

# Design Patent Case Digest

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



Decision Dates: August 25, 2011 and November 12, 2013

Courts: D. NJ and United States Court of Appeals for the Federal Circuit

Patents: [D469,689](#)

Holding: The terms of the '689 Patent are construed; AFFIRMED by the Federal Circuit.

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."

Kari-Out appealed to the Federal Circuit. On November 12, 2013, the Federal Circuit affirmed the District Court decision in a [Rule 36 judgment](#).

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

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