

Design Patent Case Digest

[McIntire v. Sunrise Specialty Company](#)



Decision Date: May 7, 2013

Court: E.D. California

Patents: [D534,254](#)

Holding: Plaintiff's motion for summary judgment of infringement DENIED; Defendant's motion for summary judgment of non-infringement GRANTED

Opinion:

Plaintiff Bryan C. McIntire sued Sunrise Specialty Company for infringement of U.S. Design Patent No. D534,254, entitled "Toilet Bowl." McIntire owns and operates [Mac the Antique Plumber](#), which sells "antique plumbing fixtures, including toilet bowls." Between 2006 and 2009, McIntire supplied toilet bowls to Sunrise, who then sold them to its own customers. Some of these toilet bowls were embodiments of McIntire's patent, while others were not. Eventually, Sunrise sent one of McIntire's toilet bowls to a manufacturer in China so the manufacturer could make a sample. Although Sunrise began selling toilet bowls supplied by the manufacturer instead of McIntire, in October 2010, Sunrise used the same toilet bowl picture in its catalogue that it had used when selling toilet bowls supplied by McIntire. McIntire alleged that these [toilet bowls](#) infringed his patent.

Each party moved for summary judgment—McIntire for summary judgment of infringement and Sunrise for summary judgment of non-infringement. The court identified several features of McIntire's patent as "integral to [its] overall design," including the row of beads just beneath the rim of the toilet bowl, the stepped-down pedestal, the vertical sides of the toilet bowl's throat, and the "Adam's Apple" that protrudes from the front of the throat beyond the toilet rim. Due to the prominence of these features in the design patent's drawings, the court asserted that products which do not include these elements cannot infringe the patent because they do not fall within the patent scope as limited by the drawings.

According to the court, the determination of whether the accused product falls within the limitation on scope set forth by the drawings is an initial step that comes before the ordinary observer test in which the court compares the design of the accused product with the whole of the patented design. In this case, the accused product lacks the row of beads and the stepped-down design of the pedestal. Additionally,

the “Adam’s Apple” of the accused product does not extend beyond the toilet rim. Without these prominent features, the accused product does not fall within the patent scope. McIntire argued that the court should consider the design as a whole instead of individual design elements, but the court responded that “the design elements that give the toilet its ‘distinctive ornamental design’ must be considered, and must be present in the accused bowl, or there can be no infringement.” The court held that no reasonable juror could find infringement. Thus, it denied McIntire’s motion for summary judgment of infringement and granted Sunrise’s motion for summary judgment of non-infringement.

If you have any questions or would like additional information on this topic, please contact:

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