

**EIP**

## Design drawings: more than meets the eye

A recent judgment handed down by Mr Justice Birss in *Sealed Air Ltd v Sharp Interpack Ltd & Anor* [2013] EWPCC 23 (30 May 2013) considers the way in which technical drawings in a registered design should be interpreted. In effect, Birss J has introduced an intermediary who interprets the technical drawings for the “informed user” who uses the intermediary’s interpretation of the design, for example to assess validity and infringement of the design.

The drawings or “representations” of the design are often considered the most important part of a design registration since they define its scope of protection. There are several different ways in which a design can be represented in a design registration, for example by including a photograph, hand-drawn sketch, screenshot or a technical drawing of the design. Technical drawings are a common way to represent designs in design registrations.

The registered designs in this particular case relate to a range of plastic soft fruit punnets. The representations of the punnets are computer-aided design (CAD) technical drawings. A representation from one of the registered designs in question, Registered Community Design no. 000104591-0003 is reproduced [here](#); this representation shows the punnet in question from above.

The defendants argued that the informed user would interpret this representation as showing that the punnet had a star shape on its base. The claimant contended that the informed user was not supposed to interpret the representations; rather the interpretation of the drawings was a matter for the court and was a question of law and construction. As such, the claimant suggested that the representation should be interpreted in line with standard CAD conventions in which the lines on the base would be understood to indicate that the base had a slight dome feature.

Birss J agreed with the claimant and held that the representations in this case would be readily understood by a technical draughtsman to show that the base of the punnet was domed, rather it having a star-shaped pattern on it. With the design identified by the draughtsman, the informed user then assesses the design accordingly.

This judgment may come as welcome news to practitioners who have expressed concerns that some allegedly standard conventions often used in design drawings are not being followed by the Courts. EIP partner, Darren Smyth, has written specifically about the Court's interpretation of broken lines in design drawings in a post on the [IPKat](#).

By [Iain Russell](#)