

United States District Court,  
D. Oregon.

**SEIKO EPSON CORPORATION, a Japan corporation; Epson America, Inc., a California corporation; and Epson Portland, Inc., an Oregon corporation,**  
Plaintiffs.

v.

**PRINT-RITE HOLDINGS, LTD., a China corporation; Multi-Union Trading Co., Ltd., a China corporation; Print-Rite Management Services Co., a China corporation; and Dynamic Print USA, Inc., a California corporation; and Does 1-10,**  
Defendants.

Civil No. 01-500 BR

**Sept. 14, 2004.**

David Eiseman, Quinn Emanuel Urquhart Oliver & Hedges, LLP, San Francisco, CA, J.D. Horton, Keith A. Meyer, Ryan S. Goldstein, Tigran Guledjian, William G. Berry, Harold A. Barza, Steven M. Anderson, Quinn Emanuel Urquhart Oliver & Hedges, LLP, Los Angeles, CA, David W. Axelrod, Schwabe Williamson & Wyatt, PC, Portland, OR, for Plaintiffs.

Doyle B. Johnson, Morgan W. Tovey, Adaline J. Hilgard, Christine M. Morgan, Scott D. Baker, Reed Smith, LLP, San Francisco, CA, Randolph C. Foster, Steven T. Lovett, Stoel Rives, LLP, Portland, OR, for Defendants.

### **ORDER RE: CONSTRUCTION OF ASSERTED DESIGN PATENTS**

**ANNA J. BROWN, District Judge.**

WHEREAS the Court is charged with construing as a matter of law the two design patents asserted by Epson in this matter and that are currently at issue before the court, namely DES 390,261 and DES 425,285 (individually, the "'261 Design Patent" and the "'285 Design Patent" and collectively, the "Design Patents") and thereby provide a word description of the ornamental features that create the overall visual impression of the patented designs claimed in the Design Patents;

WHEREAS the Court has duly considered the memoranda submitted by the parties, the arguments presented by counsel at the *Markman* hearings held on August 23-24, 2004, and the evidence of record regarding the construction of the '261 Design Patent and the '285 Design Patent;

NOW, THEREFORE, THE COURT ORDERS AS FOLLOWS:

1. THE '261 DESIGN PATENT IS CONSTRUED TO HAVE THE FOLLOWING FEATURES THAT CREATE THE OVERALL VISUAL IMPRESSION OF THE PATENTED DESIGN:

2. A rectangular and 3-dimensional body whose height and width are approximately equal throughout the body and whose length is somewhat greater than the height and width.
3. A top surface which is a lid with rounded corners and smooth sides and which conforms to the shape of the flanged rim of the main body.
4. A bottom surface whose four exterior corners are rounded and whose area as measured from these four exterior corners is slightly less than the area of the top surface, or lid, as measured in the same manner.
5. There are three cylindrical ports located in a row across the top one-third of the bottom surface of the body. Although the existence of the ports is functional, their placement and design are ornamental. Each of the outer ports is connected to the center port with a horizontal connector as depicted in Figure 7 of the '261 Design Patent.
6. The three cylindrical ports as a unit are enclosed by two segmented walls running across the bottom surface of the body. One wall runs above and one wall runs below the three ports. Each of the two walls wraps around the ends of the two outer ports.
7. Immediately adjacent to the wall below the three ports and running horizontally across the bottom surface of the body is a rectangular channel. Although the existence of this channel is functional, its design is ornamental. As depicted in Figure 7 of the '261 Design Patent, the lower surface of the channel extends the width of the body, and, except for three semi-circular patterns adjacent to the wall below the three ports, is a solid surface. The other side-wall of the channel is formed by 3 equidistant segments of the bottom surface of the body.
8. There are two, equidistant and parallel grooves in the surfaces on both ends of the body which begin immediately below the flanged rim of the body and continue around the bottom edges of the ends and in the bottom surface of the body. The grooves which begin on the front end of the body terminate at the wall above the three cylindrical ports. The grooves which begin on the back end of the body terminate and form the three equidistant segments of the other side-wall of the rectangular channel across the bottom surface of the body.
9. Each of the four corners of the body is rounded and runs from top to bottom. There is a rib running from top to bottom on each side of, and near each rounded corner of, the body. Although the existence of these ribs is functional, their placement and design are ornamental.
10. THE '285 DESIGN PATENT IS CONSTRUED TO HAVE THE FOLLOWING FEATURES THAT CREATE THE OVERALL VISUAL IMPRESSION OF THE PATENTED DESIGN:
11. A rectangular and three-dimensional body whose height is somewhat less than its width and whose width is less than its length, throughout the body.
12. A top surface which is a lid with rounded corners and smooth sides and which conforms to the shape of the flanged rim of the body.
13. Across the width of the lower one-fourth of the top surface are various generally rectangularly-shaped

depressions. The depression closest to the center of the top surface is functional. The remaining depressions are ornamental.

14. A bottom surface whose four exterior corners are rounded and whose area as measured from these four exterior corners is slightly less than the area of the lid as measured in the same manner.

15. There are three cylindrical ports located in a row across the width of the bottom surface of the body located slightly above the mid-line of the bottom surface. Although the existence of the ports is functional, their placement and design are ornamental. Each of the outer ports is connected to the center port with a horizontal connector as depicted in Figure 7 of the '285 Design Patent. The cylindrical ports as a unit are enclosed by segments of a generally rectangular side-wall structure whose ends form three turns as they wrap around the outsides of the outer ports and terminate separately on the outsides of these ports.

16. Below the segmented side-wall structure which encloses the ports and near the midline of the bottom surface of the body is a rectangular channel. Although the existence of this channel is functional, its design is ornamental. As depicted in Figure 12 of the '285 Design Patent, the lower surface of the channel extends the width of the body, and, except for three semi-circular openings adjacent to each of ports, is a solid surface. The other side-wall of the channel is formed by three equidistant segments of the bottom surface of the body.

17. The three semi-circular openings, adjacent to the bottom surface of the channel are the lower edges of the three slot-like indentations, which run perpendicular to and terminate at the lower center of each of the ports. The outer of these two slot-like indentations are functional. The center indentation is ornamental. There are three additional slot-like indentations, which run above the ports and in line with each of the lower indentations. These additional indentations run perpendicular to and terminate at the upper center edge of each of the ports. The left outer most of these indentations, above the ports, is functional. The remaining two indentations are ornamental.

18. Below the channel on the bottom surface of the body, there are three segmented regions. The two outer segments each contain one large rectangular design and one small depression. The center segment contains one small circular design and one small depression

19. There are two, equidistant and parallel grooves in the surfaces on both ends of the body which begin immediately below the flanged rim of the body and continue around the bottom edges of the ends and in the bottom surface of the body. The grooves which begin on the front end of the body terminate at the segmented side-wall structure which encloses the three cylindrical ports. Immediately below the structure around the cylindrical ports, the grooves resume for a short distance, and terminate at the top of the upper side wall of the channel. The grooves which begin on the back end of the body terminate and form the three equidistant segments of the other side-wall of the rectangular channel across the bottom surface of the body.

20. The surface at the front end of the body is substantially flat, and as noted, has two equidistant and parallel grooves, which begin immediately below the flanged rim of the body and continue around the bottom edge, which edge is sloped and angled into the bottom surface, forming a short, angular surface across the width of the bottom edge.

21. Each of the four corners of the body is rounded and runs from top to bottom. There is a rib running from top to bottom on each side of, and near each rounded corner of, the body. Although the existence of these

ribs is functional, their placement and design are ornamental.

By signing below, counsel for the parties shall not be deemed to have waived any arguments or objections, for the purposes of appeal or otherwise, to the Court's claim construction rulings. All factual and legal arguments and objections set forth in the memoranda and related filings submitted by the parties and made by counsel for the parties on the record during the *Markman* hearings on August 23-24, 2004 are expressly reserved.

IT IS SO ORDERED.

D.Or.,2004.

Seiko Epson Corp. v. Print-Rite Holdings, Ltd.

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