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The Precedent: Federal Circuit Clarifies the Importance of Distinguishing Between Functional and Ornamental Features in Design Patent Claims

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In this edition of The Precedent, we outline the decision in *Range of Motion Products, LLC v. Armaid Co. Inc.*

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Overview

The Federal Circuit recently emphasized that patentees must distinguish between functional and ornamental features claimed in design patents or otherwise risk facing a narrowed construction of the patents' claims. The emphasis stemmed from *Range of Motion Products, LLC v. Armaid Co. Inc.*, a design patent infringement dispute between Range of Motion Products, LLC (RoM) and Armaid Company Inc. (Armaid).

Issue

Did the district court err in narrowing the scope of Range of Motion Products, LLC's design patent to exclude functional elements?

Holding

No, the district court properly excluded functional elements from RoM's design patent because the patent drawings did not delineate the functional and ornamental aspects of the design.

Background and Reasoning

RoM manufactures the "Rolflex," a handheld massage device intended to massage the entire body. The Rolflex embodies the design of RoM's design patent, which claims "[t]he ornamental design for a body massaging apparatus." Armaid, on the other hand, manufactures and sells the Armaid2, which is a similar device intended for entire body massaging.

RoM sued Armaid, alleging that the Armaid2 infringed the claim of RoM's design patent. When construing the scope of RoM's design patent, however, the district court noted that many of the design features claimed in the patent were driven by function rather than design. Specifically, the district court emphasized that various "ornamental" features contained in the patent had functional purposes. In doing so, the district court distinguished functional features claimed in a design patent from ornamental features and excluded any functional features from the scope of the claims in RoM's design patent. Based on the narrowed claim scope, the district court ruled that no reasonable jury could find the design of the Armaid2 substantially similar to the design claimed in RoM's design patent and granted summary judgment of non-infringement in Armaid's favor. Armaid appealed to the Federal Circuit.

On appeal, RoM asserted that by excluding any functional features from the scope of the claims, the district court improperly eliminated entire structural elements from its claimed design. The Federal Circuit, however, disagreed. The Federal Circuit emphasized that where a design patent contains both functional and non-functional elements, courts must construe the design patent's claims to identify only the non-functional aspects of the design. In applying this rule to the facts, the Federal Circuit found that numerous forms of evidence, including RoM's marketing materials and testimony from its representatives, supported the district court's finding that various features claimed in the design patent were functional rather than ornamental. Further, the Federal Circuit noted that the district court found various features claimed in RoM's design patent to be largely ornamental but simply did not believe a jury could find the Armaid2's design substantially similar to such ornamental features.

Thus, the Federal Circuit affirmed the district court's decision, finding that the district court properly narrowed the scope of RoM's design patent to exclude functional claimed features.

Takeaway

Range of Motion serves as a strong reminder to patentees to distinguish between functional and ornamental features claimed in design patents. Otherwise, patentees risk facing a narrowed construction of their design patents' claims when bringing infringement actions.