

Design Patent Case Digest

W.Y. Industries, Inc. v. Kari-Out Club LLC



Decision Date: August 25, 2011

Court: D. NJ

Patents: D469,689

Holding: The terms of the '689 Patent are construed

Opinion: Plaintiff W.Y. Industries, Inc. sued Kari-Out Club LLC for infringement of U.S. Design Patent D469,689, entitled Rectangular Stackable Container. W.Y. Industries sells rectangular plastic food containers. Kari-Out makes competing food containers. The Court adopted W.Y. Industries' verbal claim construction and denied Kari-Out's request to include additional language, which described the functional features of the patented design.

W.Y Industries' design patent claims the "ornamental design of a rectangular stackable container as shown and described" in the drawings of the patent. According to the Court, construing a design claim as that which is shown in the patent drawings is typical of design patents since, in most cases, drawings better depict a design than a written description. However, when the drawings contain functional features, an enhanced verbal claim construction may help to clarify exactly which features are claimed and which are not. In this case, the parties agreed that certain elements of the patented design are functional. Therefore, the court concluded that a detailed verbal claim construction will be helpful to the jury.

Both parties agreed to a claim construction from W.Y. Industries' response to an interrogatory. The claim construction specified that the ornamental features of the container include the rectangular shape and radiused corners on the base and lid, certain raised and recessed portions, and particular dimensions; it also identified a number of other specific features. Kari-Out requested to include additional narrative describing the functional features of the design in the claim construction. The Court denied the request for two reasons. First, design patents protect only the aesthetic aspects of a design. Second, Kari-Out's additional description of the claims was based on information uncovered during a deposition. Claim construction, however, must be rooted in the written record, including "the claims themselves, the written description, and the prosecution history."



Thumbs down:

If the exception to the general rule that a detailed verbal claim analysis is not necessary is the presence of functional features in the patented design, then it logically follows that the verbalized features should be the functional features, not the ornamental features. Furthermore, the case relied on for the principal applied in this case, [Minka Lighting v. Craftmade Int'l](#), included the very detailed verbal analysis squarely rejected by the Federal Circuit in [Egyptian Goddess](#). More importantly, while [Richardson v. Stanley Works](#) does favor a “factoring out” of the functional features, the fact remains that the scope of a design patent is that which is shown in the patent in solid lines, regardless of whether any of the depicted features performs a function ([Elmer v. ICC Fabricating](#)).

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

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