

**Class 7: A PGS Work Is Conceptually Separable From Utilitarian Features If . . .**

Pro-Defense

More Process-Focused

7. The artistic and utilitarian features are not inextricably intertwined (Carol Barnhart Majority)

1. The artistic features are primary and the utilitarian features are subsidiary (Kieselstein-Cord)

3. The article creates in the mind of the ordinary observer a concept that is separate from the concept evoked by its utilitarian function; not inevitably entertained simultaneously. (Dissent in Carol Barnhart)

Neutral

Less Process-Focused

Pro-Plaintiff

2. Even if the article had no utilitarian use it would still be marketable to some significant segment of the community because of its aesthetic qualities. (Nimmer)

6. The artistic features are not utilitarian (Patry)

4. The artistic design was not significantly influenced by functional considerations; artistic judgment exercised independently of functional influences (Brandir-Denicola)

5. The artistic features can stand alone as a work of art traditionally conceived, and the useful article in which it is embodied would be equally useful without it. (Goldstein AND district court)