

Design Patent Case Digest

[Kreative Power, LLC v. Monoprice, Inc.](#)



Decision Date: March 3, 2015

Court: Northern District of California

Patents: [D653,215](#)

Holding: Defendant's motion for summary judgment GRANTED

Opinion:

On June 26, 2014, Kreative Power, LLC sued Monoprice, Inc. for infringement of two patents and a copyright owned by Kreative. One of the patents was U.S. Design Patent No. D653,215, entitled "Surge Protector with USB Charging Port." Both Kreative and Monoprice are in the consumer electronics industry and provide electrical power outlet and surge protector devices to their customers. Kreative alleged that Monoprice's [6 Outlet Desktop Hub](#) infringed the claimed design in the '215 patent. In response, Monoprice moved for summary judgment seeking declaratory relief of noninfringement and invalidity of the '215 patent.

Before applying the ordinary observer test for infringement or validity, the court construed the claim of the '215 patent to exclude its functional elements, as taught in [OddzOn Products, Inc. v. Just Toys, Inc.](#), 122 F.3d 1396, 1405 (Fed. Cir. 1997). Monoprice argued that the surge protector's conical shape, six electrical receptacles, and movable cover feature were all functional because U.S. Patent No. [7,112,097](#) (the other patent asserted by Kreative) and Kreative's advertising pointed out the utilitarian aspects of these features. The court not only agreed with Monoprice, but also found the USB port and its location to be functional because there are "a limited number of possible locations on the surge protector" for a USB port that does not obstruct the receptacles. Thus, the court construed the claim to be the ornamental design for a surge protector having six recessed portions of a conical exterior surface between six electrical receptacles.

Kreative primarily argued that the Monoprice Hub infringed the '215 patent because the USB port was located in an identical spot. But because the court found this location to be functional, the court dismissed this argument. In addition, the court further limited the scope of the claimed design by consulting the prior art, as taught in [Egyptian Goddess, Inc. v. Swisa, Inc.](#), 543 F.3d 665, 667–78 (Fed. Cir. 2008). The court again looked to the '097 patent and also looked to Kreative's public display of the [POWRAMID®](#) at a trade show in 2008.

According to the court, the only difference between the '097 patent and the claimed design of the '215 patent was the more pronounced recessed portions of the conical exterior between the electrical receptacles. But the court stated that "Kreative also disclaimed these recessed portions of the conical exterior when it publicly displayed a version of the POWRAMID surge protector in 2008." The court concluded that no ornamental aspects of the '215 patent differ from the POWRAMID® design and an ordinary observer familiar with this prior art would not find any similarity between the overall design of the '215 patent and the Monoprice Hub. Accordingly,

the court held that the Monoprice Hub did not infringe the '215 patent as a matter of law.

Monoprice also argued that the '215 patent was invalid as anticipated by the '097 patent and anticipated by the 2008 display of the POWRAMID®. Because the Examiner had considered the '097 patent during prosecution, the court did not focus on whether it anticipated the '215 patent. Instead, the court focused on the POWRAMID® design, which was not considered by the Examiner. The only difference between the POWRAMID® design and the claimed design of the '215 patent was that the POWRAMID® design did not include the USB port. For the third time, the court emphasized that the location of the USB port was functional. Thus, the court held that the '215 patent was invalid as anticipated by the display of the POWRAMID® at the 2008 display show.

The court held that, properly construed, the '215 patent was invalid and not infringed by the Monoprice Hub. Accordingly, the court granted Monoprice's motion for summary judgment.

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

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