

Not So Common Sense? Reliance on Common Sense to Establish Obviousness

A recent written decision of the Patent Trial and Appeals Board sheds light on how the PTAB may treat common sense as used in obviousness arguments, reports Jones Day in its **PTAB Litigation Blog**.

Albert Liou discusses the recent case of *Kranos Corporation v. Riddell, Inc.*, which involves the claimed invention of a sports helmet with a quick release connector for the faceguard. An important claim element was the “releasable coupler mechanism.”

“The *Kranos* decision teaches Petitioners to avoid relying only upon ‘common sense’ as a reason for combining references.” Liou writes. “Rather, an effective Petition should lead the PTAB to conclude that ‘common sense’ supports obviousness, after presenting the PTAB with a persuasive showing of *why* the elements or structure of one reference should be combined with those of another.”

Read the article.