

Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications

Thirty-Ninth Session
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SUMMARY OF THE MAIN POINTS EMERGING FROM THE INFORMATION SESSION ON GRAPHICAL USER INTERFACE (GUI), ICON AND TYPEFACE/TYPE FONT DESIGNS

Document prepared by the Secretariat

1. It is recalled that, in the framework of the thirty-eighth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), which was held in Geneva from October 30 to November 2, 2017, an Information Session on Graphical User Interface (GUI), Icon, Typeface/Type Font Designs took place on October 31, 2017 (hereinafter “the Information Session”).
2. At the end of the thirty-eighth session of the SCT, the Chair “noted the SCT’s satisfaction with the Information Session on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs and its desire to continue its discussions of the topic”. As next steps, the Chair requested the Secretariat to “prepare a document summarizing the main points emerging from the Information Session with all presentations made at the Information Session to be included as an Annex” (see document SCT/38/5, paragraphs 7 and 8).
3. All presentations made during the Information Session are available online on the WIPO website at the following address:
http://www.wipo.int/meetings/en/details.jsp?meeting_id=45227.
4. The present document summarizes the main points emerging from the Information Session.

I. MAIN POINTS EMERGING FROM THE INFORMATION SESSION

Increasing Significance and Value of “New Technological Designs”

5. Technological innovation leads to new types of designs (“new technological designs”) at a rapid pace. The fast development of new technological designs might give rise, in a few years, to forthcoming designs beyond the realm of today’s imagination.
6. Filings for new technological designs, especially GUIs and icons, have grown significantly in certain jurisdictions. In some countries, they are among the types of designs for which protections is most frequently sought.
7. New technological designs, because of their intuitive nature, allow users to easily and swiftly interact with a device, without the need for explanations or training. The value of those designs is recognized and warrants their protection.

The Protection of New Technological Designs Under Current Design Systems

8. The rapid pace at which new technological designs emerge and the specific features of those designs (e.g their use in the virtual world) poses the question whether current design systems (including the legal frameworks and technical infrastructures) are fully apt to respond to the needs of users concerning the protection of those designs, as well as new types of designs that might appear in the future.
9. In respect of that question, two specific issues emerged prominently: (i) the requirement or not of a link between the design and an article or product and (ii) the mode of representation of new technological designs.

Link with an Article or a Product

10. The question is whether requiring a link between the design and an article or product hampers the adequate protection of new technological designs. The question is relevant, insofar as new technological designs, e.g. GUIs and icons, because of their very nature, may apply to many different products, or are used in the virtual world (e.g., in video games).
11. The presentations highlighted different approaches as to the link between new technological designs and the article or product which incorporates them or in relation to which they are to be used.
12. One approach consists in requiring the indication of the article or product in the industrial design application: a GUI or icon should be associated with a specific article or product. In certain cases, only *physical/tangible* articles are admitted.
13. Another approach is to allow the indication of “a display panel presenting a GUI” in an industrial design application. This makes possible the filing of a single application for a GUI, which could, after its registration, be applied to different products such as a camera, a mobile phone, etc.
14. The third approach consists in allowing the filing of an industrial design application for a GUI or an icon *per se*, without connection or reference to any product.
15. The de-linking of the design from the article or product would be an issue in certain jurisdictions, in which the specific product to which the design relates determines the design’s scope of protection.

Representation

16. The question concerns the best way of representing new technological designs, for instance those that contain movement and transitions, e.g. animated GUIs. The question is relevant because technical developments favor new types of non-static designs and, at the same time, such developments permit representation in different formats.

17. At present, animated designs are generally represented through series of static images or sequences of photographs or drawings showing the change or animation, so as to enable the public and the intellectual property office to understand the subject matter for which protection is sought. In certain cases, similarity between the images is required (e.g. movement of a figure, increase or decrease of the same figure, continuous use of a common motif).

18. In one jurisdiction, video files can be used to represent animated GUIs.

19. New modes of representation of designs, for example through video files, would require major changes for offices, for example:

- Technical and infrastructure preparedness of offices
- Way of examining and performing searches
- Mode of publication and registration/grant, in a way that satisfies a number of conditions (for example, clarity and easy access to the Register).

II. CONCLUSION

20. Presentations made during the Information Session highlighted that: (i) technological innovation takes place at a rapid pace and has an impact in the field of industrial designs (new technologies lead to new designs) and that (ii) because of their value, new technological designs, such as GUIs and icons, deserve adequate protection.

21. This raises policy questions as to the necessity to consider and anticipate users' needs for the adequate protection of new technological designs.

22. The first type of policy question is of a *legal nature* and consists in determining whether current intellectual property laws adequately protect existing new technological designs and designs that might appear in the future. If not, what changes to the legal framework should be contemplated to appropriately cover them?

23. The second type of policy question is of a *technical nature* and consists in determining what changes intellectual property offices should undertake to adapt their current practices to new technological designs, and what are the legal, technical and infrastructure hurdles to be addressed.

24. The SCT may consider whether it could play a role in assisting offices (i) to gain a better understanding of the challenges they may face in this domain and (ii) to explore possible avenues to rise to those challenges.

25. *The SCT is invited to consider the present document.*

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