be presented through a declaration or affidavit, by deposition, or through live testimony at trial. Such declarations and testimony can be opposed by a motion to strike, by objections, and by a specialized form of a motion in limine²⁹ known as a *Daubert*³⁰ motion. The focus of the motions and objections typically will be Rule 702 of the Federal Rules of Evidence³¹ and a trilogy of Supreme Court cases interpreting Rule 702.³² Those arguing for or against use of an expert should have a working familiarity with Rule 702 and its interpretive case law.

The party offering expert testimony has the burden of laying the foundation for its admissibility.³³ The first step in evaluating admissibility is determining whether the expert is qualified. The court must consider the “totality of a witness’s background” when evaluating the witness’s qualifications.³⁴ Once the witness is qualified, the expert testimony must be limited to the area of qualified expertise.³⁵ Although a witness must have the technical expertise to testify on a technical subject, a specific background on the specific article at issue is generally not required.³⁶

We have discussed use of expert testimony in many areas of a design patent case, including the ordinary observer infringement test, obviousness, functionality, statutory bars, indefiniteness, inequitable conduct, and drafting symbols. Several of these areas involve knowledge of the prior art and others involve technical knowledge of function, specialized knowledge of patent drawings, and specialized knowledge of design patent prosecution. As long as the expert witness has the requisite qualifications to testify on these issues and limits the testimony to the specific area of expertise, courts generally have allowed the testimony. However, certain areas have proven to be problematical.

First, with regard to expert testimony concerning the prior art, a common mistake is trying to use an expert in general product design to prove up prior art in a specific design area without properly preparing the expert. For example, in *Sun-Mate Corp. v. Koolatron Corp.*,³⁷ a case involving portable cooler designs, a defense expert in “product design” declared she was familiar with certain prior art retro refrigerator designs that allegedly invalidated the design patents at issue. However, the expert neither explained how she was familiar with the



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putative prior art or authenticated the pictures as prior art, so the court concluded the expert lacked the qualifications to testify on the prior art issue. In *Degelman Indus. v. Pro-Tech Welding & Fabrication, Inc.*,³⁸ a case involving a snowplow design, the defendants’ expert opined that the subject design patents were invalid based on certain prior art. But the court noted that nothing in the expert’s affidavit established that he had first-hand knowledge of the prior art and therefore a genuine issue of fact remained as to whether the reference was actually prior art.

A second problem area is trying to use a patent lawyer to offer general opinions on ultimate issues such as infringement and invalidity. Although the courts have accepted the testimony of patent examiners and other witnesses with specialized legal knowledge on issues such as patent office procedure, materiality, and patent drawings, courts typically have rejected legal witnesses who are merely offering opinions on issues of law. In *Safco Prods. Co. v. Welcom Prods.*,³⁹ the court excluded a patent attorney’s expert report because it was “essentially a legal treatise coupled with an analysis of the factual record” and was not “necessary, or appropriate.”⁴⁰ In

Keystone Retaining Wall Sys. v. Rockwood Retaining Wall, Inc.,⁴¹ the court held that a patent attorney could not offer opinions on infringement, patentability, or how the law of patents applied to the facts of the case.⁴²

A third problem area is that some courts refuse expert testimony related to the ordinary observer test on the basis that the expert does not qualify as an “ordinary observer.” This general problem area is discussed in more detail below.

The second step in evaluating expert testimony admissibility is determining whether it rests on a reliable foundation. The court should consider whether the testimony “is grounded in facts or data and reliable methods or principles, and whether the witness has applied the principles and methods to the facts of the case.”⁴³ Further, to be admissible, the expert testimony must assist the trier of fact.⁴⁴

When the area of expert testimony involves matters such as the prior art, functionality, patent office procedure and standards, or patent drawings and drafting conventions, the admissibility of such testimony in a design patent case usually is not difficult or controversial as long as the expert opinion is grounded in appropriate facts or data. While the courts may disagree on a proper substantive legal standard for, e.g., functionality or obviousness, once the court settles upon a standard, testimony from a qualified expert may be prepared, offered and is generally admitted.

The real problem for experts in a design patent case appears to be in the area of the ordinary observer test. That is, how to admit expert testimony that the patented and accused designs are (or are not) substantially similar and that an ordinary observer would or would not be confused. The primary problem is that the courts appear to disagree on whether an expert can testify as to what an ordinary observer would perceive.

Some courts allow such testimony. For example, in *Smith Corona Corp. v. Pelikan, Inc.*,⁴⁵ the court exercised its discretion and allowed an expert to testify on infringement “as he was qualified to render an opinion on the issue of design patent infringement and his opinion would assist the jury on the issue of design infringement.”⁴⁶ The court noted that the expert’s background was reviewed extensively on cross-examination and “[a]ny deficiencies in his qualifications were proper points for closing argument and consideration by the jury.”⁴⁷ As a practice tip, it appears to help the admissibility of expert testimony on the ordinary observer test if the expert can rely upon some helpful

admissions from the defendant or evidence of confusion by the designer.⁴⁸

Other courts, however, have rejected proposed expert testimony under the ordinary observer test, holding that it would not be helpful to the jury. For example, in *Chef’n Corp. v. Trudeau Corp.*,⁴⁹ a case involving a vegetable steamer design, the plaintiff offered expert declarations of a professional buyer of kitchen appliances and the CEO of a marketing company that specialized in kitchen products to oppose defendant’s summary judgment motion of noninfringement. The court found both declarations inadmissible under Federal Rule of Evidence 702 because “expert opinions on ordinary observers’ thoughts or perceptions will not assist the trier of fact” and “the declarations lack a sufficient factual basis because there is no evidence that the opinions are based on consumer surveys or interviews.”⁵⁰ In *Keystone Retaining Wall Sys. v. Rockwood Retaining Wall, Inc.*,⁵¹ the court held that since infringement of a design patent is determined from the viewpoint of an ordinary observer and not an expert, “expert” opinion would not assist the jury in determining whether the accused design was substantially similar to the patented design.

Courts that reject expert testimony under the ordinary observer test usually do not explain specifically why the testimony will not be helpful to a jury. For example, in *Arner v. Sharper Image Corp.*,⁵² a case involving a mechanized tie rack design, an expert in industrial design stated in a declaration that a consumer familiar with the patented design would believe that the accused designs were substantially the same. The court found that the expert’s testimony regarding substantial similarity reached the ultimate issue the jury would decide. Although the court acknowledged that Federal Rule of Evidence 704 permits expert testimony on ultimate issues, the court stated that “Rule 702 limits it to circumstances in which it is ‘helpful’ to the jury,” and “an industrial design expert’s testimony regarding what an ‘ordinary purchaser’ would perceive is not helpful under Rule 702.”⁵³

A potential way to argue admissibility to a court that may be inclined to generally reject expert testimony on the ordinary observer test is to break the test down into its constituent elements and then have the expert testify to specific issues that would be helpful to the jury. If a court becomes convinced that the ordinary observer test is a complex, objective, and hypothetical construction that involves much more than

simply treating jurors as a group of ordinary observers - and testimony is offered on specific sub-issues - then the court might be less likely to react with a general rejection.

In part 1, we discussed potential issues for expert testimony such as identification of the ordinary observer, the nature, scope, and effect of the prior art, what the ordinary observer knows, how they purchase and use the type of article design at issue, how much time and attention is spent observing the design, what design features are dictated by function and must be factored out or ignored in the analysis, how the articles are used from manufacture to end of article life, principles of visual science, and how real world purchasers and users typically perceive, distinguish between, interact with, and comment about different available designs. If a properly qualified expert testifies to these types of specific issues, then the court is more likely to agree that expert testimony will assist the trier of fact in determining whether infringement exists.⁵⁴

The case law suggests that cases can be won by having an appropriate expert, and lost when an expert is not available to offer contrary testimony. Expert witnesses, properly offered to the court after thorough preparation and analysis of the facts, law, and Federal Rule of Evidence 702, have an important role in the prosecution and defense of design patent cases. **IP**

ENDNOTES

1. See *Parker v. Kimberly-Clark Corp.*, 2012 U.S. Dist. LEXIS 2565, 8-9 (N.D. Ill. Jan. 10, 2012) (court took judicial notice of publicly available prior art patent).
2. 574 F. Supp. 2d 920, 925-926 (W.D. Wis. 2008).
3. See *Degelman Indus. v. Pro-Tech Welding & Fabrication, Inc.*, 2011 U.S. Dist. LEXIS 150394, 58-59 (W.D.N.Y. May 27, 2011) (question of fact remained whether reference was prior art due to lack of personal knowledge by expert).
4. *Door-Master Corp. v. Yorktowne, Inc.*, 256 F.3d 1308, 1312 (Fed. Cir. 2001) (quoting *Hupp v. Siroflex of Am., Inc.*, 122 F.3d 1456, 1461 (Fed. Cir. 1997)).
5. See Mueller and Brean, *Overcoming the “Impossible Issue” of Nonobviousness in Design Patents*, 99 Kentucky Law Journal, 419 (No. 3, 2010-2011) (available for free download at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1505384).
6. See *Int’l Seaway Trading Corp. v. Walgreens Corp.*, 589 F.3d 1233, 1240 (Fed. Cir. 2009) (Federal Circuit concluded that the ordinary observer test is the sole test for anticipation and that the ordinary designer standard is used only to determine whether to combine earlier references to construct a single piece of art for comparison under the ordinary observer test). This decision is criticized in Oake, *Rethinking Design Patent Infringement Law*, pages 19, 20 (November 2011) (available at designpatentschool.com) and Saidman, *Design Patents Sunk in International Seaway*, 83 Patent, Trademark & Copyright Journal 278 (BNA December 23, 2011).

7. 2010 U.S. Dist. LEXIS 48671 (C.D. Cal. Jan. 19, 2010).
8. *See Avia Group International, Inc. v. L.A. Gear California, Inc.*, 853 F.2d 1557, 1563 (Fed. Cir. 1988) (“When function dictates a design, protection would not promote the decorative arts, a purpose of the design patent statute.”); *L.A. Gear, Inc. v. Thom McAn Shoe Co.*, 988 F.2d 1117, 1123 (Fed. Cir. 1993) (“the design of a useful article is deemed to be functional when the appearance of the claimed design is ‘dictated by’ the use or purpose of the article.”).
9. 988 F.2d at 1123.
10. 1972 U.S. Dist. LEXIS 10858 (C.D. Cal. 1972).
11. *Id.* at *2.
12. 529 F. Supp. 2d 852, 861 (M.D. Tenn. 2007).
13. 2007 U.S. Dist. LEXIS 55258 (D. Del. July 31, 2007).
14. *Inwood Laboratories, Inc. v. Ives Laboratories, Inc.*, 456 U.S. 844, 850 (1982).
15. 2007 U.S. Dist. LEXIS 55258, *6 (D. Del. July 31, 2007).
16. 2011 U.S. Dist. LEXIS 42462, 16-17 (C.D. Cal. Apr. 14, 2011).
17. *Id.* at *16, *17.
18. *See Amini Innovation Corp. v. Anthony California, Inc.*, 439 F.3d 1365, 1372 (Fed. Cir. 2006).
19. 1998 U.S. Dist. LEXIS 9162 (E.D. Va. June 2, 1998).
20. *Id.* at *15.
21. 799 F. Supp. 2d 967 (D. Minn. 2011).
22. *Id.* at 998.
23. 704 F. Supp. 759, 768 (E.D. Mich. 1989).
24. *Schreiber Mfg. Co. v. Saft America, Inc.*, 704 F. Supp. 759, 766 (E.D. Mich. 1989).
25. 2005 U.S. Dist. LEXIS 44741, 24-29 (N.D. Cal. Aug. 3, 2005).
26. *See Oasis Indus. v. G.K.L. Corp.*, 1996 U.S. Dist. LEXIS 1057 (N.D. Ill. Jan. 31, 1996).
27. *See Degelman Indus. v. Pro-Tech Welding & Fabrication, Inc.*, 2011 U.S. Dist. LEXIS 147953, *19 (W.D.N.Y. Dec. 23, 2011).
28. *See Elk Corp. v. GAF Bldg. Materials Corp.*, 1997 U.S. Dist. LEXIS 21173 (N.D. Tex. Sept. 29, 1997).
29. “A motion in limine serves to exclude irrelevant or otherwise inadmissible evidence prior to trial, rather than relying upon sustained objections at trial.” *W. R. Grace & Co. v. Viskase Corp.*, 1991 U.S. Dist. LEXIS 14651 (N.D. Ill. Oct. 11, 1991).
30. *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).
31. *Id.* Federal Rule of Evidence 702 states “[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.”
32. *See Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993); *General Electric Co. v. Joiner*, 522 U.S. 136 (1997); and *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999).
33. *See Rosco, Inc. v. Mirror Lite Co.*, 506 F. Supp. 2d 137, 144 (E.D.N.Y. 2007).
34. *Id.*
35. *Id.* at 145.
36. *See Safco Prods. Co. v. Welcom Prods.*, 2011 U.S. Dist. LEXIS 71941, 87-90 (D. Minn. July 1, 2011) (Although expert was neither a product design expert nor a designer of pushcarts, the expert’s technical background in mechanical engineering qualified him to testify because his general expertise in the general field at issue could be helpful to the jury.).
37. 2011 U.S. Dist. LEXIS 84726 (C.D. Cal. Aug. 1, 2011).
38. 2011 U.S. Dist. LEXIS 150394, 58-59 (W.D.N.Y. May 27, 2011).
39. 799 F. Supp. 2d 967 (D. Minn. 2011).
40. *Id.* at 998.
41. 2001 U.S. Dist. LEXIS 26272 (D. Minn. Oct. 9, 2001).
42. Since “federal judges are expected to be experts on federal law,” the “testimony of a legal expert in federal cases is generally unnecessary.” *W. R. Grace & Co. v. Viskase Corp.*, 1991 U.S. Dist. LEXIS 14651 (N.D. Ill. Oct. 11, 1991).
43. *Rosco, Inc. v. Mirror Lite Co.*, 506 F. Supp. 2d 137, 144 (E.D.N.Y. 2007) (“The Supreme Court has identified a number of factors that may be relevant to the reliability of the testimony, including: (1) whether the theory or technique has been or will be tested; (2) whether it has been subjected to peer review and publication; (3) the known or potential rate of error; and (4) whether the technique or theory has gained general acceptance in the relevant expert community. *Daubert*, 509 U.S. at 593-94. In addition, a proponent of expert testimony bears the burden of showing ‘a grounding in the methods and procedures of science which must be based on actual knowledge and not subjective belief or unaccepted speculation.’ *Mitchell v. Gencorp, Inc.*, 165 F.3d 778, 780 (10th Cir. 1999).”)
44. *See Chefn Corp. v. Trudeau Corp.*, 2009 U.S. Dist. LEXIS 47013 (W.D. Wash. June 4, 2009).
45. 784 F. Supp. 452 (M.D. Tenn. 1992).
46. *Id.* at 469.
47. *Id.*
48. *See, e.g., Lakewood Eng’g & Mfg. Co. v. Lasko Metal Prods.*, 2001 U.S. Dist. LEXIS 13491, 11-20 (N.D. Ill. Aug. 16, 2001) and *Avia Group Int’l, Inc. v. L.A. Gear Corp.*, 853 F.2d 1557, 1564 (Fed. Cir. 1988).
49. 2009 U.S. Dist. LEXIS 47013 (W.D. Wash. June 4, 2009).
50. *Id.* at *5.
51. 2001 U.S. Dist. LEXIS 26272, 31-32 (D. Minn. Oct. 9, 2001).
52. 1995 U.S. Dist. LEXIS 21156 (C.D. Cal. Oct. 5, 1995).
53. *Id.* at *27.
54. As a final note, certain facts such as purchasers’ observations and reactions over a period of time and how an article of manufacture typically is used from manufacture to end of useful life may more appropriately be testified to by non-expert witnesses under Federal Rule of Evidence 701. This rule provides that “[i]f a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.” *See, e.g., B&G Plastics, Inc. v. Eastern Creative Indus.*, 2004 U.S. Dist. LEXIS 2311, 21-25 (S.D.N.Y. Feb. 18, 2004) (Although witness was not an expert, his testimony was admissible under Rule 701 because it was helpful in describing a specialized industry to the trier of fact.).

MacroSolve Files Patent Infringement Suit Against GEICO

MacroSolve, Inc., (“MacroSolve” or the “Company”), a leading provider of mobile technologies, apps and solutions for business, announced on February 21st, it had filed a patent infringement suit against GEICO Insurance Agency, Inc., GEICO Casualty Company, and Government Employees Insurance Company, all wholly owned subsidiaries of Berkshire Hathaway, Inc. for violation of MacroSolve’s U.S. Patent No. 7,822,816.

“Our patent underlies mobile apps that are deployed today across virtually all industries, including insurance. With this suit and others which we’ve already filed, we will continue to protect our intellectual property rights,” stated MacroSolve Vice Chairman Jim McGill.

MacroSolve’s lawsuit against GEICO and its affiliates claims that, “Defendants, directly or through intermediaries, made, used, imported, provided, supplied, distributed, sold and/or offered for sale products and/or systems (including at least their GEICO mobile application product and/or service) that infringed one or more claims of the ‘816 patent and/or defendants induced infringement and/or contributed to the infringement of one or more of the claims of the ‘816 patent by their customers.”

On October 26, 2010, the United States Patent and Trademark Office issued U.S. Patent No. 7,822,816 to MacroSolve. The patent, a significant intellectual property asset to MacroSolve, further advances its position as a leader in the mobile solutions market. The patent addresses mobile information collection systems across all wireless networks, smartphones, tablets, and rugged mobile devices, regardless of carrier and manufacturer, and is currently utilized in MacroSolve’s rapid mobile app development platforms. MacroSolve’s patent covers fundamental technology in the mobile application space utilized by multiple companies.