



Jury Gives UGG Design Patent the Boot

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In June, [a California jury](#) found that a boot design by American M2C company Quince (Quince) infringed the design patent owned by Deckers Outdoor Corporation (Deckers), but also found that the "UGG Classic Mini" design patent was invalid.

The jury decision in *Deckers Outdoor Corp. v. Last Brand Inc.* came on the heels of a related judicial holding that Deckers' "Classic Ultra Mini" UGG boot [trade dress was generic](#).

Taken together, these legal findings illustrate the obstacles fashion companies face in protecting their brands, particularly as "dupe culture," which promotes cheaper imitations of branded products as a valid alternative to the originals, [has reached a massive audience](#) across social media platforms. These challenges are especially acute when dupes mimic the overall appearance of a well-known, sought-after product without including logos or other insignia, in a bid to avoid claims of counterfeiting.

The US Supreme Court has held that trade dress, which commonly refers to all of the combined visual cues that a product and its packaging give to consumers, altogether identifying the source of the product, [functions as a trademark under the Lanham Act](#). If multiple third parties imitate a brand's trade dress, they dilute its power as a source indicator, rendering it vulnerable to claims of genericness.

In its [complaint](#), Deckers characterized UGG, founded in 1979, as "one of the most well-recognized premium comfort-leisure shoe brands in the United States." The "Classic Ultra Mini Trade Dress" was described as "non-functional in its entirety, visually distinctive, and unique in the footwear industry," consisting of "a. An ankle-high boot; b. Classic suede boot styling; c. An exaggerated, raised and exposed circular stitch pattern; d. Exposed tufting; e. A raised and rounded vamp; f. A suede heel overlay on the boots exterior; g. Fabric binding along the top of the boot and along the sole; h. A thick, flat sole; and i. A top line that is higher in the front and lower in the back."

The UGG Classic Mini [design patent, D927,161](#), covered “the ornamental design of a footwear upper,” as depicted in accompanying illustrations.

Deckers is no stranger to UGG trademark disputes. In Australia and New Zealand, the term “ugg” as it relates to footwear [is generic](#), referring to a unisex style of sheepskin boot with fleece on the inside. Worn by World War I pilots and popular with surfers in the “Swinging Sixties,” ugg boots gradually rode a wave of popularity that culminated in the creation of Dockers’ California-based UGG brand. Deckers has repeatedly [sparred](#) with Australian and New Zealand boot manufacturers that use “ugg” descriptively and view it as part of local heritage.

For fashion brands, the ultimate outcome in the UGG case illustrates that even an aggressive enforcement strategy does not guarantee legal success.

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